

# LAND USE ORDINANCE

## TOWN OF TRENTON, MAINE

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## **ARTICLE I. GENERAL PROVISIONS**

### **1.1 Authority**

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII Part 2, Section 1 of the Maine Constitution and Title 30-A, MRSA, Section 3001 and Title 38 MRSA Sections 435-449

### **1.2 Short Title**

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

### **1.3 Purpose**

The purpose of this Ordinance is to promote the health, safety and general welfare; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide adequate light and air; to prevent over-crowding; to prevent development in unsuitable areas; to provide for adequate public services; to conserve natural resources, to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; and to conserve natural beauty and open space.

### **1.4 Applicability**

This Ordinance shall apply to all land within the Town of Trenton. No building, structure, land or water area shall be used for any purpose or in any manner except as provided for in this Ordinance. The shoreland zoning provisions of this ordinance apply to all land areas within 250 feet, horizontal distance, of the

- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a tributary stream.

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

### **1.5 Validity and Severability**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

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### 1.6 Effective Date

#### A. Effective Date of the Ordinance and Ordinance Amendments:

The effective date of this amended Ordinance is October 28, 2008. Those sections of the ordinance that pertain to the shoreland per the requirements of Title 38 MRSA Sections 435 et seq. shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a shoreland permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

#### B. Sections 4.2.9 and 4.2.9.1.

Section 4.2.9 is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time Section 4.2.9.1 shall become effective. Until such time as Section 4.2.9 is repealed, Section 4.2.9.1 is not in effect.

### 1.7 Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

### 1.8 Amendments

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, applicable to the shoreland zone as defined, attested and signed by the Municipal 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.



## ARTICLE I. GENERAL PROVISIONS

### 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, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

#### 1.9 Conflict with Other Ordinances

Should any section or provision of this Ordinance be found to be in conflict with any ordinance or regulation, the more stringent section or provision shall prevail.

#### 1.10 Non-Conformance

##### 1.11.1 Purpose.

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1.11. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

1.11.2.1 The use of land, building, or structures, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance.

1.11.2.2 A building or structure or use which was in existence and lawful at the time of the adoption or subsequent amendments of this Ordinance, may be repaired, maintained, or improved in accordance with the terms of the Ordinance; but the non-conforming use may not be extended or expanded except in conformity with the provisions of Article V. of this Ordinance; and, furthermore, where the building or structure is located in violation of the Ordinance or subsequent extension, or improvement of said building or structure shall be in conformity with setbacks prescribed by said Ordinance as to sidelines, and the building or structure shall not be allowed to extend or expand closer to the front lot line, to any wetland, or front setback provisions as otherwise defined in said Ordinance, than otherwise lawfully permitted under the Ordinance.

##### 1.11.3 Non-Conforming Uses

1.11.3.1. A non-conforming use which is discontinued for whatever reason for a period of one (1) year or more may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Ordinance.

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1.11.2.2 Whenever a non-conforming use is superseded by a permitted use, such use shall thereafter conform to the provisions of this Ordinance and the non-conforming use may not thereafter be resumed.

### 1.11.2.3 Non-conforming Uses in the Shoreland Zone

- A. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structure or within expansions of such structures as permitted in Article 1.11.4.1.A below.
- B. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Article 1.11.4.4 below.

### 1.11.3 Non-Conforming Lots

1.11.3.1 A single lot of record which at the effective date of adoption or a amendment of this Ordinance does not meet the area, lot width and/or frontage requirements of the District in which it is located, may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met. Variance of other requirements not involving lot area, lot width or frontage shall be obtained only by the action of the Board of Appeals.

1.11.3.2 If two or more contiguous vacant or partially built lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single lot of record for the purposes of this Ordinance and no portion of said lot of record shall be built upon or sold which does not meet dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance. Combined lots of record may be built upon in accordance with Article 1.11.3.1 above.

1.11.3.3 Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance

### 1.11.4 Non-conforming Structures

- 1.11.4.1 Expansions: A non-conforming structure may be added to or expanded by as much as 30% of the total original existing square footage after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure as to setbacks.

#### Further Limitations within the Shoreland Zone

- A. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a tributary stream or 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 Section 1.11.4.3 and is less than the required setback from a 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.
- B. 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 to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 1.11.4.2. Relocation, below; if the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 1.11.4.1 above, and 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 original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- C. No structure which is less than the required setback from the normal high-water line of a tributary stream, or upland edge of a wetland shall be expanded toward the tributary stream, or wetland.
- 1.11.4.2 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 to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with

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

(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 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.

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 reestablished 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.

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

1.11.4.3 Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from any roadway, side, front, or rear lot line, or from a tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with all applicable setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of 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 1.11.4.1 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

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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 1.11.4.2 above.

Any non-conforming structure which is located less than the required setback from a tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the applicable setback requirements to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 1.11.4.2 above, the physical condition and type of foundation present, if any.

### 1.11.4.4 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 tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use. Such change of use must also be in conformity with the provisions of Article V of this Ordinance.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

## **ARTICLE II. ESTABLISHMENT OF DISTRICTS**

### **2.1 Land Use Districts**

To implement the provisions of this Ordinance, the Town of Trenton is hereby divided into the following Districts:

- 1) Airport Commercial-Industrial District (ACI)
- 2) Business Park District (BP)
- 3) Gateway Commercial District (GC)
- 4) Residential Growth District (RG)
- 5) Residential Rural
- 6) Resource Protection District (RP)
- 7) Rural Commercial District (RC)
- 8) Rural Development District (RD)
- 9) Village District (V)
- 10) Airport Hazard Overlay Land Use District
- 11) Route 3 Corridor Overlay Land Use District

### **2.2 Location of Districts As Shown on Official Land Use Map**

Said Districts are located and bounded as shown on the Official Land Use Map, entitled "Land Use Map of Trenton, Maine" and on file in the office of the municipal clerk. The Official Map shall be signed by the municipal clerk and the Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. The Official Land Use Map is hereby made part of and incorporated into this Ordinance. It shall be drawn at a scale not less than: 1 inch = 2,000 feet. A reduced copy of the Official Land Use Map is annexed as an Exhibit to this Ordinance.

If amendments, applicable to the shoreland zone as defined, in accordance with Article 1.8, are made in the district boundaries or other matter portrayed on the "Land Use Map of Trenton, Maine," such changes shall be made on the official Land Use Map of Trenton, Maine within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

### **2.3 Uncertainty of Boundary Locations**

Where uncertainty exists as to the boundary lines of Districts as shown on the Official Land Use Map, the following rules shall apply:

- 1) Boundaries indicated as approximately following the center lines of streets, highways, or railroads shall be construed to follow such center lines;
- 2) Boundaries indicated as approximately following established lot lines or town boundary lines shall be construed as following such lines;

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- 3) Boundaries shown as following shore lines or the center lines of tributary streams, or freshwater or coastal wetlands, shall be construed to follow such lines;
- 4) Boundaries indicated as being parallel to or extensions of features listed above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the Map; and
- 5) Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the District boundaries and be the final local authority as to their location.

### 2.4 Division of Lots by District Boundaries

- 2.4.1 Where a District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions below.
- 2.4.2 The extension of regulations applicable to the less restrictive district shall be considered a conditional use, subject to approval of the planning board in accordance with the criteria set forth in Article V. of this Ordinance.

## **ARTICLE III. LAND USE DISTRICT REQUIREMENTS**

### **3.1 Basic Requirements**

For each land use district, uses are designated as either permitted or permitted as a conditional use. All uses whether permitted with a permit from the Code Enforcement Officer or permitted as a conditional use must comply with the standards of Article IV. of this Ordinance. Uses identified as conditional uses may be permitted upon review and approval by the Planning Board in accordance with Article V. of this Ordinance. Uses not specifically identified as permitted or permitted as a conditional use are specifically prohibited in the district.

### **3.2 Airport Commercial/Industrial District (ACI)**

#### **3.2.1 Purpose**

To provide land which is conveniently located with respect to land and air transportation facilities and municipal services and where other conditions are favorable to the development of commerce and industry; to prevent undesirable conflict between industrial development and residential and business uses.

#### **3.2.2 Permitted Uses with a CEO Permit**

Because of the potential impact on the community of the type of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

#### **3.2.3 Conditional Uses**

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with Article V. of this Ordinance:

- Agricultural activities;
- Essential services
- Light industrial and manufacturing activities;
- Marine related facilities;
- Storage and warehousing facilities;
- Transportation facilities and trucking terminals;
- Wholesaling facilities;
- Automobile repair and service stations;
- Business and professional offices;
- Campgrounds;
- Commercial retail and service establishments;
- Earth moving involving over 100 cubic yards;
- Hotels, motels, and other lodging places;
- Piers, docks and similar structures projecting into the water;
- Parking facilities;
- Recreation areas;
- Restaurants;



## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Road construction; and  
Accessory uses

### 3.3 Trenton Business Park District

#### 3.3.1 Applicability and Purpose

The Trenton Business Park District is established to accommodate certain non-polluting manufacturing and research institutions or other light industrial uses. This district shall be preserved and protected from the intrusion of incompatible uses which might impede or otherwise have a detrimental effect on the development of such lands.

#### 3.3.2 Permitted Uses with a CEO Permit

Because of the potential impact on the community of the types of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

#### 3.3.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this ordinance and upon review and approval of the planning board in accordance with Article V. of this ordinance:

- Light Industry, including manufacturing, compounding, assembling or treatment of goods and products, with all goods or materials stored in enclosed buildings, such as, but not limited to, the manufacture of electrical components, appliances, or textiles;
- Research and testing facilities of a laboratory nature, including biotech-type facilities;
- Essential services
- Spin-off businesses related to pharmaceuticals and biotechnology;
- Administrative offices of manufacturing or research corporations;
- Boat construction and related technology;
- Marine service and technology businesses;
- Airport-related products and service businesses;
- Parking facilities;
- Public utility and public service uses;
- Road construction;
- Wholesaling facilities;
- Business and professional offices; and
- Earth moving involving over 100 cubic yards.
- When accessory to any of the above uses: warehouses, vehicle storage, garages and employee restaurants;

#### 3.3.4 Landscaping Requirements

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

A. Landscape plans shall be included as part of applications for all developments permitted as conditional uses. All landscape plans must address the requirements of all the applicable sections that follow. Landscape plans shall include:

1. A planting plan showing location, quantity, time of proposed planting, and type of proposed plantings.
2. A planting schedule showing all materials to be used for landscaping, botanical name, common name, quantity, and size at installation (sizing and grading standards of the latest edition of "American Standard for Nursery Stock" shall be used").
3. All horizontal landscape construction such as walls, drives, decks, terraces, etc. shall be drawn on the conceptual landscape plan and labeled according to material and finish.
4. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc. shall be drawn and labeled sufficiently to indicate size, materials and general appearance.
5. Landscape lighting, if used on site, showing location, wattage, typical fixture design, type of bulb and quantity.
6. A landscape plan shall also show what native vegetation will remain and what will be removed. A landscaping maintenance schedule shall also be provided.

If at the time of project construction site conditions require more than a twenty-five (25) percent alteration from the landscape plan, review of changes with the planning board will be required to insure conformance with the intent of these standards.

B. Front yard landscaping requirements

The purpose of these front yard landscaping requirements is to improve the appearance of vehicular use areas and to protect, preserve, and promote the aesthetic appeal, character and value of Business Park properties.

1. Fifty percent (50%) of the required front yard must be maintained in a landscaped condition. Landscaping or landscaped condition shall mean the addition or retention of lawns, fields, trees, plants and other natural and decorative features to the land. Unless otherwise specified the preservation, care and maintenance of existing native vegetation of a size and character as noted in Section 3.3.4 can be considered "landscaping."
2. Existing vegetation of size and type as described in Section 3.3.4.E shall not be removed and there shall be no development, clearing, grading or construction activity within the required front yard with the following exceptions:
  - roadway or driveway access and limited parking as allowed for the proposed use
  - provision of electrical, telephone, cable utilities etc. service lines
  - pedestrian and/or bicycle paths
  - signs and lighting fixtures which comply with the Trenton Sign

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- clear sight distances at permitted entrances and exits to proposed uses
- 3. All front yard areas that are to be preserved as natural, native plant communities shall be maintained free of all debris and trash, trimmed at least once a year and managed in order to maintain the plant community for which it was established.
- 4. Cultivated landscaped areas around and in conjunction with parking lots, and signs are required as detailed in the sections that follow.

### C. Parking Lot Design and Landscaping

#### 1. General

All development shall provide permanent off-street parking space in accordance with and at a minimum in the amount specified by Section 4.1.17. Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto any adjacent property.

#### 2. Landscaping of parking areas

Parking areas shall be suitably landscaped to enhance the environment and ecology of the site and surrounding area. As a guideline, large parking lots shall be designed and landscaped to fit harmoniously within the landscape and wherever possible shall be broken down into sections of not more than forty (40) spaces, separated from other sections by landscaped dividing islands, strips, berms, and similar elements.

### D. Landscaping and Architectural Treatment of Freestanding Signs

All freestanding signs shall be surrounded with a cultivated landscape and installed on a wood, stone or other base material, at least two (2) feet in height and compatible with and similar to the materials of the principal structure developed on the lot. The size of the cultivated landscape area shall be at least twice as large as the size of the permitted freestanding sign and shall be landscaped with low maintenance shrubs, flowers and other similar plants.

### E. Preservation of Native Vegetation

Where landscaping is required in this section it can consist of native vegetation provided that:

1. No more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level is removed.
2. There are no cleared openings greater than 250 square feet, or as required for approved construction.
3. Maintenance of vegetation is conducted on a regular basis to include removal of storm damaged, diseased, unsafe or dead trees, the control of plant species which tend to become nuisances because of their undesirable growth, but which, if properly cultivated, may be useful or functional elements of a landscape, and

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the control of plant species as necessary to maintain native vegetation as originally established.

4. The pruning, thinning out and shaping of trees and shrubs is in accordance with standards horticultural practice. The topping of trees is not allowed and no more than 1/3 of the branching structure of a tree or shrub shall be removed within a ten year period.

### F. Standards for Landscaped Materials

All plant materials and landscape development work shall conform with the specifications developed by the Maine Urban and Community Forestry Council, dated November 1992, or as subsequently amended.

### G. Waivers

1. Where the board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the requirements of Section 3.3.4 of this ordinance unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the subdivision regulations, or this ordinance.
2. In granting waivers in accordance with Section 1 above, the planning board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied, waived or modified.

## 3.4 Gateway Commercial District (GC)

### 3.4.1 Purpose

To support and provide for the development of highway-oriented commercial establishments along Route 3 in a manner which creates a more profitable, high quality, pleasing and memorable entrance into the Town.

### 3.4.2 Permitted Uses with a CEO Permit

Because of the potential impact on the community of the type of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

### 3.4.3 Conditional Uses

The following uses - provided the principal building associated with such uses does not exceed 15,000 square feet of ground floor area - may be permitted as conditional uses

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with Article V. of this Ordinance:

Automobile repair and service stations;  
Business and professional offices;  
Campgrounds;  
Commercial retail and service establishments;  
Earth moving involving over 100 cubic yards  
Essential Services;  
Hotels, motels, and other lodging places;  
Mobile home parks in accordance with the standards of the subdivision regulations;  
Multi-family dwellings of not more than eight units;  
Parking facilities  
Piers, docks, and similar structures projecting into the water;  
Recreation areas;  
Road construction;  
Single family dwellings established as a part of and secondary to the conditional uses listed above;  
Restaurants; and  
Accessory uses.

### 3.5 Residential Growth District (RG)

#### 3.5.1 Purposes

To provide for residential growth in such a manner and at such locations as are compatible with existing development and the ability of the Town to provide essential services and utilities. Other uses permitted in the Residential Growth District are those which are compatible with the traditional residential neighborhoods.

#### 3.5.2 Permitted Uses With a CEO Permit

The following uses are permitted in the Residential Growth District in accordance with the standards of Article IV of this Ordinance:

- Individual private campsites within the shoreland zone area
- Single family dwellings and accessory apartments
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis;
- Cemeteries;
- Municipal facilities and grounds, providing, however, that such facilities are of a residential and/or office character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Essential Services to include electrical transmission, substation and distribution equipment, communications facilities or other compatible public utility infrastructure as defined/identified in section 7.2, *Definitions*, of this Ordinance. For purposes of this Section 3.5.2, public utility infrastructure shall not include sewerage

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

of waste treatment or disposal facilities that would be inappropriate in a residential area.

- Public utility or communication facilities or other essential services, providing, however, that such facilities are of a residential and/or office character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch.-IIIA;
- clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

### 3.5.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

- Aquaculture
- Roads and driveways or parking facilities within the shoreland zone area
- Marinas
- Cluster developments;
- "Convenience stores" having less than 300 square feet of floor space;
- Earth moving activities involving over 100 cubic yards;
- Home occupations;
- Mobile home parks in accordance with the subdivision regulations
- Multi-family dwellings of not more than eight units;
- Boat building/repair operations employing less than five people;
- Piers, docks and similar structures projecting into or over the normal high-water line of a water body or within a wetland;
- Recreational areas involving minimal structural development;
- Seasonal rental structures for exclusively residential use and containing not more than three (3) dwelling units per lot with each dwelling unit containing less than 700 square feet of total floor space which units may not be rented for more than six months during each calendar year. A lot with one (1) or two (2) seasonal dwelling units must contain at least 40,000 square feet and a lot with three (3) such units must contain at least 60,000 square feet; and
- Accessory uses.

Notwithstanding the listed Conditional Uses above, Commercial and Industrial Uses, excluding campgrounds, subject to planning board approval, within the shoreland zone area of this district, are prohibited.

## 3.6 Residential Rural District (RR)

### 3.6.1 Purposes

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

To provide for residential development in a primarily rural setting. Other uses allowed in the Residential Rural District are those that are compatible with traditional rural neighborhoods.

