

# **LAND USE AND DEVELOPMENT ORDINANCE FOR THE TOWN OF VERONA ISLAND, MAINE**

Adopted 1992 Special Town Meeting

Amended March 31, 2007

# LAND USE AND DEVELOPMENT ORDINANCE FOR THE TOWN OF VERONA, MAINE

## **SECTION I. TITLE**

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

## **SECTION II. PURPOSE**

It is the purpose of this Ordinance to establish a system for reviewing proposed land uses in the Town of Verona to promote the public health, safety, and general welfare, in particular; to prevent and control air and water pollution; to assure safe and harmonious location of structures and land uses; to protect significant scientific or historical areas and to preserve and foster the quiet and rural atmosphere of the Town of Verona.

## **SECTION III. AUTHORITY**

This Ordinance is adopted pursuant to authority granted under the Home Rule Provisions of the Constitution of the State of Maine, Article VIII, Part 2, and the Home Rule and general planning and zoning provisions of Title 30-A, Maine Revised Statutes, Sections 2691, 3001-3006, 4351-4353, 4451 and 4452.

## **SECTION IV. EFFECTIVE DATE**

The effective date of this Ordinance shall be the day following its adoption at a regular or special Town Meeting. Any provisions contained in the Land Use and Development Ordinance for the Town of Verona, Maine which are applicable to land areas other than those defined as shoreland areas in M.R.S.A. 38 Sec.435, are hereby repealed.

## **SECTION V. 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.

## **SECTION VI. AMENDMENTS**

This Ordinance may be amended by majority vote of the legislative body at a Town Meeting.

## **SECTION VII. APPLICABILITY**

This Ordinance shall apply to the establishment and/or substantial enlargement of all residential, commercial, retail, industrial, recreational, and institutional structures and land uses within the Town of Verona which are proposed in land areas other than those areas within 250 feet of tidal waters or within 250 feet from the upland edge of a freshwater wetland which is ten acres or greater.

## **SECTION VIII. NON-CONFORMANCE**

### A. 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 shall be allowed to continue, subject to the requirements set forth in this section.

### B. General

1. Transfer of Ownership: Non-conforming structures or lots may be transferred, and the new owner may continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. Repair and Maintenance: This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming structures including repairs or renovations which do not involve expansion of the non-conforming structure, and such other changes in a non-conforming structure as federal state, or local building and safety codes may require.

NOTE: See Section XV for the definitions of non-conforming structures and non-conforming lots.

### C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded 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.
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 (Rules), or that a new system can be installed in compliance with 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.

3. Reconstruction or Replacement: Any non-conforming structure which is damaged or destroyed by more than 50% of the market value of the structure before such damage or destruction may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage or destruction, and provided that such reconstruction or replacement is in compliance with the applicable setback requirement 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.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any. In no case in considering greatest practical extent, shall the applicant be denied the construction of a replacement structure.

4. Changes 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 subject or adjacent properties and resources than the existing use.

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, and archaeological and historic resources.

## E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. 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 and Subsurface Wastewater Disposal Rules are complied with.

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.

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements if such lots do not contain at least 20,000 square feet.

## **SECTION IX. LAND USE PERMIT REQUIRED**

After the effective date of this Ordinance, no person, firm, corporation or other legal authority may establish, expand or substantially expand a structure or land use, or re-establish or rebuild a structure or land use which has been discontinued for a period of 12 calendar months or more without first having obtained a Land Use Permit from the Planning Board in conformance with this Ordinance, provided that the granting of the Land Use Permit in no way relieves such person from the obligation to obtain other permits provided for in other federal, state or local ordinances, regulations or laws. Department of Inland Fisheries and Wildlife permit is required for any construction or work around Critical Natural Resource Areas (i.e. ,Eagle nest, etc)

Land uses permitted in conformance with the land use standards of this Ordinance, are shown below:

KEY: Yes - Allowed (no permit required)  
 No - Prohibited  
 PB Permit - Requires permit issued by the Planning Board  
 CEO Permit - Requires permit from Code Enforcement Officer  
 LPI Permit - Requires permit from Licensed Plumbing Inspector

**LAND USES**

- |     |  |        |
|-----|--|--------|
| 1.  | Motorized vehicular traffic on roads and trails and snowmobiling                               | yes    |
| 2.  | Forest management activities except for timber harvesting                                      | yes    |
| 3.  | Timber harvesting  | yes    |
| 4.  | Fire prevention activities   | yes    |
| 5.  | Wildlife management practices  | yes    |
| 6.  | Soil and water conservation practices  | yes    |
| 7.  | Mineral exploration  | yes    |
| 8.  | Mineral extraction including sand/gravel extraction  | PB     |
| 9.  | Surveying and Resource analysis  | yes    |
| 10. | Emergency operations as defined  | yes    |
| 11. | Harvesting of wild crops   | yes    |
| 12. | Agriculture  | yes    |
| 13. | Principal structures   |        |
|     | Expansion of residential structures  | CEO    |
|     | Substantial expansion of principal structures  | PB     |
|     | Residential dwelling units   | PB     |
|     | Commercial structures  | PB     |
|     | Industrial structures  | PB     |
|     | Governmental structures  | PB     |
|     | Institutional structures   | PB     |
| 14. | Structures accessory to permitted uses   | CEO    |
| 15. | Road and driveway construction   | CEO/PB |
| 16. | Parking Facilities   | PB     |
| 17. | Small non-residential facilities for educational, scientific or nature interpretation purposes | yes    |
| 18. | Public and private parks and recreation areas involving minimal development                    | yes    |
| 19. | Home Occupations   | PB     |
| 20. | Campgrounds  | PB     |
| 21. | Private sewage disposal systems  | LPI    |
| 22. | Public utilities, including sewage collection and treatment facilities                         | PB     |
| 23. | Signs larger than six square feet  | PB     |
| 24. | Uses similar to permitted uses   | CEO    |
| 25. | Uses similar to uses requiring a CEO permit  | CEO    |
| 26. | Uses similar to uses requiring a PB permit   | PB     |

## **SECTION X. LAND USE STANDARDS**

### **A. Alteration of Rivers, Streams and Brooks**

No person shall dredge, fill, or erect a causeway, bridge, marina, wharf, dock or other permanent structure, above head of tide, in, on or over any river, stream or brook or on land adjacent to any river, stream or brook in such a manner that any dredge spoil, fill, or structure may fall or be washed into such waters without first obtaining a permit from the Department of Environmental Protection.

In no case will the activity be permitted unless it can be shown that it will not unreasonably interfere with existing recreational uses; cause unreasonable soil erosion; unreasonably interfere with the natural flow of any waters; unreasonably harm any wildlife habitat; or lower the quality of any waters.

### **B. Auto Graveyards and Junkyards**

1. No automobile graveyard or junkyard shall be established, operated, or maintained, or permitted by the owner of any land to be established, without first obtaining a non-transferable permit from the Selectmen of the Town in accordance with R.S., 1964, Title 30-A, Sections 3751-3760, as amended. Navigable waters of the Penobscot River shall be considered as public roads and shall be subject to the most restrictive provisions provided in said sections of Title 30-A.

2. Any automobile graveyard or junkyard which is kept in such manner or in such location or situation as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be a public nuisance.

3 More than (2) unregistered vehicles constitutes an Auto Graveyard

### **C. Campgrounds**

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

1. Camping areas shall contain a minimum of 5,000 square feet of suitable land, not including roads and driveways, for each site.

### **D. Mineral Exploration/Extraction**

1. 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, so as to restore disturbed areas and to protect the public health and safety.

2. No person shall drill for or excavate natural resources, including but not limited to sand, gravel, fill, minerals, ores, fossil fuels or peat without a permit. Any person intending to conduct