### 3.6.2 Permitted Uses With a CEO Permit

The following uses are permitted in the Residential Rural District in accordance with the standards of Article IV. of this Ordinance:

- Individual private campsites within the shoreland zone area
- Single family dwellings and accessory apartments
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis but including farm stands and farm equipment storage;
- Cemeteries;
- Essential services
- Municipal facilities and grounds, providing, however, that such facilities are of a residential character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Public utility or communication facilities or other essential services, providing, however, that such facilities are of a residential character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch.-IIIA; portable saw mills
- clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

### 3.6.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

- Aquaculture
- Roads and driveways or parking facilities within the shoreland zone area
- Marinas
- Cluster developments;
- "Convenience stores" having less than 300 square feet of floor space;
- Earth moving activities involving over 100 cubic yards;
- Home occupations;- and
- Accessory uses.

## 3.7 Resource Protection District (RP)

### | 3.7.1 Purpose

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

To protect the most vulnerable shoreland areas of waterbodies and other areas in which development would adversely affect water quality, productive habitats, biological systems, or scenic and natural areas, and to discourage development in unsafe or unhealthful areas. This district shall include:

- A. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Coastal wetland ratings are mapped as of January 1, 1973, and freshwater wetland ratings are mapped as of December 31, 2008.
- B. Floodplains defined by the 100 year floodplain 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 floodplain soils. This district shall also include 100 year floodplains adjacent to coastal wetlands as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- C. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- D. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- E. Other areas designated for Resource Protection as indicated within the Town's Comprehensive Plan.

### 3.7.2 Allowed Uses

The following uses are allowed in the Resource Protection District in accordance with the standards of Article IV. of this Ordinance. Uses not otherwise specified are prohibited:

#### 3.7.2.1 Uses Allowed Without a Permit:

Non-intensive recreational uses not requiring structures such as  
hunting, fishing and hiking  
Motorized vehicular traffic on existing roads and trails



## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- Forest management activities except for timber harvesting
- Fire prevention activities
- Wildlife management practices
- Soil and water conservation practices
- Mineral exploration<sup>1</sup>
- Surveying and resource analysis
- Emergency operations
- Service drops, as defined, to allowed uses
- Signs

### 3.7.2.3 Uses allowed with a Local Plumbing Inspector permit:

- Conversions of seasonal residences to year-round residences
- Private sewage disposal systems for allowed uses

### 3.7.2.4 Uses allowed with a Code Enforcement Officer permit

- Timber harvesting
- Clearing or removal of vegetation for activities other than timber harvesting
- Temporary Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland<sup>7</sup>
- Essential services:<sup>3</sup>
  - Roadside distribution lines (34.5kV and lower)
- Individual, private campsites
- Uses similar to allowed uses
- Uses similar to uses requiring a CEO permit

### 3.7.2.5 Uses allowed with a Planning Board permit:

- Mineral extraction including sand and gravel extraction<sup>2</sup>
- Agriculture
- Aquaculture
- Principal structures and uses
  - a. Commercial<sup>6</sup>
  - b. Small non-residential facilities for educational, scientific, or nature
  - c. Structures accessory to allowed uses
- Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland<sup>7</sup>
- Home occupations
- Essential services:<sup>3</sup>
  - a. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone<sup>3</sup>

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- b. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone<sup>3</sup>
- c. Other essential services<sup>3</sup>
  - Public and private recreational areas involving minimal structural development
  - Campgrounds<sup>4</sup>
  - Road construction<sup>5</sup>
  - Land management roads
  - Parking facilities<sup>4,5 & 8</sup>
  - Filling and earth moving of >10 cubic yards
  - Uses similar to uses requiring a PB permit

<sup>1</sup> Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>2</sup> not permitted in areas so designated because of wildlife value.

<sup>3</sup> See further restrictions in Section 4.1.23.

<sup>4</sup> Are prohibited except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>5</sup> Except as provided in Section 4.2.6.

<sup>6</sup> Commercial uses are prohibited except for those uses otherwise listed, such as marinas and campgrounds, that are allowed in the respective district.

<sup>7</sup> Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>8</sup> See further restrictions in Section 4.1.17

### 3.8 Rural Commercial District (RC)

#### 3.8.1 Purpose

To preserve open space, rural character, maintain the existing speed and free flow of traffic along Route 3 and allow limited commercial and residential development at a scale and density compatible with the existing pattern of land use and development.

#### 3.8.2 Permitted Uses with a CEO Permit

All uses permitted in the Residential Growth District as indicated in Section 3.52 of this Ordinance.

#### 3.8.3 Conditional Uses

The following uses - provided the principal building associated with such uses does not exceed 10,000 square feet of ground floor area - may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

- Automobile repair and service stations;
- Business and professional offices;
- Campgrounds;
- Commercial retail and service establishments;
- Earth moving involving over 100 cubic yards;
- Essential services

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Hotels, motels and other lodging places;  
Light manufacturing establishments;  
Mobile home parks in accordance with the standards of the subdivision regulations  
Multi-family dwellings of not more than eight units;  
Parking facilities  
Single family dwellings established as a part of and secondary to the conditional uses listed above;  
Recreation areas;  
Restaurants;  
Road construction; and  
Accessory uses.

### 3.9 Rural Development District (RD)

#### 3.9.1 Purpose

To allow appropriate land use activities which will be compatible with existing development in adjoining areas in locations that are presently not readily accessible.

#### 3.9.2 Permitted Uses with a CEO Permit

The following uses are permitted in the Rural Development District in accordance with the standards of Article IV. of this Ordinance:

All uses permitted in the Residential Growth District as indicated in Section 3.5.2 of this Ordinance.

#### 3.9.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

Roads and driveways, and/or parking facilities within the shoreland zone area  
Marinas  
Aquaculture  
Agricultural activities;  
Campgrounds;  
Cluster development;  
Commercial and light industrial establishments having less than 50,000 square feet of floor space;  
Earth moving activities involving over 100 cubic yards;  
Mobile home parks in accordance with the standards of the subdivision regulations  
Multi-family dwellings of not more than eight units;  
Piers, docks and similar structures projecting into or over the normal high-water line of a water body or within a wetland;  
Recreation areas; and  
Accessory uses.

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Notwithstanding the listed Conditional Uses above, Commercial and Industrial Uses, excluding campgrounds, within the shoreland zone area of this district are prohibited.

### 3.10 Village District (V)

#### 3.10.1 Purpose

To promote a mixed use activity area that concentrates pedestrian-intensive commercial and residential uses and multi-family housing compatible with the scale and intensity of existing uses found in this area. New streets and pedestrian links with the school, town office, fire station and grocery stores are to be emphasized and encouraged.

#### 3.10.2 Permitted Uses with a CEO Permit

- Single family dwellings;
- Accessory apartments;
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis;
- Municipal facilities and grounds;
- Cemeteries;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch. IIIA;
- Clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

#### 3.10.3 Conditional Uses

- A. The following uses, provided the principal building associated with such uses does not exceed 3,000 square feet of ground floor area, may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

Automobile repair and service stations;  
Business and professional offices;  
Commercial retail and service establishments;  
Earth moving activities involving over 100 cubic yards;  
Essential services;  
Hotels, motels and other lodging places; and

- B. The following additional uses may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

Cluster developments;  
Earth moving involving over 100 cubic yards;  
Multi-family dwellings of not more than eight units;

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Mixed uses - any combination of the uses permitted in Section 3.10.2 and 3.10.3.A provided that each use taken separately will not exceed 3,000 square feet of ground floor area; and  
Accessory uses.

- C. Pedestrian circulation. all developments shall provide for a system of pedestrian circulation within the development. This system shall connect with sidewalks, if they exist, in the vicinity of the project and establish easements to allow for future connections to adjoining properties.. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.

### 3.11 Airport Hazard Overlay Land Use District (A):

#### 3.11.1 Applicability and Purpose

To insure against safety hazards, noise and obstruction problems associated with aircraft utilizing the Hancock County - Bar Harbor Airport. All development proposed within this district shall be subject to the standards specified within this part, in addition to the standards and regulations contained in the particular base district in which the development occurs. Development activity within this district is subject to regulations primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their compatibility with airport operations. The regulations governing use and height within the Airport Hazard Overlay Land Use District conform to the standards recommended by the Federal Aviation Administration's Advisory Circular, 150/5190-4, "A Model Zoning Ordinance to Limit Height of Objects Around Airports".

#### 3.11.2 Delineation of the District

The Airport Hazard Overlay Land Use District corresponds with the LDN 60 noise curve, as mapped by Hoyle & Tanner & Associates, Inc. and contained in the Hancock County - Bar Harbor Airport Master Plan, December 1992, in which noise-level disturbance is likely to occur, in accordance with planning standards of the FAA. It is hereby found that four (4) levels of regulation shall be necessary within the Airport Hazard Overlay Land Use District. These levels shall be mapped on the official Land Use District Map, for the Town of Trenton. Also see illustration following this section.

- A. Discretionary Noise Level - This level of regulation involves the largest geographical area, corresponds to the LDN 60 noise curve and is the most general in terms of restrictions. It is considered discretionary because it is the transitional impact level between significant and insignificant noise levels in the vicinity of the airport. It is established primarily to insure against noise problems. Within the LDN 60 noise curve it shall be necessary to protect against the effect of noise levels

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

on proposed developments. The remaining areas to be regulated are subsections of the Discretionary Noise Level.

- B. Significant Noise Level - The LDN 65 noise curve is concentrically placed inside the LDN 60 noise curve. Because of its proximity to the airport's primary surface, greater noise and safety concerns exist and more restrictive regulation shall be required.
- C. Approach Path - This subdistrict is established to insure that developments on either end of the airstrip will not pose safety problems. The Approach Path subdistrict is established for safety of structures, persons and flight operations and is the area 525 feet on both sides of the airport's primary surface, and extending to the LDN 60 noise curve at each end of the airport's primary surface.
- D. Height Limits - An area subject to special height limitations is established to prevent any hazardous vertical protrusions. This fourth subdistrict forms a trapezoid around the airport's primary surface. To illustrate the effect of these height limitations, no structure could be built up to the 35 foot height limit if it were within 245 feet (1:7) of the sides of the runway's primary surface or within 1,190 feet (1:34) of the ends of the runway.

### 3.11.3 Area Regulations

Geographically, the sub-districts of the Airport Hazard Overlay Land Use District overlap; however, all applicable area regulations shall be met.

- A. Requirements of all Land Use Ordinance requirements and standards for the developments within the Airport Hazard Overlay Land Use District shall conform with the pertinent design and performance standards of this section. In addition to the materials that are required by this section to be submitted by an applicant for development review, any development proposed within the Airport Hazard Overlay Land Use District shall identify, by narrative description and on the development plan, the location of individual structures in relation to the airport runway's primary surface area in order to demonstrate compliance with these regulations (see illustration attached to this section).
- B. Discretionary Noise Level District - LDN 60. Notwithstanding any other provisions of this section, no use may be made of land or water within the LDN 60 noise level district in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights (i.e., colors and patterns), result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. Any use containing bedrooms, whether residential or commercial, may be developed, unless otherwise excluded in a sub-district, provided that the following

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

noise mitigation measures are achieved and shown on building plans and specifications at the time of application for a building permit:

- (a) All glass openings shall be double glazed.
- (b) Any larger areas of glass that exceed thirty (30) percent of the wall area shall be triple glazed.
- (c) Full year heating-air-conditioning shall be installed.
- (d) Exterior doors shall be solid core with gaskets. If a storm door is used, then any exterior door may be used as long as door gaskets are installed.
- (e) An attic space shall be provided, and if an attic is not provided, single plank roof construction is prohibited.
- (f) Provide baffling for all openings 4 inches in diameter or larger.
- (g) These provisions shall not apply to areas in a dwelling unit that are not intended for long-term occupancy such as a laundry room, a storage closet or a bathroom.

#### C. Significant Noise Level District - LDN 65

- (a) Residential development is prohibited inside the LDN 65 noise curve due to the severe nature of the health, safety and welfare concerns.
- (b) In addition, only low density non-residential uses shall be permitted (including but not limited to: small-scale storage, warehousing, sales/service, wholesaling operations, or those business employing fewer than 10 employees or serving less than 10 patrons at a time). Exception to this standard shall be made for uses proposed to be located on property owned by or leased to the airport which are approved by the Hancock County Commissioners as accessory to the airport and upon a finding by the County Commissioners that (1) the use is necessary for the safe or efficient functioning of the airport, and (2) no feasible alternative location exists.

#### D. Approach Path

- (a) Hotels, schools, churches, auditoriums, theaters and similar forms of assembly uses and high density development (more than 2 dwelling units per net acre or employing more than 10 persons) shall be prohibited in the approach path subdistrict.
- (b) Low density development (2 dwelling units or less per net acre) shall be permitted. In addition, only low density non-residential uses shall be permitted (see LDN 65 definition). Exception is made for uses proposed to be located on property owned by or leased to the airport which are approved by the Hancock County Commissioners as accessory to the airport and upon a finding by County Commissioners that (1) the use is necessary for the safe or efficient functioning of the airport, and (2) no feasible alternative location exists.

#### E. Height Limitations

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Within the Airport Hazard Overlay Land Use District no building, structure, utility pole or protrusion of any kind thereof shall be permitted to extend to a height measured from the mean elevation of the airport runway that exceeds the limits established by the methodology described herein. The maximum height limits permitted under this ordinance of thirty-five (35) feet shall be lowered as necessary to correspond with the limits established as follows:

- (a) The airport runway primary surface area consists of a rectangle that extends to a distance of 200 feet beyond the ends of runways 4-22 and 17-35 and is 1000 feet wide for runway 4-22 and is 500 feet wide for runway 17-35. Along both sides and ends of the airport primary surface area, at the extremity of the primary surface, the height restriction shall be zero (0) feet. Moving outward from both sides of the runways, the height limit shall increase at the rate of one (1) foot upward per seven (7) linear feet, or a ratio of 1:7.
- (b) Moving outward from the ends of the runway's primary surface area, the area subject to these special height limitations shall fan outward beyond the area that would be covered if the height limitation from the sides of the primary surface area extended beyond the ends of the runway. The area so encompassed by special height limitations at the ends of the runway is in the shape of a trapezoid, in which the smaller and larger bases are established by the FAA. The height of the trapezoid would be the linear distance from the end of the runway, as described below.

For runway 4 end - the height limit shall increase at the rate of one (1) foot upward per thirty-four (34) linear feet, or a ratio of 1:34. For example, no structures could be built up to 35 feet within 1,190 feet of the runway 4 end.

For runway 22 end (precision instrument approach end) - the height limit shall increase at the rate of one (1) foot upward per fifty (50) linear feet, or a ratio of 1:50. For example, no structure could be built up to 35 feet within 1,750 feet of runway 22 end.

For runway 17 end - the height limit shall increase at the rate of one (1) foot upward per twenty (20) linear feet, or a ratio of 1:20. For example, no structure could be built up to 35 feet with 700 feet of runway 17 end.

For runway 35 end - the height limit shall increase at the rate of one (1) foot upward per twenty (20) linear feet, or a ratio of 1:20. For example, no structure could be built up to 35 feet within 700 feet of the runway 35 end.

### 3.11.4 Nonconforming Uses or Structures

- A. Regulations Not Retroactive - The regulations prescribed herein shall not be construed to require the removal, lowering or other change or a iteration of any existing structure not conforming to the regulations as of the effective date of this



## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the lawful construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently pursued.

- B. Marking and lighting - The owner of any existing nonconforming structure is hereby required to permit the installation operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Hancock County Commissioners.

### 3.12 Route 3 Corridor Overlay Land Use District

#### 3.12.1 Applicability and Purposes

To protect and enhance the economic potential, aesthetic and visual character of lands in Trenton adjacent to Route 3. To promote safe and efficient travel; minimize disruptive and potentially hazardous traffic conflicts. To protect the substantial public investment in the Route 3 corridor by preserving mobility and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow. To separate traffic conflict areas by reducing the number of driveways, provide safe spacing standards between driveways, and between driveways and intersections. To provide for shared access between abutting properties and implement economic, safety and transportation-related goals of the Trenton Comprehensive Plan. Ensure reasonable access to properties, though not always by the most direct access; and to coordinate access decisions with the Maine Department of Transportation as applicable.

All development proposed within this overlay district shall be subject to the procedures, standards and guidelines specified in the following sections, in addition to those standards pertaining to the particular base land use district in which the development occurs. In addition, the purpose of the Route 3 Corridor Overlay District is to encourage high quality economic development, provide for more positive visual experiences and assure the continued safe and efficient utilization of Route 3.

#### 3.12.2 Delineation of the District

The Route 3 Corridor Overlay Land Use District shall include all lands within 500 feet of the east side and 1,000 feet of the west side of Route 3 as measured from the centerline of the roadway.

The approximate boundary of this land use district shall be shown on the official Land Use map.

All applications for development located in the Route 3 Corridor Overlay Land use District shall be reviewed by the planning board, except for single family dwellings and

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

duplexes. If the applicant for a development permit can demonstrate that a portion of the corridor will not be visible from the road once the project is completed, the planning board may waive the architectural review guidelines of this section.

### 3.12.3 Area Regulations

#### A. Landscaping Requirements

- i. Landscape plans shall be included as part of applications for all developments permitted as conditional uses. All landscape plans must address the requirements of all the applicable sections that follow. Landscape plans shall include:
  - a. A planting plan showing location, quantity, time of proposed planting, and type of proposed plantings.
  - b. A planting schedule showing all materials to be used for landscaping, botanical name, common name, quantity, and size at installation (sizing and grading standards of the latest edition of "American Standard for Nursery Stock" shall be used).
  - c. All horizontal landscape construction such as walls, drives, decks, terraces, etc. shall be drawn on the conceptual landscape plan and labeled according to material and finish.
  - d. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc. shall be drawn and labeled sufficiently to indicate size, materials and general appearance.
  - e. If landscaping is to be irrigated, show approximate extent of coverage and outline performance specification.
  - f. Landscape lighting, if used on site, showing location, wattage, typical fixture design, type of bulb and quantity.
  - g. A landscape plan shall also show what native vegetation will remain and what will be removed. A landscaping maintenance schedule shall also be provided.

If at the time of project construction site conditions require more than a twenty-five (25) percent alteration from the landscape plan, review of changes with the planning board will be required to insure conformance with the intent of these standards.

- ii. Front yard landscaping requirements  
The purpose of these front yard landscaping requirements is to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between potentially incompatible uses and to protect, preserve and promote the aesthetic appeal, character and value of the Route 3 Corridor.

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- a. Seventy-five percent (75%) of the required front yard must be maintained in a landscaped condition. Furthermore, at least fifty (50%) percent of the required front yard that is directly in front of a proposed principal structure must be landscaped. Landscaping or landscaped condition shall mean the addition or retention of lawns, fields, trees, plants and other natural and decorative features to the land. Unless otherwise specified the preservation, care and maintenance of existing native vegetation of a size and character as noted in Section 3.12.3.D can be considered 'landscaping'.
- b. Existing vegetation of size and type as described in Section 3.12.3.D shall not be removed and there shall be no development, clearing, grading or construction activity within the required front yard with the following exceptions:
  - roadway or driveway access and limited parking as allowed for the proposed use
  - provision of electrical, telephone, cable utilities etc. service lines
  - pedestrian and/or bicycle paths
  - signs and lighting fixtures which comply with the Trenton Sign Ordinance
  - clear sight distances at permitted entrances and exits to proposed uses
  - the addition of plantings, earth forms or other visual buffers which, in the opinion of the planning board would better serve the purpose of this section of the ordinance.
- c. All front yard areas that are to be preserved as natural, native plant communities shall be maintained free of all debris and trash, trimmed at least once a year and managed in order to maintain the plant community for which it was established.
- d. Cultivated landscaped areas around and in conjunction with parking lots, and signs are required as detailed in the sections that follow.

#### B. Parking Lot Design and Landscaping

##### i. General

All development shall provide permanent off-street parking space in accordance with and at a minimum in the amount specified by Section 4.1.17 Required off-street parking spaces shall be so designed, arranged, and regulated as to have individual spaces marked, be unobstructed, and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway; the spaces shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard. Such parking areas shall be graded and properly

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

drained in such a manner that there will be no free flow of water onto any adjacent property.

ii. Shared Parking

The required parking space for any number of separate uses may be combined in one facility. Generally, the required space assigned to one use may not be assigned to another use; thus, the total available spaces should be the sum of required spaces for each of the individual uses. Shared parking facilities where parking available is below the strict requirements for users set forth in Section 4.1.17 shall be allowable when the functional nature of the uses allow for differing peak hour demands. The number of spaces required in such a shared facility other than those specifically noted in Section 4.1.17 shall be determined by the Planning Board in accordance with the guidelines of the Urban Land Institute's Shared Parking provisions. Any such combined use will require the recording of a perpetual easement, in form and substance acceptable to the planning board, in the office of the Hancock County Registry of Deeds.

iii. Landscaping

Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. As a guideline, large parking lots shall be designed and landscaped to fit harmoniously within the landscape and wherever possible shall be broken down into sections of not more than forty (40) spaces, separated from other sections by landscaped dividing islands, strips, berms, and similar elements, in accordance with the following requirements:

- a. The cultivated landscaping of the perimeter of all off-street parking areas is required except for accessways as necessary. The minimum width of the perimeter landscape strip shall be ten (10) feet and shall be landscaped with at least one tree and five (5) shrubs for every thirty feet of parking lot perimeter. Trees and shrubs in a perimeter landscape strip may be planted singly or in clusters. The remainder of the perimeter landscape strip shall be landscaped with grass, ground cover or other appropriate landscape treatment. Sand or pavement shall not be considered to be appropriate landscape treatment.
- b. Landscaping of the interior of off-street parking areas larger than forty (40) cars is required. Terminal islands between rows of parking spaces shall be provided which shall be at least five (5) feet in width and shall contain at least one tree and five shrubs for every five (5) parking spaces. Trees and shrubs in terminal islands or landscaped islands may be planted singly or in clusters. The remainder of any terminal islands or other interior landscape islands shall be landscaped with grass, ground cover or other appropriate landscape treatment. Not less than 10% of the interior of off-street parking

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areas for more than forty cars shall be landscaped and maintained with grass or other living vegetative materials.

- c. Plants that restrict visibility such as tall shrubs or low branching trees should be avoided for security and traffic safety reasons.

### C. Landscaping and Architectural Treatment of Freestanding Signs

All freestanding signs shall be surrounded with a cultivated landscape and installed on a wood, stone or other base material, at least two (2) feet in height and compatible with and similar to the materials of the principal structure developed on the lot. The size of the cultivated landscape area shall be at least twice as large as the size of the permitted freestanding sign and shall be landscaped with low maintenance shrubs, flowers and other similar plantings.

### D. Preservation of Native Vegetation

Where landscaping is required in this section it can consist of native vegetation provided that:

- i. No more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level is removed.
- ii. There are no cleared openings greater than 250 square feet, or as required for approved construction.
- iii. Maintenance of vegetation is conducted on a regular basis to include removal of storm damaged, diseased, unsafe or dead trees, the control of plant species which tend to become nuisances because of their undesirable growth, but which, if properly cultivated, may be useful or functional elements of a landscape, and the control of plant species as necessary to maintain native vegetation as originally established.
- iv. Open fields or pastures are mowed at least annually.
- v. The pruning, thinning out and shaping of trees and shrubs is in accordance with standard horticultural practice. The topping of trees is not allowed and no more than 1/3 of the branching structure of a tree or shrub shall be removed within a ten year period.

### E. Standards for Landscape Materials

All plant materials and landscape development work shall conform with the specifications developed by the Maine Urban and Community Forestry Council, dated November 1992, or as subsequently amended.

## 3.12.4 Architectural Review Guidelines

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The compatible relationship of architecture along roads in the Route 3 Corridor Overlay District is of critical public concern for any new buildings or site improvements. The intent of the guidelines is not to stifle innovative architecture but to assure respect for and reduce incompatible and adverse impacts on the visual experience from the roadway. To accomplish this the planning board shall utilize the following guidelines in reviewing proposed structures and site improvements. The requirements of this section of the ordinance (Section 3.12.4) are not meant to be prescriptive, but are illustrative of examples of architectural design details which will meet the standards and purposes for which the Route 3 Corridor Overlay Land Use District has been established. An applicant is free to submit an application which varies from the following guidelines.

- A. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms.
- B. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede as little as reasonably practical, scenic views from the main road or from existing structures and the natural environment.
- C. The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history and cultural heritage of Trenton and the Mount Desert Island area, with natural land forms and existing vegetation, and with other development plans already approved by the Town that are in compliance with this section, demonstrate the area's character, and are designed to be unobtrusive and set into the natural environment.
  - 1. Pitched roofs or the appearance of pitched roofs with a minimum slope of 5/12 are strongly encouraged. Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.
  - 2. Natural wood siding, brick or other materials with similar texture and appearance are recommended. Reflective or metal surfaces are not acceptable.
  - 3. Colors of materials, paints and stains shall be nature-blending, subdued earth tones. Semi-transparent stains are recommended for application on natural wood finishes.
  - 4. The location and dimensions of wall signs shall be indicated and shall maintain compatibility with architectural features of the building.

### 3.12.5 Density Bonus

A density bonus may be granted by the planning board when provisions are made for the following types of public benefits:

## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- A. access to a new principal use occurs on an internal street with common access to Route 3 shared with abutting property owners.
- B. vantage points for views or other publicly accessible open space is made available.
- C. access to interior off-road backland parcels is provided.

The planning board may reduce lot sizes and street frontage requirements by up to 50% for projects proposed which incorporate one or more of the measures identified above. In no case shall lots served by on-site subsurface sewage disposal be less than 20,000 square feet.

### 3.12.6 Preservation of landscape.

The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vistas.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall be preserved to the maximum extent feasible.

### 3.12.7.1 Driveway and Related Access Standards

All lots hereafter created and all structures hereafter created, altered or moved on property with frontage on the Route 3 corridor shall conform to the following requirements:

- a. Access Approval Required. No road, driveway, shared access, parking lot cross access, service road, or other access arrangement shall be established, reconstructed or removed without first meeting the requirements of this section.
- b. Frontage. Any lot created after the effective date of this ordinance shall have frontage upon a local or collector street, a street in an approved subdivision, or a private way approved by the Planning Board. Contiguous properties under one ownership or consolidated for unified development will be considered one parcel for purposes of this section.
- c. Adequate Driveway Spacing. Spacing between driveways shall meet or exceed the following standards:

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Posted Speed (MPH)	Driveway Separation (Feet)
35	130
36	175
37	265
38	350
55	525

Driveway spacing shall be measured from edge of driveway/entrance to edge of driveway/entrance, excluding radii. Driveways or entrances located directly across the highway from the proposed entrance will not be counted in applying the spacing standard.

- a. Adequate Corner Clearance. Spacing between driveways and signalized and unsignalized intersections shall be a minimum of 125 feet. Corner clearance spacing is measured from edge of driveway/entrance to edge of street, excluding radii.
- b. Mobility Sight Distance. The sight distance of the driveway must meet or exceed the following standards:

Posted Speed (MPH)	Sight Distance (Feet)
35	480
36	580
37	710
38	840
55	990

Sight distance is measured in accordance with this definition.

- a. High Crash Locations. Where driveways are to be located in a segment defined as an existing High Crash Location by the Maine Department of Transportation, and where left-turn access is available through alternative means of access, the Planning Board may require driveway design and signage which discourages certain turning movements.

#### 3.12.7.2 Shared Access



## ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Shared access is strongly encouraged and in some cases may be required. When required, one or more of the following options, and the standards of Section 3.12.7.4 shall apply.

- a. Shared Driveways: Sharing or joint use of one driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of Section 3.12.7.1.c “Adequate Driveway Spacing”, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
- b. Frontage Roads: In cases where a frontage road exists, in an adopted corridor study, and/or is proposed in an approved sight plan for an adjoining lot or parcel, access shall be provided via such frontage road, rather than by direct connection to the abutting arterial street.
- c. Rear Service Drives: Rear service drives shall be encouraged, especially for locations where connection to a side street is available. In addition to access along the rear service drive, direct connection(s) to the arterial street may be allowed, provided that the driveway requirements meet all other requirements of this ordinance.

### 3.12.7.3 Parking Lot Connections

Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Board. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.

### 3.12.7.4 Access Easements

Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities shall be recorded with the deed.

### 3.12.7.5 Existing Driveways

Except for shared driveways, existing driveways that do not comply with the requirements of Section 3.12.7.1 shall be closed when an application requiring a site plan approval is submitted and approval of a new means of access is granted. A closed

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driveway's curb cut shall be filled, graded and landscaped to conform with adjacent land and curbs.

### 3.12.7.6 Temporary Permit

- a. A temporary access permit may be conditionally issued to a property included in an access management plan that programs road improvements and installation of service drives and/or shared driveways that would eliminate the need for the temporary driveway.
- b. Conditions may be included in a temporary access permit including but not limited to, a limitation on development intensity on the site until adjoining parcels develop which can provide a shared driveway, shared access via a service drive, and/or cross parking lot connection consistent with the requirements of Section 3.12.7.3.
- c. A temporary access permit shall expire when the use of the site for which the temporary access permit was granted has ceased or after twelve (12) months.
- d. A site plan for property that cannot meet the access requirements of Section 3.12.7.1 nor the waiver standards of 3.12.7.7, and has no alternative means of reasonable access to the public road system may be issued a temporary access permit. When adjoining parcels develop which can provide a shared driveway, shared access via a service drive or a cross parking lot connection, the temporary access permit shall be rescinded and an application for an access permit consistent with the requirements of Section 3.12.7.1 shall be required.

### 3.12.7.7 Waivers

- e. Any applicant for access approval under the provisions of this Section may apply for a waiver of standards in Section 3.12.7.1 if the applicant cannot meet one or more of the standards according to the procedures provided below:
- f.
  1. For waivers on properties involving land uses with less than 100 passenger car equivalent vehicles per peak hour based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: Where the standards in this Section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the Route 3 Overlay District may be accepted by the Planning Board, provided that all of the following apply:
    - a. Adjacent development renders adherence to these standards economically unfeasible.

### ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- b. There is no other reasonable access due to topographic or other considerations.
- c. The standards in this Section shall be applied to the maximum extent feasible.

1. For waivers on properties involving land uses with 100 or more passenger car equivalent vehicles per peak hour based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: During the land use application process the Planning Board shall have the authority to waive or otherwise modify the standards of Section 3.7.12.1 following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this Section, provided that all of the following apply:

- a. Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
- b. Roadway improvements will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- c. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- d. The proposed location and design is supported by the Maine Department of Transportation Regional Traffic Engineer as an acceptable design under the circumstances.

## ARTICLE IV. STANDARDS

### 4.1 General Standards

Except as elsewhere 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, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

All land use activities shall conform to the following land use standards:

#### 4.1.1 Access to the site.

All transportation design elements and administration provisions of the Town of Trenton shall comply with the Maine Department of Transportation Driveway Entrance Standards and the following performance standards:

- A. Access. In all districts, permitted and conditional uses shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number of access points, properly designed and located, with respect to sight-distances, intersections, schools and other traffic generators. To maintain the capacity of the Town's road network, it is necessary to provide for the coordination and combination of access points along major roads.
- B. Corner Clearance. For purposes of traffic safety in all districts no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the public ways for twenty feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.
- C. Capacity. Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. The determination of level of service shall be based on the Highway Capacity Manual, Special Report 209, published by the Research Board, National Research Council, Washington, D.C., 2000. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current level of service. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

## ARTICLE IV.1 GENERAL STANDARDS

- 1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.

### 4.1.2 Accessory Apartments

The purpose of these provisions is to provide a diversity of housing for residents while protecting the single family character of residential neighborhoods. Accessory apartments may be utilized for rental purposes as well as in-law accommodations.

#### A. Building plan required

Any request for an accessory apartment shall include a building plan showing the following:

- 1) Separate floor layout of all finished levels;
- 2) All plumbing facilities, kind and location;
- 3) Use of all rooms;
- 4) All entrances/exits;
- 5) Parking area.

#### B. Subsurface wastewater disposal

Any request for an accessory apartment shall conform to all provisions of the Maine Subsurface Wastewater Disposal Rules and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an accessory apartment until a site evaluation has been conducted by a licensed site evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.

#### C. Size

The accessory apartment shall have at least five hundred (500) square feet of floor area. Floor area measurements shall not include unfinished attic, basement or cellar spaces, nor public hallways or other common areas.

#### D. Number of units

Only one accessory apartment shall be permitted per lot.

## ARTICLE IV.1 GENERAL STANDARDS

### E. Prohibitions

Accessory apartments shall not be permitted for any nonconforming structure or use, where the nonconformity is due to the use of the premises, as opposed to nonconforming dimensional requirements.

#### 4.1.3 Air Pollution

No dust, dirt, fly ash, fumes, vapors, or gases shall be emitted into the air from any land use or establishment so as to endanger the public health and safety, to impair safety on or the value and enjoyment of other property or to constitute a critical source of air pollution. Air pollution control and abatement shall comply with applicable minimum federal and state requirements.

#### 4.1.4 Campgrounds

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

- A. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet of suitable land in shoreland zone, and 2,500 square feet of suitable land in inland areas, not including driveways and roads or land below the normal high-water line, for each site.
- B. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
- C. The area intended for placement of the recreational vehicle, tent or shelter site, and utility and service buildings shall be set back a minimum of 50 feet horizontal distance from the exterior lot lines of the camping area, and 75 horizontal distance feet from the normal high-water line of any - tributary stream, or the upland edge of a wetland.
- D. Screening shall be required where necessary to shield the campground from non-compatible abutting areas.

#### 4.1.5 Cluster Development

The purpose of these provisions is to provide for the more efficient use of land and the preservation of open space and to allow for new concepts of housing development where maximum variations in design and layout may be allowed, provided that the following requirements are met:

## ARTICLE IV.1 GENERAL STANDARDS

- A. Cluster developments shall be permitted on parcels or tracts of land 15 acres or more in size, and must meet all of the requirements for subdivisions;
- B. Uses shall be limited to those permitted in the district in which the project is located;
- C. Overall, maximum net residential density means the number of dwelling units, either as single family dwellings or contained in a multi-family dwelling (and subject to all other provisions of this Ordinance which are not inconsistent with these specific provisions) per suitable acre of the site. For Cluster Developments the overall, maximum net residential density shall not exceed one dwelling unit for each 40,000 square feet of suitable site acreage. Lot sizes may, however, be reduced to as little as 20,000 square feet of suitable land (30,000 square feet in the shoreland zone) provided that the sum of the areas by which any building lots are reduced below 40,000 square feet is reserved as dedicated open space. In calculating the overall, maximum net residential density allowable, the following areas shall not be included in the determination of suitable acreage or land for the calculation of maximum net residential density: land which is situated below the normal high-water line of any water body; land which is located within the 100 year frequency flood plain (the elevation of filled or made land shall not be considered); land which is part of a right-of-way, or easement, including utility easements; land that has been created by filling or draining a pond or wetland; land which is located in a town designated resource protection district; land which has slopes in excess of 15%; and land which is identified by the Natural Resource Conservation Service as having a seasonal high-water table of 6" or less.

An example of the application of the provisions of this section of the Ordinance follows:

If, in the non-shoreland portion of the Residential Rural District (RR), 3 acres of a total 15 acre site are unsuitable due to slope and wetland characteristics, the remaining suitable acreage available for development is 12 acres of suitable land. The maximum permissible density for residential dwelling units to be built on this 15 acre parcel is determined as follows: 522,720 square feet of suitable land (square feet of suitable land = 12 acres x 43,560 sq.ft./acre or 522,720 square feet), divided by the required minimum lot size for the Residential RR District of 40,000 square feet, equals 13 permissible dwelling units for the entire 15 acres. These 13 dwelling units could be arranged as 13 single family dwellings, or any other mixture permitted elsewhere in this ordinance of single, two family or other multifamily dwellings. The Planning Board may allow lots within a cluster subdivision to be reduced in area below the minimum normally required, in return for open space, where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features without increasing the overall net density of the development. In the example used above 13 dwelling units could be situated on approximately six (6)

## ARTICLE IV.1 GENERAL STANDARDS

acres, or 260,000 square feet of suitable land on the overall 15 acre parcel (13 dwelling units, multiplied by 20,000 square feet, equals 260,000 square feet, or about six (6) acres) provided the remaining nine acres of the parcel is reserved as dedicated open space. The total area of reserved open space within a development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by this Ordinance. In the example provided 13 lots were reduced by 20,000 square feet each, and therefore the dedicated open space would need to total 260,000 square feet of suitable land, or about six (6) acres, plus the three (3) acres of land found unsuitable due to slope and wetland limitations.

- D. The distance of every building from the property line of properties abutting the cluster development shall meet the setback requirements of the district in which the project is located;
- E. Each building shall be an element of an overall plan for site development, which shall identify the location of lots, roads, structures, open spaces, and other significant features;
- F. Open space areas included in the calculation for net density shall be identified and the mechanism for their maintenance and upkeep shall be stated. Further subdivision of land identified as open space is prohibited.
- G. The Planning Board may require that an applicant for a cluster development include as an alternative for the Board's review a common or shared water supply and/or a common or shared subsurface waste water disposal system.

### 4.1.6 Earth Moving and Excavation

The following performance standards shall apply to earth moving and excavation activities of more than ten (10) cubic yards. These standards are not intended to prohibit normal earth work activities in conjunction with and incidental to construction, alteration, or repair of a structure or the grading and landscaping incidental thereto for which a building permit has been issued.

- A. No excavation and/or removal of earth material shall be permitted within 100 feet of any property line, public roadway or public facilities, or within 150 feet of any structure.
- B. No below grade excavation shall create an unstable slope so that the land within 100 feet of any property line, public roadway or facility shall be subject to any increased erosion, slump or mass movement, or other detrimental effect.
- C. No earth moving or excavation operation shall result in increased erosion or runoff that will adversely affect any adjoining properties.



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- D. No excavation shall be worked below the normal ground water level or adversely affect ground water.
- E. All operations shall be screened from view from adjacent property with adequate fencing, vegetation, or other appropriate means.
- F. All land which has been excavated must be rehabilitated according to a "seeding plan" approved by the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) District. A minimum of two (2) inches of top soil or loam shall be returned to cover all areas so that they may be seeded and restored to natural conditions with vegetation. Rehabilitation measures shall include the application of 150 pounds of lime, 20 to 30 pounds of complete fertilizer and 3 pounds of conservation seed mix per 100 square feet of disturbed land.
- G. Where an embankment must be left upon the completion of operations, it shall be at a finished slope of not steeper than one (1) vertical foot to two (2) feet horizontal.
- H. All restoration activity shall be complete as of one year following the date the use of the operation is discontinued. The operation shall be deemed discontinued if no work has been done within twelve (12) consecutive months.
- I. A Natural Resource Conservation Service (NRCS) restoration plan shall be required prior to the approval of a conditional use.
- J. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet of the normal high-water line of any tributary stream, or the upland edge of a wetland.
- K. 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.

### 4.1.7 Environmental standards.

All development shall be designed in accordance with applicable standards designed to protect the environment.

Conservation, erosion and sediment control.

The following measures shall be included where applicable as part of any land use application review and approval.

- a) Stripping of vegetation, re-grading or other development shall be done in such a way as to minimize erosion.

## ARTICLE IV.1 GENERAL STANDARDS

- b) Development shall preserve salient natural features and wildlife habitat as identified in the comprehensive plan and the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Program, keep cut-fill operations to a minimum and ensure conformity with the topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
- c) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
- d) Disturbed soils shall be stabilized as quickly as practical.
- e) Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
- f) The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
- g) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
- h) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
- i) Any activity in a protected natural resource shall comply with the State's Natural Resources Protection Act, Title 38 M.R.S.A. Sections 480A-480BB. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the protected natural resource for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
- j) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

### 4.1.8. Groundwater protection.

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that the

## ARTICLE IV.1 GENERAL STANDARDS

groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

### 4.1.9 Height Restrictions

The building or structure height limitations for all districts shall be 35 feet, except for steeples, silos, detached barns, windmills, and water towers and similar structures having no floor area.

### 4.1.10 Home Occupations or Profession

The use of land and/or buildings for the purposes of a home occupation or profession shall be permitted in any district provided that such use shall conform to the requirement of this Ordinance, including the following:

- A. The home occupation shall be conducted wholly within the dwelling or accessory structure.
- B. The home occupation shall be secondary and subordinate to the primary use of the structure which is residential.
- C. The home occupation shall be carried on by a member of the family residing in the dwelling unit.
- D. There shall be no alteration or additional structures, no exterior storage, displays, or signs other than those permitted under the Sign Ordinance for the Town of Trenton, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- E. Objectionable conditions such as noise, smoke, dust, odors, heat, glare, electrical disturbance, radiation, or waste discharge shall not be generated by the home occupation.
- F. In addition to the off-street parking provided to meet the requirements of the dwelling, off-street parking shall be provided in conformance with the parking requirements for businesses and professional offices in Section 4.1.18 of the Ordinance.
- G. In no case will an activity primarily involving retail sale be permitted.

### 4.1.11 Internal vehicular circulation.

The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

- 1) Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.
- 2) Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

## ARTICLE IV.1 GENERAL STANDARDS

- 3) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.
- 4) All streets and access ways shall be designed to follow the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
- 5) Access ways shall be designed to provide for connection to adjacent streets.

### 4.1.12 Lighting

- A. No lights shall be placed or maintained upon or in view of any public roadway so that its beam or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.
- B. Adequate buffers using either natural landscaping or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

### 4.1.13 Lot Size and Setback Requirements

Lot size, front, rear, and side yard setbacks, maximum lot coverage, and maximum residential density for structures in each of the districts shall conform to the table on lot standards and the following:

- A. Wherever a side yard or back yard is adjacent to a public roadway, the regulations for front yard setbacks shall apply to the side yard as well.
- B. A lot within the shoreland zone shall have the following minimum shore frontages as measured in a straight line between the points of intersection of the side lot lines with the shoreline: 150 feet for residential uses per dwelling unit adjacent to a coastal wetland; 200 feet for residential per dwelling unit adjacent to a freshwater wetland, and for other non-residential uses per principal structure adjacent to a coastal wetland; and 300 feet for non-residential uses per principal structure adjacent to a freshwater wetland.
- C. Land below the normal high-water line of a upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

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- D. 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.
- E. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of an upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- F. If more than one residential dwelling unit or more than one principal, governmental, institutional, commercial or industrial structure or use is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure; except that outside the shoreland zone, in the case of a duplex or a single apartment located in the principal or an accessory structure, in which case the dimensional requirements for a single dwelling unit shall apply.

#### 4.1.15 Lot Standards Table

	Residential Growth	Village	Airport Commercial Industrial	Gateway/ Commercial	Rural Commercial	Rural Development	Resource Protection	Business Park	Rural Residential
<b>Minimum Lot Size (sq. ft.)</b>							40,000		40,000
Residential (per principal structure)	40,000	20,000 <sup>4</sup>	--	80,000	5 acres	40,000	--	--	
Commercial/Industrial (per principal structure)	--	40,000	40,000	80,000	5 acres	5 acres	--	60,000	
<b>Minimum Lot Width (feet)</b>							200		200
Residential (per principal structure)	150 tidal areas; 200 non-tidal	200	--	300	450	200	--	--	--
Commercial/Industrial (per principal structure)	--	200	400	300	450	400	--	200	
<b>Minimum Road Frontage (ft)</b>							200		200
Residential (per principal structure)	150	200	--	300	450	200	--	--	--
Commercial/Industrial (per principal structure)	--	200	400	300	450	400	--	200	
<b>Minimum Front Yard Setback from the Centerline of a Roadway (ft)<sup>1</sup></b>							75		
Route 3	--	135	135	135	<sup>1</sup>	--	--		
Other Roads									
Residential	75	75	--	75	75	75	--	--	75
Commercial/Industrial	--	75	75	75	75	125	--	55	
<b>Minimum Side Yard Setback from a Lot Line (ft)</b>									
Residential	15	15	--	25	25	25	35	--	25 <sup>5</sup>
Commercial/Industrial	--	15	25	25	25	100	--	25	--
<b>Minimum Back Yard Setback from a Lot Line (ft)</b>							50		50
Residential	50	25	--	40	40	40	--	--	
Commercial/Industrial	--	25	40	40	40	40	--	25	
<b>Maximum Lot Coverage</b>							10%		20%
Residential	20%	60%	--	30%	15%	20%	--	--	
Commercial/Industrial	--	60%	25%	30%	15%	20%	--	50%	
<b>Maximum Residential Density<sup>2</sup> (sq. ft./dwelling unit)</b>	40,000	20,000 <sup>4</sup>	--	40,000	40,000	40,000	--	--	40,000
<b>Maximum Building Height (ft)<sup>3</sup></b>	35	35	35	35	35	35	35	35	35

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<sup>1</sup> Minimum frontyard setback in the Rural Commercial District varies according to the size of the principal structure: A principal structure with

3,000 sq. ft. of ground floor area - 135 feet frontyard setback	4,000 sq. ft. of ground floor area - 145 feet frontyard setback
5,000 sq. ft. of ground floor area - 155 feet frontyard setback	6,000 sq. ft. of ground floor area - 165 feet frontyard setback
7,000 sq. ft. of ground floor area - 175 feet frontyard setback	8,000 sq. ft. of ground floor area - 185 feet frontyard setback
9,000 sq. ft. of ground floor area - 195 feet frontyard setback	10,000 sq. ft. of ground floor area - 210 feet frontyard setback

<sup>2</sup> An exception to these density requirements exists in Section 4.1.13.F.

<sup>3</sup> Maximum building height will vary within close proximity to the airport, see Section 3.10.

<sup>4</sup> Lot size in the village district may be reduced to 10,000 square feet per primary residential unit if served by a centralized water and sewer system

<sup>5</sup> For Non-conforming Lots of Record in the Rural Residential District the Side-Yard Setback shall be fifteen (15) feet.

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### 4.1.14 Multi-Family Dwelling Units

Multi-family dwelling units shall meet all of the following criteria:

- A. Lot area and shoreline frontage shall be equal to that required for the equivalent number of single-family dwelling units.
- B. Minimum road frontage shall be 150 feet.
- C. Lots for multi-family dwelling units shall meet all other setback and lot coverage requirements for single-family dwellings.
- D. No building shall contain more than eight (8) dwelling units.
- E. All multi-family dwellings shall be connected to a common water supply and distributions system at no expense to the municipality.
- F. All multi-family dwelling units shall be connected to a collection and treatment system in accordance with the sanitary provisions of State law.
- G. No parking shall be located within the required yard area.
- H. All multi-family developments shall meet the landscaping requirements of the Route 3 Corridor Overlay District regardless of their location in town.

### 4.1.15 Noise

With the exception of natural phenomena, emergency vehicles, warning devices, time signals, and noise necessarily involved in the construction or demolition of buildings and other structures, or fishing, farming and timber harvesting operations, no noise which is objectionable due to volume, intermittence, beat frequency, or shrillness shall be transmitted outside the lot where it originates.

The maximum permissible sound pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this Ordinance shall be established by the time period and type of land use listed below. Sound use levels shall be measured on a sound meter at all major lot lines, at a height of at least four (4) feet above the ground surface.



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District	Sound Pressure Level Limit (decibels)	
	7AM - 8PM	8PM - 7AM
Resource Protection:	50	45
Residential: Growth	55	45
Rural Residential	50	45
Rural Development:	65	55
Rural Commercial:	65	55
Gateway Commercial:	65	55
Airport Commercial/Industrial*:	75	60
Business Park:	75	60
Village:	65	55

**\*NOTES:** **A.** These limits do not apply to aircraft operations. **B.** Portions of this zone are also subject to the standards of the Airport Hazard Overlay District (see Section 3.10). All uses within this overlay district must also meet the noise standards specified in section 3.10. In the event of a conflict between these standards, those of section 3.10 shall apply.

### 4.1.16 Open space

- 1) Common open space areas shall be contiguous, where possible.
- 2) Common open spaces as shown on a ny approved development plan shall contain a notation that common open space areas shall not be further developed for any other use.
- 3) When reviewing the location and type of open space designated in an application, the Planning Board shall require:
  - a) Individual lots, buildings, streets, and parking areas shall be designed and situated:
    - i. to minimize alterations of the natural site *and key natural features and wildlife habitats identified as such in the comprehensive plan and by the Maine Department of Inland Fisheries and Wildlife Beginning With Habitat program* ;
    - ii to avoid the adverse effects of shadows, noise and traffic on the residents of the site;

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- iii. to relate to surrounding properties and to improve the view from and of buildings.
- b) Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.
- c) Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings and features identified in the Beginning With Habitat program and the comprehensive plan ).
- d) Open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the site.
- e) Special consideration shall be given to preserving access to brook trout streams.
- f) Developments in excess of 100 acres shall provide sufficient open space to meet the open space needs of users or residents of that development

### 4.1.17 Parking and Loading Standards

Off-Street Parking. In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, or enlargement, off-street automobile parking space within 300 feet of the principal building, structure or use of the premises, in accordance with the following parking requirements:

- A. An area of 200 square feet appropriate for parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.
- B. Unless the requirements of Section 3.11.3.B.ii are met, no required parking space shall, for the purposes of this Ordinance, serve more than one use.
- C. No off-street parking facility shall have more than two entrances and exits on the same street.
- D. Parking areas with more than two parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

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- E. All off-street parking shall be constructed and maintained in accordance with the requirements of the Building Code of the Town of Trenton.
- F. Parking areas containing 10 or more spaces shall have landscaping as may be approved by the Planning Board pursuant to land use application for purposes of reducing to the original rate of runoff in mitigation of the increase in runoff resulting from the increased area of pavement.
- G. The following minimum off-street parking requirements shall be provided and maintained in case of new construction and changes of use. Such parking may be provided in the open air:

Accessory Apartment- 1 space per each accessory dwelling unit.

Automobile Repair and Service Stations - 1 space for each regular employee plus 1 space for each 50 square feet of floor area used for service.

Boarding, Rooming Houses and Tourist Homes - 1 space for each guest room.

Bowling Alley - 3 spaces for each bowling lane.

Business and Professional Offices - 1 space for each 100 square feet of working space.

Churches - 1 space for each 3 persons based on seating capacity.

Drive-in Restaurants and Dairy Stands - Minimum of 10 spaces.

Fraternal Organizations and Clubs - 1 space for each 4 members.

Funeral Parlors - 1 space for each 75 square feet of floor space in slumber rooms, parlors and individual service rooms.

Hospitals and Nursing Homes - 1 space for each 3 beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees.

Hotels and Motels - 1 space for each guest bedroom, plus 1 space for each 4 employees.

Industrial, Manufacturing Establishments and Boat Yards - 1 space for each 1.2 employees at period of maximum employment, plus 1 space for each company vehicle operating from the premises.

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Marinas - Minimum of 30 parking spaces.

Places of Amusement or Public Assembly - 1 space for each 50 square feet of floor area devoted to patron use.

Residential Dwelling Units - 2 spaces for each dwelling unit.

Restaurants and Cocktail Lounges - 1 space for each 4 seats plus 1 space for each 2 employees.

Retail Business - 1 space for each 150 square feet of sales area.

Roadside Farm Stands - 4 spaces.

Schools – 1 space for each employee plus: 1 space for each 30 pupils in primary school; 1 space for each 4 students in secondary schools; and 1 space for each 3 students in higher education.

Theaters - 1 space for each 3 seats.

Wholesale and Warehouse Business - 1 space for each 1.5 employees per shift, plus visitor and customer parking to meet the needs of specific operations.

- H. No off-street parking area along Route 3 shall be located within the minimum front yard setback. Any parking areas shall meet the shoreline setback requirement for structures for the district in which such areas are located as indicated in Article 4.2.8.
- I. Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body, and meet all surface water drainage standards of this ordinance.
- J. Off-Street Loading. In any district where permitted, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use serviced so that trucks, trailers and containers shall not be located for loading or storage upon any public way, in accordance with the following standards:
  - 1. Required loading spaces shall in no case be part of the area used to satisfy the off-street parking requirements of this Ordinance.
  - 2. Each loading bay shall have minimum dimensions of 70 feet by 14 feet with a minimum overhead clearance of 15 feet, and may be located either within a building or outside and adjoining an opening in the building.

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3. No off-street loading spaces shall be permitted in a front yard or on the side of a building abutting a street, except where included in a site plan approved by the Planning Board.
4. Joint use of loading spaces by two or more users in the Commercial or Airport Commercial Industrial districts may be authorized by the Planning Board during the land use application process.
5. All off-street loading areas shall have landscaping as may be approved by the Planning Board pursuant to The land use application process for purposes of reducing any adverse effects resulting from vast areas of pavement.
6. A minimum number of off-street loading spaces shall be provided and maintained by the owner of a ny building hereafter erected, altered or changed in use, in accordance with the following schedule:

USE	GROSS FLOOR AREA IN SQ. FT.	SPACES REQUIRED
Hotel, Motel, Office Building	Up to 50,000	1
	50,000 or more	2
Retail, Service, Wholesale, Warehouse, Industrial Use	Up to 25,000	1
	25,000 to 50,000	2
	50,000 to 100,000	3
	For each additional 50,000 or fraction thereof	1 additional

### 4.1.18. Preservation of landscape.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains, wildlife habitats as identified in the Maine Department of Inland Fisheries Beginning With Habitat Program, and unique natural features as identified in the comprehensive plan shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall be preserved to the maximum extent feasible.

### 4.1.19 Septic Waste Disposal

- A. 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,

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horizontal distance, from the normal high-water line of the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

### 4.1.20 Signs

All signs shall comply with the Sign Ordinance of the Town of Trenton.

### 4.1.21 Surface water drainage.

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.

### 4.1.22 Water Quality Protection

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, quantity, 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.

### 4.1.23 Essential Services

A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

B. The installation of essential services, other than distribution lines, is not allowed in a Resource 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.

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

### 4.1.24 Net Acreage Calculation for Development

The following lands in the Rural Residential Zone shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance for lots that are subject to subdivision review:

- A. Land which is situated below the normal high water line of any water body;
- B. Land which is part of a road or a right-of-way, or easement, including utility easements;
- C. Land that has to be created by filling or draining a pond;
- D. Land that has been determined to be a freshwater wetland, as defined in Title 38, MRSA, Section 480-B, regardless of size.
- E. Land identified as having soil that is poorly drained or very poorly drained, alluvial or flood plain according to a soil scientist and in accordance with classifications of the National Cooperative Soil Survey.
- F. Contiguous areas of 5,000 square feet or more with slopes over 25%.
- G. 50% of any contiguous area of 5,000 square feet or more with slopes of 15% to 25%.

### 4.1.25 Acceptance as Town Ways

In the interest of encouraging growth in residential growth areas as designated in the comprehensive plan, the following procedure shall apply to the acceptance of town ways:

- A. General. All streets which are laid out or proposed for town acceptance shall be in accordance with Maine law and the provisions of this chapter as follows:
  - 1 Subdivisions. The Planning Board shall not approve any subdivision plan unless proposed street(s) are designed and to be constructed in accordance with the standards of this chapter. Final subdivision plan approval by the Planning Board shall not be deemed to constitute or be evidence of acceptance or intent of acceptance by the town of any street.
  - 2 Conditional Use Permits. The Planning Board shall not approve any conditional use permit unless the

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- . proposed street(s) are designed and to be constructed in accordance with the standards of this chapter. Final conditional use permit approval by the Planning Board shall not be deemed to constitute or be evidence of acceptance or intent of acceptance by the town of any street.
- 3 Petition to town legislative body for acceptance of a street as a town way. All petitions for the acceptance of a street(s) as a town way shall be made to the Board of Selectmen prior to being brought before Town Meeting, and shall be in accordance with Maine law and the provisions of this chapter. Streets not surfaced with hot rolled bituminous pavement are not eligible for petitioning or acceptance as town ways.
- 4 Streets shall not be eligible for petitioning or acceptance as Town ways until at least 80% of the dwelling units or structures which the street is designed to serve are constructed.

### B. Application procedure for street acceptance.

- 1 All petitions for street acceptance shall be accompanied by an application which includes the following information:
  - (a) Petitioner's name, address, phone, signature and date.
  - (b) Names of the owner(s) of record of the land upon which the proposed town way is located, including any proposed easements proposed as part of the petition to the Town.
  - (c) A copy of the most recently recorded deeds for the land that is the proposed street.
  - (d) A statement of any legal encumbrances on the land upon which the proposed town way is located.
  - (e) A legal description of the proposed town way (and all associated easements), giving complete descriptive data by bearings and distances based upon a standard boundary survey of the parcel, made and certified by a Maine registered land surveyor, along with a copy of the survey plan, and written verification by the surveyor that permanent monumentation has been set at all street intersections and points of curvature.
  - (f) A written certification by a professional engineer, registered in the state of Maine, certifying that the proposed town way meets or exceeds the design and construction standards set forth in this chapter.
  - (g) One Mylar and two sets of blue prints of as-built conditions of the proposed town way conforming to the plan requirements and standards of this chapter. Where underground utilities have been installed, the as-built plans shall show the final, installed location of such lines.
  - (h) Date that street construction was completed, including the dates that the base course and surface course of pavement were installed.
  - (i) If the street is located in a rural area as designated by the comprehensive plan, a statement of how acceptance of the street as a town way is consistent with the goals of the comprehensive plan.
- 2 Upon receipt of a petition and application for a proposed street acceptance, the Board of Selectmen shall forward one set of plans to the Planning Board and one set of plans to the town's consulting engineer who shall review and provide written comment back to the Selectmen. The engineer's comment shall state either that the street meets the town's street design and construction standards as specified in this chapter, or shall provide a list of the standards which have not been met. The town's engineer's review shall include a field inspection of the proposed town way, to determine if there are any



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performance problems or structural failures which have occurred since the completion of the street construction. The planning board's review shall include a statement as to whether or not the acceptance of this street would be consistent with the comprehensive plan.

- 3 . When the Board of Selectmen determines that the proposed street meets or exceeds the design and construction requirements of this chapter and the goals of the comprehensive plan, it shall set and hold a public hearing on the petition. At or following the public hearing, the Board of Selectmen shall vote to place it on the next available Town Meeting warrant.

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

### 4.2 Shoreland Zone Area Standards

All land use activities within 250 feet, horizontal distance, of the upland edge of a wetland and within 75 feet, horizontal distance, of the normal high-water line of a tributary stream shall also conform to the following applicable shoreland standards:

#### 4.2.1 Agriculture

- A. All spreading of manure shall be accomplished in conformance *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of 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.
- C. Where soil is tilled in a Resource Protection District, or where soil in excess of 40,000 square feet of surface area lying either wholly or partially within the shoreland area is tilled, such tillage shall be carried out in conformance with provisions of a required Conservation Plan that is approved by the appropriate Soil and Water Conservation District. A copy of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
- D. There shall be no tilling of soil within 75 feet horizontal distance of the normal high-water line of any tributary stream or wetland.
- E. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, and coastal wetlands; nor, within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater 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.

#### 4.2.2 Beach Construction

Beach construction on any coastal wetland, stream, or brook capable of floating a watercraft shall require a permit from the Department of Environmental Protection.

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

### 4.2.3 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- A. In any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

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

- B. Except in areas as described in Section 4.2.3, above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath 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.
2. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of Section 4.2.3.B.2 a "well-distributed stand of trees" adjacent to tributary streams, or wetlands, shall be defined as maintaining a rating score of 16 or more in each 25-foot by 50-foot rectangular (1,250 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<8 in	2
8<12 in	4
12 in or greater	8

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 4.2.3.B.2 “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 (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% 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.

- 4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- 5. 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.

Section 4.2.3.B does not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- C. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any 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, 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.

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Airport Commercial Industrial District.

- D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- E. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.2.3.

### 4.2.4 Mineral Exploration and Extraction

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 100 square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations. 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:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 4.2.4, paragraph 3 below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations 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:

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (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 1/2:1) slope or flatter.
  - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded 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.
- (4) 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.

### 4.2.5 Piers, Docks, Wharves, Breakwaters, Causeway, Marinas, Bridges and Other Structures Extending Over or Below the Normal High-Water Line of a Tributary Stream or Within a Wetland.

In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with developed beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- E. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a tributary stream or within a wetland unless the structure requires direct access to the tributary stream or wetland as an operational necessity.
- F. 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

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

- G. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a tributary stream or within a wetland shall be converted to residential dwelling units in any district.
- H. Except in the Airport Commercial Industrial District, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a tributary stream or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

### 4.2.6 Road and Driveway Construction

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

- A. Roads and driveways shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be to 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 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, tributary stream, or wetland.

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

Section 4.2.6.A does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operation necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 4.2.6.A except for that portion of the road or driveway necessary for direct access to the structure..

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- B. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a tributary stream or wetland.
- C. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district. When a road and/or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a tributary stream, or upland edge of a wetland.
- D. 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 Section 4.2.12.
- E. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- F. 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 (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a 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.
- G. 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 ditches. To accomplish this, the following shall apply:
  - 1. 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:

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



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16-20  
21+

60-45  
40

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

### 4.2.7 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, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a report from a licensed site evaluator, and large scale commercial, 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 Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine 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.

### 4.2.8 Structures

- A. The lowest floor elevation or opening of all buildings and structures including basements shall be elevated at least two feet 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 identifiable as recent floodplain soils.

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- B. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone areas shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the Airport Commercial-Industrial District where lot coverage shall not exceed twenty-five (25) percent for Commercial/Industrial structures and the Gateway Commercial Districts where lot coverage for Commercial/Industrial structures shall not exceed 30 percent..
- D. 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 unstable 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 upland edge of wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

### 4.2.9 Timber Harvesting

Timber harvesting shall conform with 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 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
  - (i) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
  - (ii) At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut 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, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

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(b) Timber harvesting operations exceeding the 40% limitation in Section 4.2.9.a may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

(c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of any tributary stream as defined. At distances greater than fifty (50) feet, horizontal distance, from the normal high-water line all slash shall be 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 tributary stream shall be removed.

(d) Timber harvesting equipment shall not use stream channels as travel routes except when:

(i) Surface waters are frozen; and

(ii) The activity will not result in any ground disturbance.

(e) 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.

(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(g) 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, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of an upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the 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 an upland edge of a wetland.

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### 4.2.9.1 – Statewide Standards [Effective on effective date established in Section 1.6.B]

(1) Shoreline integrity and sedimentation.

Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of tributary stream banks and channels, shorelines, and soil lying within tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of tributary stream banks and channels, shorelines, and soil lying within tributary streams and wetlands occurs, such conditions must be corrected.

(2) Slash treatment.

Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any tributary stream, or the upland edge of a wetland. Section 4.2.9.1(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to, wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of streams, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
  - (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
  - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

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Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - (c) Setbacks:
    - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
    - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

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- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 4.2.9.1(7) of this rule.
  - (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
    - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
    - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
    - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
  - (b) The minimum 100 foot setback specified in Section 4.2.9.1(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 4.2.9.1(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the 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 to avoid sedimentation of the tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
  - (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section

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437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 4.2.9.1 (7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (e) Road closeout and discontinuance. Maintenance of the water control installations required in Section 4.2.9.1 (5)(d) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (f) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 4.2.9.1. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (g) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 4.2.9.1 (5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the 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 to avoid sedimentation of the tributary stream or



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wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (h) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 4.2.9.1: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 4.2.9.1. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 4.2.9.1.
  - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
  - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
  - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction, maintenance, alteration and replacement activities in

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- (i) a map showing the location of all proposed permanent crossings;
  - (ii) the GPS location of all proposed permanent crossings;
  - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- (f) Water crossing standards.. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
- (i) concentrated water runoff does not enter the stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,
  - (v) water flow is not unreasonably impeded.

Subject to Section 4.2.9.1 (6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
  - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 4.2.9.1(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the tributary stream is avoided. Such crossing structures must be at

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) Tributary stream crossings allowed under Section 4.2.9.1, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 4.2.9.1(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
  - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the tributary stream.
  - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

## ARTICLE IV.2 SHORELAND ZONING STANDARDS

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

### (7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 4.2.9.1 but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent) (feet along surface of the ground)	Width of strip between exposed mineral soil and shoreline
<b>0</b>	<b>25</b>
<b>10</b>	<b>45</b>
<b>20</b>	<b>65</b>
<b>30</b>	<b>85</b>
<b>40</b>	<b>105</b>
<b>50</b>	<b>125</b>
<b>60</b>	<b>145</b>
<b>70</b>	<b>165</b>

#### 4.2.10 Individual Private Campsites

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

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

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- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
- C. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle 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 vehicles.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- E. 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.
- F. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

### 4.2.11 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 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.

### 4.2.12 Erosion and Sedimentation Control

- A. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall 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:
  - 1. Mulching and re-vegetation of disturbed soil.

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2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  3. Permanent stabilization structures such as retaining walls or riprap.
- B. 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.
- C. 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.
- D. 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 riprap, 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:
1. 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.
  2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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### 5.1 Creation of Administering Bodies and Agents

#### 5.1.1 Code Enforcement Officer

The Office of Code Enforcement Officer is hereby established. The Code Enforcement Officer shall be appointed annually by July 1st by the Selectmen.

#### 5.1.2 Planning Board

The Planning Board of the Town of Trenton is hereby established in accordance with State law.

#### 5.1.3 Board of Appeals

The Board of Appeals for the Town of Trenton is hereby established in accordance with the provisions of 30-A M.R.S.A. section 2691.

### 5.2 Permits Required

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 nonconforming 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.

#### 5.2.1 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.

- A. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Article III.
- B. All applications shall be signed by an owner individual who can show evidence of right, title or interest in the of 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.
- C. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. 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 would require the installation of a subsurface sewage disposal system.



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### 5.2.2 Installation of Public Utility Service

No public utility water district, sanitary district or any utility company of any kind may install services to any new structure 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 installation has been completed.

### 5.3 Conditional Use Permits

#### 5.3.1 Conditional Use Permits Required

After the effective date of this Ordinance no person shall engage in any use of land requiring a conditional use permit without first obtaining a conditional use permit from the Planning Board.

#### 5.3.2 Procedure for Administering Permits

An application for a conditional use permit shall be accompanied by a fee to be established by the Board of Selectmen.

Within 30 days of the date of receiving a written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application.

Following the filing of a complete application, the Planning Board shall notify all abutting landowners of the application and public water supply operators of any applications that lie within their source water protection area.. The Planning Board may hold a public hearing on the application within 30 days. If the Planning Board decided to hold a public hearing, the Board shall notify the municipal officers and the abutting landowners, and shall publish a notice of the hearing at least seven days in advance in a local paper of general circulation.

Within 30 days of the public hearing, or within 30 days of the filing of a complete application if a public hearing is not held, the Planning Board shall either approve or deny the permit in writing. Permits shall be approved if the proposed use is found to be in conformance with the provisions of this Ordinance. If the permit is denied, the reasons for denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

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### 5.3.3 Permit Application

Applications for conditional use permits shall be submitted in writing on forms provided for this purpose. The Planning Board may require the submission of whatever additional information is necessary to determine conformance with the provisions of this Ordinance. This may include the following information:

- A. A plan of the area showing contours at intervals to be determined by the Planning Board, normal high-water line, ground water conditions, bedrock, slope, and vegetative cover;
- B. Location of existing and proposed building, parking areas, traffic access, driveways, walkways, and landscaping;
- C. Plans of buildings, sewage disposal facilities, and water supply systems;
- D. A soils report identifying the soils boundaries and names with the soils information superimposed upon the plot plan in accordance with the USDA Natural Resource Conservation Service National Cooperative Soil Classification;
- E. the location of any portion of a public water supply source water protection area that lies within the property proposed for development;
- F. A report by a licensing site evaluator indicating the suitability of the soils for a sewage disposal facility;
- G. Important habitat areas identified in the comprehensive plan or the Department of Inland Fisheries and Wildlife Beginning with Habitat program the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Board may be required. This report shall assess the potential impact of the development on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the development will have no adverse impacts on the habitat and the species it supports.

and

- H. Other pertinent information necessary to determine if the proposed use meets the provisions of the Ordinance.

### 5.3.4 Permits to be Issued by the Planning Board

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The Planning Board shall approve or deny those applications for a Conditional Use Permit on which it is empowered to act as stated in this Ordinance. The Planning Board shall after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in the Ordinance, the proposed use:

- A. Is in conformance with the standards of Article IV. of this Ordinance;
- B. Will not result in unsafe or unhealthful conditions;
- C. Will not result in land, water, or air pollution;
- D. Will not result in undue erosion or sedimentation;
- E. Will avoid problems associated with development in flood hazard areas;
- F. Will not result in adverse impact to spawning grounds, fish, aquatic life, bird, and other wildlife habitat; and
- G. When the request for a permit is for an area within the shoreland zone, the Planning Board shall also make a positive finding that the proposed use:
  - 1. Will conserve shoreland vegetation;
  - 2. Will conserve visual points of access to waters as viewed from public facilities; and
  - 3. Will conserve actual points of public access to waters.

Factors that the Planning Board shall consider in making its findings for A through I above include, but are not necessarily limited to, the following:

- 1. The compatibility of the proposed use with adjacent land uses;
- 2. Access to the site from public roads, including the adequacy of access points, and the possible need for turning and slowdown lanes and other traffic control devices;
- 3. Layout and design of off -street parking and loading/unloading areas, and vehicular circulation on the site;
- 4. The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system;
- 5. The location of the site with respect to flood hazard areas;
- 6. The impact of the proposed use on the land and adjacent water bodies and the capability of the land and water to sustain such use without degradation;

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7. Provisions for control of run-off and drainage;
8. The erosion potential of the site based on degree of slope, soil types, and vegetation cover;
9. The impact of the proposed use on ground water and water supplies; and
10. The impact of the development on municipal services including roads, fire and police protection, solid waste disposal, and other services and facilities.

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

### 5.3.5 Conditions Attached to Conditional Use Permits

In the granting of a conditional use permit, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purpose of this Ordinance. Such conditions may include, but are not limited to, specifications for: increased setbacks; landscaping and screening; sewage disposal and water supply facilities; period of operation; and professional inspection and maintenance. Violation of any of these conditions shall be a violation of this Ordinance.

### 5.3.6 Expiration of Permit

A conditional use permit or permit issued by the Code Enforcement Officer shall no longer be valid if substantial start in the work or change involved is not commenced within one year of the date on which the permit is issued.

## 5.4 Appeals to the Board of Appeals

### 5.4.1 Variance Appeals

The Board of Appeals may, upon written application, grant a variance from the strict application of the Ordinance under the following conditions:

1. The strict application of the terms of the Ordinance would result in undue hardship to the applicant. The term "undue hardship" shall mean:

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- a. that the land in question cannot yield a reasonable return unless a variance is granted;
  - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. that the granting of a variance will not alter the essential character of the locality; and
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
2. The Board of Appeals, based on clear and convincing evidence presented to it, makes a finding that the proposed use would meet the provisions of Section 5.3.4 (A), except for the standard for which a variance is being sought, and (B) through (I) of this Ordinance.

A variance is authorized only for dimensional requirements. A variance shall not be granted to permit a use or structure otherwise prohibited. A disability variance may be granted in accordance with MRSA 30-A Section 4353, subsection 4-A.

A copy of each variance request within areas subject to shoreland zoning, 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 the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

### 5.4.2 Administrative Appeals

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this Ordinance, and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any

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order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

Such written application for an appeal shall be made within 30 days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement. No appeals to the Board of Appeals shall be taken, maintained, or granted from any Planning Board action or inaction or from any other municipal action or inaction arising from any form of municipal consideration of a contract zoning application or denial or a approval of a contract zoning application except for a direct appeal to Superior Court upon the final municipal determination. Such appeal to Superior Court shall be in accordance with State law.

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

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

### 5.4.3 Appeal to Superior Court

Appeal to Superior Court. 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.

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 to reconsider a decision must be filed within ten (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 members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and

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other parties of interest, including abutters and those who testified at the original hearing(s). The Board 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.

### 5.5 Appeal Procedure

#### 5.5.1 Making an Appeal

- A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any administrative decision of the Code Enforcement Officer or the Planning Board except for enforcement-related matters as described in Section 5.4.2 above. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- B. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - (i) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
  - (iii) Applicant shall bear the cost of all public notices, mailings, advertising and related expenses.
- C. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- D. The Board of Appeals shall hold a public hearing on administrative appeal or a variance within thirty-five (35) days of its receipt of an appeal request complete written application, unless this time period is extended by the parties.

#### 5.5.2 Decision by Board of Appeals

- A. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- B.. The person filing the appeal shall have the burden of proof.

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- C. The Board shall decide all administrative appeals and variance within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- D. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board 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 appeal is related to shoreland zoning) within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

### 5.6 Enforcement

#### 5.6.1 Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

#### 5.6.2 Code Enforcement Officer

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- B. The Code Enforcement Office shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

#### 5.6.3 Legal Actions



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When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions or violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or 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.

### 5.6.4 Fines

Any person including but not limited to a landowner, a landowner's agent or a contractor who violates any provision or requirement of this Ordinance after receiving notice of such violation shall be penalized in accordance with Title 30-A, M.R.S.A. Maine Revised Statutes Annotated, Sub section 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

### 5.6.5 Designation of Enforcement Officer, 30-A MRSA 4452

The Code Enforcement Officer of the Town of Trenton is designated to act on behalf of the Town of Trenton pursuant to 30-A MRSA 4452, in enforcement of land use laws and ordinances, as set forth in 30-A MRSA 4452, and regulated currently under the Maine District Court Rules of Civil Procedure, Rule 80K. This designation of enforcement capacity by said Code Enforcement Officer shall not be exclusive, and shall not prevent other municipal officers or others from being designated by municipal officers to act in an enforcement capacity with respect to these and other ordinances and/or statutes, regulations and provisions of the Town Code. In the absence of the Code Enforcement Officer or his failure to act, the municipal officers are expressly empowered to designate another to act as an Enforcement Officer for purposes of enforcing the provisions of this Ordinance or otherwise.

## ARTICLE VI: CONTRACT ZONING

### 6.1. Authority

Subject to the conditions and/or restrictions and in accordance with the state of Maine Planning and Land Use Laws, 30-A M.R.S.A., Section 4352, Sub-Section 8, property in the town of Trenton in the Gateway, Rural Commercial and Rural Development Districts that meets specified conditions may be rezoned by a process known as contract zoning.

### 6.2. Purpose

The town of Trenton Land Use Ordinance and Comprehensive Plan provide for the orderly development and use of property. However, situations may arise where the unusual nature or unique location of a project or a proposed use of a property cannot be accommodated under the Land Use Ordinance. Traditional procedures such as granting a variance for dealing with the incompatibility may also prove to be inappropriate. In these special situations, more flexible and adaptable zoning methods may permit a project or use of a property without, at the same time, compromising the intent of the town of Trenton Land Use Ordinance or Comprehensive Plan.

A contract zone, as defined by state statute, provides for property to be rezoned in order to accommodate an owner's intended use or development when land use ordinance requirements cannot be met. A contract zone, when approved, represents a deviation from the Trenton Land Use Ordinance standards, and as such, is subject to the conditions established in the contract agreement and is an amendment to the Trenton Land Use Ordinance. In consideration of a request for contract zoning, the town, in agreement with a property owner, may find it necessary or appropriate to grant or impose conditions or restrictions upon rezoned property that do not apply to other properties in Trenton.

Contract Zoning shall be compatible with the zoning requirements and permitted use standards of the zoning district(s) in which the property to be rezoned lays. All contract zoning proposals shall:

- A. Be consistent with the local growth management program;
- B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones;
- C. occur only in the Gateway, Rural Commercial and Rural Development districts;
- D. apply only to uses that exceed one acre of impervious surface; and

## ARTICLE VI: CONTRACT ZONING

E. Only include conditions and restrictions that relate to the physical development or operation of the property.

### 6.3. Procedure

Initiation of a request for a Contract Zone shall be with the Planning Board during a pre-application conference during which a preliminary sketch plan depicting the general scope of the project is presented. An applicant planning a project shall first consult with the Planning Board to determine whether, in the opinion of the Planning Board, the proposal is consistent with the provisions of the Trenton Land Use Ordinance and the Comprehensive Plan.

A. If the proposal satisfies the objectives of the Comprehensive Plan but does not meet the requirements of the Land Use Ordinance, the applicant may initiate a contract zoning request.

B. If, in the opinion of the Planning Board, the proposed project does not conform to the Trenton Land Use Ordinance and Comprehensive Plan, the Planning Board may recommend that the applicant revise the proposal for acceptability under the governing documents.

C. If the Planning Board finds that, based on the information submitted, the proposal appears suitable for contract zoning per the terms of this ordinance, the applicant shall draw up a preliminary proposal indicating the nature, scope and location of the proposed project. This document shall be presented to the planning board as a preliminary contract zoning application.

D. Any proposal to amend the town's zoning map through the establishment of a contract zone shall be accompanied by a non-refundable fee in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish, which shall be paid at the time the request is filed with the Planning Board. To help recover costs incurred by the town in the review, administration, site inspection, and public notice associated with the contract zone proposal, the following fees and deposit in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish shall be paid by the applicant to the town of Trenton at the time of filing the contract zone proposal:

- (a) Publishing, notification of abutters and related public notice fees;
- (b) Review fee;
- (c) town counsel fees
- (d) Town meeting expense fee; and
- (e) Independent consulting and peer review escrow account to be established with the town.

## ARTICLE VI: CONTRACT ZONING

### 6.3.a. Application to the Planning Board

A. The Planning Board shall schedule the application on the Planning Board agenda upon receipt of the appropriate documents at least 14 days in advance of the scheduled Planning Board meeting.

B. The Planning Board shall post notice of the time, date and place of the planning board meeting twice, the first publication shall be at least 14 days prior to the Planning Board meeting and the second notice shall be published not less than 7 days prior to the Planning Board meeting. The notice shall be published in a newspaper of general circulation in Trenton.

C. In addition, at least 14 calendar days prior to the Planning Board meeting, the Planning Board shall notify property owners within 500 feet of the property lines of the proposed contract zone, with proof of mailing required. Owners of properties shall be those listed in the most recent tax records of the town of Trenton. This notice shall contain information indicating the nature, scope and location of the proposed project, as well as the Planning Board meeting information. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board.

D. The Planning Board shall limit the review of the applicant's proposal to material relevant to the contract zoning provisions contained in the town of Trenton Land Use Ordinance.

E. The application shall include the following:

1. Evidence of right, title or interest in the property;
2. A site plan prepared by a registered engineer or surveyor showing the surveyed boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;
3. A plan showing the location of existing streets and driveways within five hundred (500) feet of the property;
4. A detailed statement of the proposed use of the property and the precise zoning change requested;
5. A statement explaining how it is consistent with the Comprehensive Plan and permitted and existing uses within the original zone;
6. A description of the property's unusual nature or unique location;

## ARTICLE VI: CONTRACT ZONING

7. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board may propose additional conditions or restrictions.

### 6.3.b. Review of the application by the Planning Board

A. In its examination to determine the suitability of a proposal for contract zoning, the Planning Board shall consider, among other factors, the following:

1. The reason why the applicant is requesting a contract zone agreement;
2. Compatibility and consistency with the Land Use Ordinance;
3. Compatibility and consistency with the Comprehensive Plan;
4. The implications of the proposed project, or the use of the property, for owners of surrounding properties and the neighborhood in general;
5. The short and long-term benefits and costs to the town of Trenton and the interests, safety, and general welfare of its citizens;
6. Input, where appropriate, from the general public, town officials and town boards and committees;
7. Unusual nature or location of land; and
8. Proposed conditions of approval are sufficient to meet the intent of this ordinance and other land use ordinances and regulations in Trenton.

B. When determining the terms of a contract zoning agreement, the Planning Board may consider public comments and, among other factors, the following:

1. Limitations on the number and type of uses permitted;
2. Restrictions on the scale and density of the project, including the height, lot coverage and other bulk and space provisions;
3. Limitations on the hours and conditions of operation;
4. Specifications for the design, location, layout, and use of the buildings and other improvements;
5. Schedules for the commencement and completion of construction;
6. Performance guarantees securing completion and maintenance of improvements and guarantees against defects;

## ARTICLE VI: CONTRACT ZONING

7. Preservation and maintenance of natural areas and features, including open space, views and buffers;

8. Protection of land and water resources;

9. Preservation and protection of historic and archaeological sites;

10. Contribution toward the provision of municipal services and infrastructure required by the project and other projected municipal costs associated with the project.

and 11. provisions for enforcement and remedies for breach of any condition or restriction, including the timing of the effective date of the change its repeal should conditions not be met;

12. the dedication or conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.

C. If the Planning Board and the applicant do not reach an agreement on the terms of the contract zoning application, the application shall be denied and the request of the applicant for a contract zoning amendment is terminated. There shall be no appeal to the Board of Appeals if a contract zoning application is terminated.

### 6.3.c. Joint review by the Planning Board and Board of Selectmen

If the Planning Board, reaches an agreement with the applicant, the Planning Board shall initiate within 30 days a joint review of the proposed contract zoning agreement with the Board of Selectmen and the applicant. The purpose of the joint review is to familiarize the Board of Selectmen with the proposed contract zoning agreement and to give the selectmen the opportunity to view the proposed contract zoning agreement. The review shall include the determination that:

A. The town's interest are adequately protected and served by the proposed contract zoning agreement;

B. The costs to the town do not exceed the benefits.

If the Planning Board and Selectmen have reached agreement on the terms and wording of the proposed contract zoning agreement, the applicant shall submit a letter confirming the applicant's agreement on the terms and wording of the proposed contract zoning agreement. If the Planning Board and selectmen do not agree on the terms and wording of the proposed contract amendment, the application is denied and the applicant's request for a contract zoning

## ARTICLE VI: CONTRACT ZONING

amendment is terminated. There shall be no appeal to the Board of Appeals if a contract zoning application is terminated.

### 6.3.d. Continuation of Planning Board review of the proposed Contract Zoning Agreement

The Planning Board shall continue its review and take a formal vote to submit the proposed contract zoning agreement to a public hearing. The Planning Board shall schedule a public hearing no later than 30 days following its vote to submit the proposed contract zoning agreement to public hearing. The public notice and hearing shall follow the procedure below:

A. Notice of the public hearing shall be posted in the town clerk's office at least 14 days prior to the public hearing. The notice shall be published by the applicant at least two times in a newspaper of general circulation within the Town. The date of the first publication shall be at least 7 days prior to the public hearing. Notice shall be sent to the last known address of owners whose properties are within 500 feet of the property lines of the proposed contract zone, with proof of mailing required. This notice shall contain the conditions and restrictions together with a map showing the contract zoning property. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board.

B. The public hearing shall be conducted by the Planning Board chair or acting chair.

C. A record of the public hearing shall be made for public record.

### 6.3.e. Final review by Planning Board

Following the public hearing, the Planning Board shall review all comments and recommendations from the public hearing and make changes where deemed necessary. In this final review, the Planning Board shall determine whether the proposed contract zoning agreement:

A. Is consistent with the Town of Trenton Land Use Ordinances;

B. Is consistent with the Town of Trenton Comprehensive Plan;

C. Establishes rezoned areas that are consistent with the existing permitted uses of the original zone(s);

D. Includes only such conditions and restrictions that relate to the physical development or operation of the property.

## ARTICLE VI: CONTRACT ZONING

If any substantive changes are made in the proposed contract zoning agreement, another public hearing shall be held. If there are no substantive changes, then, upon final review by the Planning Board, the proposed contract zoning shall be placed as a warrant article for town meeting. All costs related to scheduling and holding the town meeting shall be borne by the applicant.

### 6.3.f. Town meeting approval

- A. The Board of Selectmen shall then place the proposed contract zoning agreement on the warrant for a town meeting.
- B. The proposed contract zoning agreement may be approved by the town meeting with a majority vote.
- C. If the proposed contract zoning agreement is not approved by the town meeting, it may not be resubmitted for a minimum of two years after the date of disapproval.

### 6.3.g. Administration

- A. Upon approval of the contract zoning agreement by the town meeting, the Trenton Land Use Ordinance and Trenton Zoning Map shall be amended to reflect the incorporation of the contract zone. Conditions and restrictions pertaining to the contract zone shall also become part of the record. If deemed appropriate by the Planning Board, conditions shall also be recorded through measures such as, but not limited to, deed restrictions, covenants and easements.
- B. Effective date of contract zoning agreement. The date of the signing of the contract zoning agreement shall occur no later than 30 days following the date of the town meeting that the contract zoning agreement was approved. Subject to approval by state and federal agencies, the contract zoning agreement shall be deemed to become both effective and binding when signed. Its terms, conditions and restrictions together with the Trenton Land Use Ordinance, any other applicable Trenton ordinances, codes or regulations, and Town of Trenton Comprehensive Plan shall thereafter govern the proposed project and/or use.
- C. Violation and Termination of Contract Zoning Agreement
  - 1. If the CEO and/or other entity charged with enforcement in the contract zoning agreement find the developer or property owner, to be in violation of the terms of the contract zoning agreement, enforcement shall follow the procedure established in Section 5.6 the Trenton Land Use Ordinance and any other specific enforcement measures contained in the contract zoning agreement.



## ARTICLE VI: CONTRACT ZONING

2. If the developer or property owner does not meet the time limits prescribed by the contract zoning agreement, or abandons the project, the contract zoning agreement shall become null and void. If this occurs, the property shall revert to the underlying or former zoning and shall be made to comply with the requirements for said zone.

### 6.4. Severability

Should any section or provision of the contract zoning provisions contained within the town of Trenton Land Use Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section, article or provision of the town of Trenton Land Use Ordinance.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

### 7.1 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" and "applicant" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residential", the word "lot" includes the words "plot" or "parcel". In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have the customary dictionary meaning.

### 7.2 Definitions

For the purpose of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

**Abutter:** The owner of any property with one or more common boundaries, or across the street or stream from the property involved in an application or appeal.

**Access Drive:** A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

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

**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.

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

Alteration: A change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or port ion to another.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

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

Auto Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and under-coating of automobiles.

Auto Service Station: A place where gasoline, or any other engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) 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 storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: A ny portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner. Otherwise, it shall be classified as a hotel/motel. There shall be no provision for cooking in any individual guest room.

Boarding House or Tourist Home: Any dwelling in which lodging is offered for compensation to three or more persons either individually or as families with or without meals.

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

Building: A structure enclosed with exterior walls or fire walls, built, erected and frames of component structural parts, designed for t he housing, shelter, enclosure and support of individuals, animals or property of any kind.

Building Height: The vertical distance between the mean elevation of the finished grade along the front of the building and the highest point of the roof.

Bureau: Sate of Maine Department of Conservation's Bureau of Forestry.

## **ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**Business and Professional Offices:** A building in which there is located the office of an architect, accountant, dentist, doctor of medicine, lawyer or other professional, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

**Campground:** 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 shelters.

**Canopy (tree) (for building canopy see structure):** The more or less continuous cover formed by tree crowns in a wooded area.

**Cluster Development:** The development, according to an approved plan, of a large tract of land (minimum 15 acres in size) where three (3) or more buildings are built simultaneously on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

**Coastal wetland:** All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest annual tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

**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.

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

**Comprehensive Plan:** A document or interrelated documents adopted by town of Trenton containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and strategies for implementation of the policies.

**Conditional Use Permit:** A permit authorized by the Planning Board for a conditional use. A conditional use permit may be issued only after the applicant has followed the procedures and complied with the standards of this Ordinance.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

**Contract Zoning:** A change of zoning district designation as provided in 30-A M.R.S.A. § 4352 in which conditions may be proffered by an applicant and attached to a change in district designation by means of a contract entered into by the applicant and the town and filed in the Hancock County Registry of Deeds. Such zoning must comply with statutory requirements for consistency with the town's Comprehensive Plan.

**Convenience Store:** A small, neighborhood establishment retailing food and related commodities, excluding storage or sale of petroleum products. It may contain a take out window and no more than 10 seats inside.

**Coverage:** See Lot Coverage

**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 distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

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

**Density:** The number of dwelling units per area of land.

**Density Bonus:** The granting by the Planning Board of additional development capacity in exchange for the provision of a public benefit or amenity).

**Development:** Any land use activity directed toward using, reusing, or rehabilitating air space, land, water or other natural resources.

**Development (shoreland zone):** 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.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

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 Land Use Districts Map, within which certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this Ordinance.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving 2 single-family dwellings or less.

Duplex: See Dwelling, Two-Family or Duplex.

(Dwelling) Apartment: means a dwelling unit to be occupied by one family grouping, consisting of a room or suite or two or more rooms, in a permanent residential building or in a permanent residential portion of a non-residential building, not to include hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities.

(Dwelling) Single Family, Single Family Dwelling, or Single Family Dwelling Unit: means a fixed, freestanding, permanent residential building containing no more than one dwelling unit, which is designed, constructed and equipped for occupation by one family grouping. This term shall include a manufactured housing unit but not hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities. This term shall also not include campers, travel trailers, recreational vehicles or travel/vacation/seasonal "tourist cabins" constructed and/or managed for commercial rental unless the unit(s) are located in the Commercial District and meet all applicable local and State requirements for commercial land use.

(Dwelling) Multi-Family or Multi-Family Dwelling: means a fixed freestanding, permanent, residential building, or residential portion of a non-residential building, containing more than two but no more than eight separate apartments, each to be occupied by one family grouping, and not including hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities.

(Dwelling) Two-Family or Duplex: means a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or by an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. This term does not include hotels, motels, or other lodging places which provide travel/vacation/seasonal families.

Dwelling Unit: means an enclosed area designed, constructed and equipped for residential use by one family grouping exclusively with separate floor areas containing separate, distinct, and

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

identified facilities for cooking, eating, bathing/toilet, sleeping, and general indoor residential activities in the respective floor areas, all of which is located in a permanent residential building or in a permanent residential portion of a non residential building. Specifically not included are hotel, motel, or other lodging places which provide travel/vacation/seasonal facilities.

Dwelling Unit (Shoreland Zone): a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Earth: Topsoil, sand, gravel, clay, peat, rock or other minerals.

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

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.

Establishment: A place of business carrying on operations which are physically separated and distinct from those of any other place located on the same lot.

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

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

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

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



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Floor Area, Gross: The sum, in square feet, of the floor area of all roofed portions of a building, as measured from the interior faces of the exterior walls. Floor area in the shoreland zone area shall include any unenclosed areas of a structure such as porches or decks.

Floor Area, Ground: The sum, in square feet, of the floor area of the first or ground floor of a building, as measured from the interior faces of the exterior walls.

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

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

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.

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, including but not limited to including basements, slabs, sills, posts or frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

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

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

Frontage, Shore: - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Frontage, Street: The horizontal distance straight line between the intersections of the side lot lines with the front lot line.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

Grade: In relation to buildings, the average of the finished ground level at the center of each wall of a building.

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

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 unharvested areas greater than 10 acres within the area affected by a harvest.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

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 to a structure which have no floor area.

Home Occupation or Profession: An accessory use generally of a service character customarily conducted within a dwelling unit or accessory structure by a resident thereof, which is clearly secondary to the use of the dwelling unit for residential purposes and does not change the character thereof, and which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

**Institutional:** 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.

**Industrial Park:** An area of land developed exclusively to industrial and associated uses.

**Impervious Surface:** The area that is or will be covered by:

- (1) buildings and associated constructed facilities,
- (2) a low-permeability material such as asphalt or concrete, and/or
- (3) gravel roads and parking areas that will be compacted through use or design so as to reduce their permeability.

Common impervious areas include, by way of example, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, compacted gravel, packed earthen materials, macadam, and other surfaces that impede the natural infiltration of stormwater.

**Kennel:** An establishment in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained for a fee.

**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.

**Landscaping:** The combination of natural elements such as trees, shrubs, groundcovers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from air.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

"Cultivated Landscaping" shall mean manmade planted areas that require pruning, fertilizing and tending on a more frequent basis.

Light Manufacturing: The fabrication or processing of materials into the finished product, the weight of which shall not exceed three hundred (300) pounds.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Loading Space: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Local Growth Management Program: "Local Growth Management Program" shall mean the town has adopted a growth management program that certified by the Executive Department, State Planning Office, under 30-A M.R.S.A. § 4347-A.

Lot: A parcel of land in single ownership or leasehold having distinct and defined boundaries described in a deed, plot, or similar legal document.

Lot Area: The total horizontal area within the lot lines minus land below the normal high-water line of a tributary stream or the upland edge of a wetland, and areas beneath a road serving more than two lots.

Lot Coverage: The percentage of the lot covered by all buildings and impervious surfaces such as paved roads and parking lots, additionally, in the shoreland zone, lot coverage includes all non-vegetative surfaces.

Lot Depth: The mean horizontal distance between the front and rear lot lines, measured within the lot boundaries.

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

Front Lot Line: The line separating the lot from a road and ordinarily regarded as the front of the lot.

Rear Lot Line: The lot line generally opposite the front lot line.

Side Lot Line: Any lot line other than the front lot 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 County Register of Deeds or in common use by municipal officials.

Lot, Shorefront: Any lot abutting a tributary stream or wetland.

## **ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**Lot Width:** The mean horizontal distance between the side lot lines measured within the lot boundaries.

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

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

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

**Mineral Extraction:** Any removal, other than for specimens or samples, of sand, gravel, topsoil, peat or other minerals.

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

**Multi-unit Residential:** See 'Dwelling (Multi-Family)'.

**Municipal Facility:** A structure which is open to the public and which is owned by the Town of Trenton and operated under its supervision.

**Native – indigenous** to the local forests.

**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 amendment took effect.

**Non-conforming Lot:** A single lot of record which, at the effective date of a doption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

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

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

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

Normal Maintenance and Repair: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

Overlay Land Use District: An overlay land use district is a mapped zone that imposes additional requirements upon the underlying land use district. In those areas where an overlay land use district exists, land is placed simultaneously into two land use districts and development must comply with the conditions and requirements of both districts.

Pedestrian Walkway: A surfaced walkway, separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.

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

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

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

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

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

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

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

Public Water Supply: any publicly or privately-owned system of pipes, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption; if such system has at least 15 service connections or serves at least 25 individuals daily at least 60 days out of the year.

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

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

Reconstruction (outside shoreland zone): The restoration, remodeling or re building of a non-conforming structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

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

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

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

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

Retail Establishment: Any business, housed in a permanent structure, engaged primarily in the sale of goods and/or services to the ultimate consumer for direct consumption and/or use, but not for resale. Includes any enclosed restaurant, cafe, shop or store for the sale of retail goods, but shall exclude any free-standing (non-permanent) retail stand, trailer, or similar uses.

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

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

Salt Marsh: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow: Areas of coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Screening: A hedge or buffer strip at least five (5) feet wide, consisting of densely planted shrubs or trees at least four (4) feet in height at the time of planting, and eventually reaching a mature height of at least six (6) feet in height, but not exceeding eight (8) feet, which provides an effective visual barrier.

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

1. in the case of electric service:
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service:
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Service Establishment: Any business which provides a service for hire by others, conducted through the application of some specialized knowledge, training, skill, or talent, or through the employ of physical exertion or other effort in the performance of some special action or work not of a manufacturing nature.

Setback (shoreland): The nearest horizontal distance from the normal high-water line of a tributary stream or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.



## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Shoreland zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; or within 250 feet of the upland edge of a freshwater wetland.

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

Shrubs: A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than 10 feet in height at its maturity.

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., treetops and branches, left on the ground after a timber harvest.

Source water protection area: the area that contributes recharge water to a surface water intake or public water supply well as determined by the Maine Drinking Water Program..

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

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; pretreatment 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 is substantially maintained or exceeded throughout the measured area.

Tidal waters: all waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4.2.3, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

## ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

**Tree:** Any self-supporting woody perennial plant which has a DBH (diameter at breast height) of two inches or more and which normally attains an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches.

**Tributary stream** — means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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**NOTE:** Water setback requirements apply to tributary streams within the shoreland zone.

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**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

**Use:** The purpose for which land of a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

**Conditional Use:** A use permitted only after review and approval by the Planning Board. A conditional use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purpose of this Ordinance.

**Conforming Use:** A use of buildings, structures or land which conforms with all applicable provisions of this Ordinance.

**Open Space Use:** A use which does not disturb the existing state of land except to restore the land to a natural condition.

**Permitted Use:** A use which may be lawfully established in a particular district, provided it conforms with all the requirements, standards and regulations of such district.

**Variance:** A relaxation of terms of this ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

## **ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**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.

**Vegetation, native:** Any plant species with a geographic distribution indigenous to all or part of the State of Maine.

**Velocity zone:** an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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

**Warehouse:** Includes warehouse, wholesale establishment, bulk storage, or bulk sales outlet.

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

**Wetland:** A freshwater or coastal wetland.

**Wholesale Establishment:** Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to customers.

**Wildlife:** All vertebrate species (animals with backbones), except fish.

**Wildlife Management Practices:** Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

**Yard:** The area of land on a lot not occupied by buildings.

**Front Yard:** The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

**Rear Yard:** The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

## **ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line or a front line shall be deemed a side line.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

**CONTRACT ZONING AGREEMENT: Town of Trenton and  
Maine Department of Transportation**

This is a Contract Zoning Agreement made this 9<sup>th</sup> day of \_\_\_\_\_ June , 2009 by and between the Inhabitants of the Town of Trenton, a municipal corporate body, located in the County of Hancock, State of Maine, (hereinafter "the Town" or "municipality") and Maine Department of Transportation, State of Maine, Augusta, Maine (hereinafter "MaineDOT"). This Agreement is Pursuant to Contract Zoning Article VI, of the Trenton Land Use Ordinance, amended July 10, 2007 (c ontract zoning) pursuant to Title 30-A, Section 4352(8), M aine Revised Statutes Annotated; the Ordinance was most recently amended October 28, 2008.

WHEREAS, MaineDOT purchased a parcel of real estate located along Route 3, Trenton, Hancock County, Maine, consisting of approximately 152 acres and described in deed from Friends of Acadia, Inc., to Maine Department of Transportation recorded with the Hancock County Registry of Deeds in Book 4913, Page 232 ("the Property"); and

WHEREAS, the Property is located along the westerly side of Route 3 in an undeveloped and open area with high visibility and easy access by the volume of daily Route 3 traffic traveling toward Mount Desert Island for work purposes and the volume of seasonal Route 3 traffic traveling toward Mount Desert Island and Acadia National Park ("ANP") for re creational purposes; and

WHEREAS, MaineDOT desires to develop the Property as the Acadia Gateway Center at Crippens Creek ("Acadia Gateway Center" or "Project") and has proposed such development of the Project in four Phases with immediate development of Phase I to be followed closely by Phase II of the Project. Phases III and IV are then to follow in sequence. Phase I is an access road, bus maintenance facility for Downeast Transportation/Island Explorer, and park-and-ride lot. Phase II is a multi-modal transportation center, busway, ANP sales and information and parking. Phase III is the National Park Service Welcome Center for ANP with projected completion by 2012. Phase IV is an addition of theaters to the Welcome Center as well as an area for possible retail, concessions, and community use. Both Phases I and II, planned for immediate development, are integral parts of the overall proposed Acadia Gateway Center with a mix of uses. Most of the land areas planned for Phases I and II are located in the Rural Development District. Some of the land areas planned for Phases III and IV are located in the Rural Development District and some in the Rural Commercial District. Some proposed land uses within Phases I, II, III, and IV are not permitted in either the Rural Development District or the Rural Commercial District; and

WHEREAS, more particularly, the main portion of the Property proposed for development as Phase I (the bus maintenance facility for Downeast Transportation/Island Explorer and the park-and-ride lot) is located in the Rural Development District and the portion of Phase II proposed for the multi-modal transportation center also appears to be partially located in the Rural Development District. Under the Trenton Land Use Ordinance ("Ordinance") such transportation facilities are neither permitted nor conditionally permitted uses within the Rural Development District. Other portions of

## CONTRACT ZONING AGREEMENT

the Property nearer Route 3 are within the Rural Commercial District which permits some proposed land uses and does not permit other proposed land uses in the Project; and

WHEREAS, MaineDOT has requested a re-zoning of the part of the Property's Rural Development District and Rural Commercial District proposed for development to allow development of proposed transportation facilities in Phases I and II of the Project and all other proposed land uses not currently permitted. MaineDOT requested such re-zoning within the context of and as an integral part of the entire Project in its Contract Zoning Application and detailed plans and specifications submitted to the Trenton Planning Board in February 2009 ("MaineDOT Application"). The MaineDOT Application for the Acadia Gateway Center specified the closely connected and interrelated nature of all four Phases of the Project with an outline and explanation of the Project in the cover letter for the MaineDOT Application to the Chair of Trenton Planning Board dated February 25, 2009. This cover letter is a part of the MaineDOT Application and a copy of the letter is annexed hereto and incorporated herein as **Attachment 1**; and

WHEREAS, the proposed Acadia Gateway Center Project for the Property with all four Phases as proposed in the MaineDOT Application will offer Maine residents and visitors significant facilities and activities not otherwise available in Trenton; and

WHEREAS, such re-zoning to permit development of the Project with all four Phases is consistent with the goals of the Trenton Comprehensive Plan as outlined in MaineDOT's cover letter as a part of the MaineDOT Application (Attachment 1); and

WHEREAS, the Trenton Planning Board and Trenton Board of Selectmen, pursuant to Contract Zoning Article VI of the Trenton Land Use Ordinance and 30-A MRSA & 4352(8) ("Contract Zoning Requirements"), after notice, lengthy discussion, and due analysis and deliberation of the Project and the Contract Zoning Requirements by each board, each has recommended the re-zoning of the Property as requested in the MaineDOT Application to allow development of the Project with all four Phases; and

WHEREAS, the Inhabitants of the Town of Trenton, by Town Meeting vote, has determined that the re-zoning is pursuant to and consistent with the Town's Comprehensive Plan and has authorized the Trenton Board of Selectmen to execute this Contract Zoning Agreement as the means of documenting the Agreement of the parties and of accomplishing the MaineDOT requested re-zoning to allow full development of the Project on the Property. This Town Meeting vote occurred on May 30, 2009.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

### **A. Land Use Considerations.**

#### **1. Map**

## CONTRACT ZONING AGREEMENT

The Town will amend the Zoning Map of the Town of Trenton, as amended and on file at the Trenton Municipal offices and incorporated by reference in the Land Use Ordinance by adopting the map change amendments shown on **Attachment 2**.

**2. Primary Use**

The Contract Zoning change for this Property is granted and conditioned on the primary use of the Property as the Acadia Gateway Center, complete with the initiation of the building permit application for the transportation facilities of Phase I shortly after the execution of this agreement by the parties and the initiation of the building permit application for the transportation facilities of Phase II shortly after approval of the currently proposed work plan of MaineDOT by the Maine Legislature and the securing of funding therefor, and to be followed with building permit applications for the additional facilities of Phases III and IV. All Phases of the Project shall be in accord with the Contract Zoning Application and detailed plans and specifications for the Project submitted by MaineDOT to the Trenton Planning Board in February 2009 and in accord with future, final governmental permits when issued to authorize the beginning of construction of the Project. The transportation facilities of Phases I and II must be operated as integral elements of the overall Acadia Gateway Center as the primary use for the Contract to remain valid.

**3. Permitted Uses in the Re-zoned Area within the Rural Development District**

MaineDOT is authorized to construct a facility to be known as the Acadia Gateway Center at the Property, to be constructed as Phases I-IV, in compliance with the MaineDOT Application, as approved, and consisting of the following uses in the re-zoned area, but subject to MaineDOT obtaining final municipal building permits and other required governmental authorizations for each Phase of the Project:

- (1) The approved Acadia Gateway Center as the overall primary use.
- (2) Bus maintenance and garage facilities with access road for operation under lease to Downeast Transportation/Island Explorer or other bus service provider(s) to provide public bus transportation to at least the Ellsworth/Trenton/Mt. Desert Island area ("bus service" or "bus service provider") along with a park-and-ride lot to provide parking for bus service users and other commuters.
- (3) Intermodal transportation center with offices for management and dispatch of the bus service provider and public access facilities and areas for bus service users and other commuters.
- (4) Parking facilities for the bus service provider staff and bus service users and other commuters.
- (5) Accessory uses directly related to the above uses; examples include, without limitation, public areas, structures for picnics, and other similar activities or for pet rest and exercise.

## CONTRACT ZONING AGREEMENT

(6) The land areas for Phase III and Phase IV appear to be within the Rural Commercial District zone. The main land use categories for Phases III (the National Park Service Welcome Center for ANP) and Phase IV (addition of theaters to the Welcome Center as well as an area for possible retail, concessions, and community use) appear to be included as conditional uses within the Rural Commercial District. To the extent, however, that any part of Phase III or Phase IV of the Project is within the Rural Development District or within the Rural Commercial District, and the specific land use proposed in the MaineDOT Application is not permitted within the applicable district, then such use as proposed in the MaineDOT Application is approved and authorized as part of this Contract Zoning Agreement.

4. **Prohibited Uses**

Uses and facilities not consistent with the uses and facilities authorized herein are prohibited unless authorized as a permitted or conditionally permitted use in the existing applicable zoning district.

5. **Project Access and Egress** Access to and egress from the Acadia Gateway Center shall be directly from and to Route 3 as specified in the MaineDOT Application.

6. **Solid Waste Disposal:** MaineDOT shall be responsible for all solid waste collection, recycling, and disposal for any and all Phases of the Project at no cost to the Town of Trenton. The current plan for payment of all disposal fees is through direct billing of ANP by the disposal site owner as is reflected in the letters attached as **Attachment 3**.

7. **Subsurface Wastewater Disposal System and Sludge Disposal:** MaineDOT shall be responsible for all wastewater disposal for the Project, on-site or otherwise, as authorized by municipal or other governmental permit for each Phase of Project development at no cost to the Town of Trenton for any aspect of the wastewater disposal system including without limitation disposal system construction, maintenance, repair, or sludge disposal.

8. **Other Land Use Issues:** All other land use issues and site standards and conditions for implementation of the Project as may be required by law shall be determined by the Trenton Planning Board as part of its review and approval of subsequent MaineDOT permit applications for specific authorization to build each portion of the Project.

9. **Zone Limitation**

This is the sole zoning for the portion of the Property within the Rural Development District and the Rural Commercial District, except as otherwise set forth in the restrictions, provisions and conditions within this Agreement, all other requirements of the underlying Rural Development District or Rural Commercial District shall apply.

The restrictions, provisions and conditions within this Agreement are essential parts of this re-zoning, shall run with the Property and any part thereof, shall bind MaineDOT, its successors and assigns and shall be for the benefit of and be enforceable by the Town of Trenton.

If Phases I and II of the Project are not substantially completed within five years of the effective date of this Agreement and MaineDOT is not actively pursuing good faith



## CONTRACT ZONING AGREEMENT

efforts to complete the Project, the re-zoning authorized herein shall be voidable by court order unless, in the court's judgment, the overall circumstances of the Project can be shown to make an enforceable order of specific performance, which may be requested of the court by either party, the most appropriate remedy.

### **B. Other Conditions and Restrictions Not Specifically Tied to Land Use Requirements**

The below conditions and restrictions are essential parts of the re-zoning voted by the Inhabitants of the Town of Trenton, shall run with the property as appropriate, shall bind MaineDOT, its successors-in-interest and assigns including without limitation its agents and Tenants of the property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Trenton:

1. **Promote Use of Route 3:** As is implicitly recognized in the Project for Acadia Gateway Center, the parties recognize that the main route for vehicle traffic passing through Trenton going to or from Mount Desert Island for work or recreation is Route 3. A key objective of the Project is to promote such use of Route 3 for traffic destined for Mount Desert Island and to provide an attractive bus facility within the Project to divert a substantial portion of the privately owned vehicle drivers and passengers onto public transportation. The parties, therefore, agree to actively promote this objective of the Project and to undertake reasonable, prudent, and appropriate measures to that end including, but not limited to, maintaining the primary Project entrances and exits directly from and to Route 3.
2. **Route 3 as a Federal Scenic Byway or Maine Scenic Byway:** Trenton now has a pending application with the MaineDOT and US Department of Transportation ("USDOT") for "Federal Scenic Byway" designation by the USDOT of Route 3 from the Ellsworth-Trenton line southerly to the Trenton-Bar Harbor. The parties do not know what effect signatures on this Agreement and moving forward with the Project will have on USDOT and its eventual decision on the pending application. While the application and decision are pending, MaineDOT agrees to use best efforts to encourage such Federal designation. MaineDOT further agrees, as a backup to a possible long delay in the Federal decision or disapproval of the application, to undertake all preparations necessary to designate this section of Route 3 as a "State of Maine Scenic Byway". If no Federal decision establishing this section of Route 3 as a Federal Scenic Byway is received by MaineDOT and the Town on or before January 1, 2010, or at anytime earlier, the Town may submit an application for the designation of this section of Route 3 as a "State of Maine Scenic Byway" and MaineDOT shall then proceed to complete the designation process and to make a good faith effort to assist the Town in receiving the designation of this section of Route 3 as a "State of Maine Scenic Byway".
3. **Assistance for Trenton as Home of Acadia Gateway Center for Acadia National Park:** As the Project moves forward, MaineDOT agrees to use its best efforts to encourage its planned tenants, Downeast Transportation and Acadia National Park, to work with the Town of Trenton to plan for and implement further projects to help the Town assume its new role as the home of the Acadia Gateway Center for Acadia National Park.

### **C. Local Participation and General Provisions:**

## CONTRACT ZONING AGREEMENT

### **1. Local Participation:**

**(1) Local Participation in Acadia National Park Information Center:** The parties recognize the importance of the Trenton Chamber of Commerce cooperation on and assistance in the Town acceptance of the Project. MaineDOT and the Town agree to use the best efforts of each to promote the continuation of the more than 25 years of partnership between Acadia National Park and the MDI Regional Chambers of Commerce, of which the Trenton Chamber of Commerce is a member, in providing visitor information at the existing ANP Visitors' Centers. MaineDOT agrees to promote such continuing partnership in its own policies and memoranda to the appropriate extent and to use its best efforts to encourage Acadia National Park, as a tenant of MaineDOT in the Acadia Gateway Center, to continue such partnership, including the involvement of Trenton Chamber of Commerce, in the new National Park Service Welcome Center for ANP within the Acadia Gateway Center.

**(2) Participation in Phase IV Planning for Retail & Concessions:** MaineDOT also agrees to use its best efforts to encourage Acadia National Park, as a tenant of MaineDOT in the Acadia Gateway Center, to involve the Trenton Chamber of Commerce as a local participant and stakeholder in planning and implementing retail and concession activities in the Project (now planned for Phase IV).

**(3) Community Use of Specific Facilities:** Local public use of planned theaters, other public facilities, and the Property's undeveloped land areas as trails or other passive recreational uses has been a continuing theme in the planning and public presentation of the Project. MaineDOT further agrees to use its best efforts, either on its own or through its tenants, to plan for, facilitate, and manage such community and public use of the Property and Project.

**2. General Provisions:** This agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall constitute but one and the same instrument. The Agreement may not be changed or terminated orally.

IN WITNESS WHEREOF, the parties, by their duly authorized officials, hereto have set their hands and seals, in multiple originals with effective date as the date at the beginning of this Agreement.

Witness: Maine Department of Transportation

/s/ Joan L. Morgan

By: /s/ Margaret K. Duval Date: 6-9-09

Name: Margaret K. Duval

Title: Deputy Chief of Planning

Witness: Inhabitants of the Town of Trenton by its Selectmen

/s/ Janet L. Muise

/s/ James E. Cameron

Date: 6/02/09

Name: James E. Cameron, Selectman

## CONTRACT ZONING AGREEMENT

/s/ Janet L. Muise                      /s/ Michael Swanson                      Date: 6/02/09  
Name: Michael Swanson, Selectman

/s/ Janet L. Muise                      /s/ Michael Hodgkins                      Date: 6/02/09  
Name: Michael Hodgkins, Selectman

/s/ Janet L. Muise                      /s/ Julee Swanson                      Date: 6-2-09  
Name: Julee Swanson, Selectman

/s/ Janet L. Muise                      /s/ Carlene Hanscom                      Date: 6-2-09  
Name: Carlene Hanscom, Selectman

### STATE OF MAINE

Hancock County

June 02, 2009

Personally appeared the above named All Select board, in their capacity as Selectmen for Maine Town of Trenton and acknowledged before me the foregoing instrument to be their free act and deed in said capacity.

/s/ Janet L. Muise  
Notary Public

Janet L. Muise  
Print or type name as signed

### STATE OF MAINE

Hancock County

June 2, 2009

Personally appeared the above named James E. Cameron, in his capacity as Selectman for Town of Trenton and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said municipal corporation.

/s/ Dale L. Worthen  
Attorney-at-Law

Dale L. Worthen  
Print or type name as signed

## CONTRACT ZONING AGREEMENT

Kennebec County

6 – 9, 2009

Personally appeared the above named Margaret K. Duval, in his capacity as Deputy Chief of Planning for Maine Department of Transportation and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity.

/s/ Jean S. Stewart  
Notary Public

Jean A. Stewart  
Print or type name as signed

## ATTACHMENT 1: MAINEDOT COVER LETTER

February 25, 2009  
(Revised May 14, 2009)

Frederick Ehrlenbach, Chair  
Planning Board  
Town of Trenton  
59 Oak Point Rd  
Trenton, ME 04605

Re: Trenton - Acadia Gateway Center, Request for Contract Zone

Dear Mr. Ehrlenbach:

The Maine Department of Transportation is requesting review and approval of a Contract Zone for a parcel of land in the town of Trenton known as the Crippens Brook site, on which it will locate a development project known as the Acadia Gateway Center.

The Acadia Gateway Center is a phased project with the first phase being an access road, bus maintenance facility for the Island Explorer, and a park and ride lot. The second phase of the project will be an intermodal center and bus way. The third phase of the project will be a welcome center for Acadia National Park. Finally, the fourth phase of the project will include theatres and commercial development. The second, third and fourth phases of the project could be constructed concurrently or in combination if funding availability allows. The project is unique and cannot be accommodated under the existing Land Use Ordinance, therefore, the MaineDOT is requesting that the property be re-zoned to accommodate the proposed uses noted.

The proposal is consistent with the Trenton Comprehensive Plan and the project can meet or exceed the land use standards for the existing zones in which the project is proposed. In particular, the proposed Acadia Gateway Center supports elements of the following goals of the Comprehensive Plan: Economy (Section II.A.B.1, page 76), Transportation (Section II.A.D.1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, page 80), Public Facilities and Services (Section II.A.E. 4, page 85), Recreation, Open Space & Scenic Resources (Section II.A.F.1, 2, 3, page 87), Water Resources (Section II.A.H.1, 2, 4, 5, page 89), Historic & Archaeological Resources (Section II.A.I.1, 2, page 91), Natural Resources (Section II.A.J.2, page 92), Land Use (Section II.A.L.1, 5, page 93)

The Economy Goal of Regional Coordination is being met through the establishment of a transportation intermodal center and Acadia National Park Visitor Center that will serve the entire region. Visitors and residents alike will use the transit system to access Acadia National Park and provide intercommunity transit service to places of work, retail centers, and other areas of interest.

All 10 elements of the Transportation Goal are met in part by the proposed facilities.

- Route 3 Corridor Improvements – The introduction of the intermodal facility in the westerly section of the town will provide for an opportunity to reduce the total amount of traffic using Route 3 to the east. A seasonal 10% reduction in traffic volume has been projected resulting in the elimination of approximately 3000 vehicles per day in this corridor.<sup>1</sup> The entrance to the facility will provide for protected left turns from Route 3 and is designed to accommodate the land owner on Route 3 opposite the project site.
- Access Management – The entrance has been designed to meet not only the site requirements for entrance spacing, but is also designed to accommodate future use of the parcel opposite the project site.
- Sight Distance – The sight distance at the entrance exceeds engineering design standards.
- Scenic Byway – The proposed project is an essential element in the application to expand the Acadia All American Road. The project will be a traveler destination and the starting point for the Byway. The site has been designed to compliment the Byway by preserving natural features and designing and locating buildings and other facilities in a context sensitive manner.
- Pedestrian Facilities – The facility is designed to safely allow for pedestrian use and circulation and paths are being planned through the parcel and likely to adjoining properties to create a trail for use by visitors and residents.
- Bicycle Facilities – The facility is designed to allow cyclists safe access to and from the site and to safe movement on the site. Future plans may include better bicycle and pedestrian connections to other area communities and to other bicycle trails in the region.
- Town Road Policy – Roads in the proposed project will be built or exceed engineering design and construction standards used by the MaineDOT. The design and construction will accommodate the range of vehicle types and sizes anticipated to use these facilities.
- Parking – Parking at the facility is designed to accommodate the range of vehicle types and sizes and the anticipated volumes associated with an intermodal facility of this type. The parking areas have been strategically placed on the site with appropriate landscaping to diminish visual impacts from Route 3.
- Separation of Local and Thru Traffic – Improvements are planned on Route 3 to provide safe ingress and egress to the site. This section of Route 3 will be expanded to accommodate

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<sup>1</sup> The estimated 3000 vehicle trips per day reduction referenced herein is from a Maine Department of Transportation study of the entire highway corridor from Bangor to Bar Harbor and was erroneously included in the original letter. The estimated vehicle trips per day is from a larger study that included additional options, such as light rail or bus ways, for the entire corridor and did not specify the impacts that the Acadia Gateway Center could have on vehicle trip reductions in the Trenton to Bar Harbor corridor. Downeast Transportation Inc. estimates a range of 300 to 400 vehicle trips per day reduction from the Acadia Gateway Center.

protected left turn lanes for vehicles entering the site and lanes for all other thru traffic. The project has been designed to accommodate a four-way intersection that will provide access to the parcel of land opposite the project site.

- Managing Off-site Traffic Impacts of Development – During the development of this project, MaineDOT undertook a study of possible locations for an intermodal facility. Numerous sites were evaluated in a public process involving many stakeholders, including the town of Trenton. The project by its nature is specifically designed to provide safer and more efficient travel on the Route 3 corridor by providing travel alternatives, thereby eliminating substantial numbers of vehicles from the highway.

The Fire Protection and Emergency Response element of the Public Facilities and Services Goal will be met with the design and construction of a sprinkler system for fire suppression in the buildings built on the site.

The Current Recreation Arrangements element of the Recreation, Open Space & Scenic Resources Goal will be met in part when this site is fully developed. Initially, paths on site and eventually to surrounding areas will provide walking and bicycling opportunities for the public. With the development of the Visitor Center, Acadia National Park may be able to offer educational experiences for the area students and residents about the natural and scenic assets of the Park and its surroundings. An auditorium planned for later stages will provide an opportunity for learning experiences in a multi-media setting and will also provide a meeting place for use by citizens of Trenton for community activities when the facility is not in use for Park programs.

The Water Resources Goal will be met by:

- Ground Water Protection - Adequate on-site septic systems and a water collection system to capture wash water from the bus operations facility will be constructed. These systems have been designed to meet State of Maine Department of Health and Human Services and the Department of Environmental Protection regulations to meet the needs of the uses at the facility. Local permits will be obtained prior to the commencement of work.
- Non-point Source Management and Storm water Runoff – The project will incorporate measures at all phases of development to manage non-point pollution, storm water runoff, drainage, erosion, and sedimentation.
- Wetland Protection – MaineDOT has mapped and identified wetlands and soils on the site. The project has been designed to avoid wetlands where possible and to minimize impacts of the project on those features.
- Public Water System Protection - The water system has been designed to meet Department of Health and Human Services standards. Should the Department of Health and Human Services deem the water system to be a public water supply, as defined by its rules, then water supply systems will be located in accordance with well head protection criteria of those rules.

The Historic and Archaeological Resources Goal has been met through an evaluation of the site in accordance with procedures established by the Maine Historic Preservation Commission and adopted by MaineDOT.

The Natural Resources Goal has been met in the design elements of this project. Large areas of the site have been avoided and the site designed to meet the projects needs while imposing the minimum footprint. Construction activities at the site will be done in accordance with procedures that are consistent with proper site management, including the effective implementation of erosion and sedimentation control, traffic management at Route 3, and a “finished looking” site at the end of each phase of construction.

The Land Use Goal will be met by this project.

- Managing Commercial Strip Development – This project makes use of the parcel in a way that it does not intrude onto Route 3, thereby avoiding the commercial strip development pattern that is a focus of concern in the this section of the Comprehensive Plan. Facilities at this location are set distant from the highway, and have facades on the lines of agricultural buildings that dot the Maine and New England landscape. Context sensitive design provides an attractiveness that lures the visitor into the site rather than crowding the landscape by encroaching onto the highway.
- Contract Zoning – The project is located in a Rural Commercial and the Rural Development districts, both of which do not allow the uses being proposed for this location. The proposed project is greater than one acre of impervious surface; thereby a Contract Zone requiring voter approval is required.

On behalf of the Maine Department of Transportation, the above information and analysis of this project relative to the Trenton Comprehensive Plan has been provided to point out those elements where this project is consistent with and meets many of the goals adopted by the community. MaineDOT believes that it meets the criteria to satisfy the requirements for consideration of its request for a Contract Zone amendment to the Land Use Plan and the Land Use Maps for the town.

The Maine Department of Transportation is respectfully requesting approval by the Planning Board to move this project through the review and approval process as established in the Land Use Plan. The Department has assembled an array of documents and exhibits that it will present to the Planning Board for its review, discussion, and consideration.

We look forward to working with the community to bring this project to fruition. Thank you for your consideration.

Sincerely,

Margaret Duval, Deputy Chief  
Bureau of Transportation Systems Planning



MD/FM/jmf

cc: David A. Cole, Commissioner  
Kat Fuller, Chief, Bureau of Transportation Systems Planning

**ATTACHMENT 2: ZONING MAP**

**A COPY IS ON FILE AT THE TOWN OFFICE**

### Attachment # 3 Letter regarding Solid Waste Disposal Arrangements



IN REPLY REFER TO:

## United States Department of the Interior

NATIONAL PARK SERVICE  
Acadia National Park  
P.O. Box 177  
Bar Harbor, Maine 04609

April 28, 2009

Mr. Frederick Ehrlenbach, Chair  
Planning Board  
Town of Trenton  
59 Oak Point Road  
Trenton, Maine 04605

Re: Acadia Gateway Center, Waste Disposal

Dear Mr. Ehrlenbach:

At the April 15, 2009, Planning Board meeting regarding the proposed Acadia Gateway Center, you requested written confirmation on the park's plans to manage solid waste generated at the facility.

This letter will confirm that the National Park Service will collect, transport and dispose of all solid waste generated at the proposed facility. Waste collection and transport will be accomplished using park staff or a private vendor. All waste disposal fees will be billed to and paid by Acadia National Park. Attached is a letter for the Vice President, Eastern Maine Recycling Inc. (EMR) confirming the financial arrangement between the park and EMR.

A private vendor will be hired to periodically pump the septic tanks and dispose of the sewage sludge in a state approved facility. All costs associated with the collection and disposal of sewage sludge will be billed to and paid by the National Park Service.

If you have any further questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely,

Sheridan Steele  
Superintendent

Enclosure

**E.M.R., Inc.**  
*"Eastern Maine Recycling"*

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Recycling and Solid Waste Management

March 30, 2009

Mr Len Bobinchock  
Acadia National Park  
P.O. Box 177  
Bar Harbor, ME 04609

Dear Mr. Bobinchock,

E.M.R., Inc. (EMR), Located at 47 Long Pond Road, Southwest Harbor, Maine, owns and operates a MeDEP licensed MSW facility which includes a MSW transfer station, recycling center, construction and demolition debris storage area, waste wood storage area and scrap metal storage area. E.M.R., Inc. has the capacity and is willing to accept the volumes of waste items that may be generated by the Acadia Gateway Center, including the bus maintenance facility, to be constructed on Route 3 in Trenton, Maine by Acadia National Park and Maine Department of Transportation. It is my understanding from our telephone conversation that EMR is to bill Acadia National Park and not the Town of Trenton for disposal fees for wastes generated from this project.

If you have any further questions or concerns regarding this matter please do not hesitate to contact me.

Sincerely,



Ben C. (Lee) Worcester III  
Vice President

28 Main Street - P.O. Box 787 - Southwest Harbor, ME 04679-0787 - 207-244-9033  
emr@midmaine.com - Fax 207-244-4072

# Town of Trenton

Official Zoning Map

Drawn / Date

James Fisher, HCPC / 04/07/2010  
File ID: TrentonZoning040710.mxd

Checked / Date

CEO

Selectmen

A True Copy

Attest: \_\_\_\_\_  
Town Clerk Date Approved

1 inch = 5,000 feet

0 1,000 2,000 4,000 6,000 8,000 10,000 Feet

Surry

Ellsworth

Hancock

Lamoine

Trenton

Skilling River

Jordan River

Eastern Bay

Bar Harbor

## Legend

— Roads

— Streams

□ Tax Parcels

## Zoning

- Acadia National Park
- Airport Commercial/Industrial
- Business Park
- Contract Zone 1
- Gateway/Commercial
- Rural Commercial
- Rural Development
- Residential Growth
- Resource Protection
- Residential Rural
- Village

Western Bay

Produced by the  
Hancock County  
Planning Commission  
JEF -- Dec. 7, 2005  
Reprinted June 2, 2008  
Modified: June 6, 2009 (Contract Zone 1 Added) (jhf)  
Modified: February 4, 2010 (shoreland zones added)  
Modified: April 7, 2010 LU Ordinance update (jhf)

### NOTE:

Property lines shown were digitized from the town of Trenton Tax Maps by another consultant. Information shown is from various government and local sources. See the Trenton Comprehensive Plan text for more details. The information is shown for town-wide planning purposes only. Where specific data is needed, verification on the ground is recommended.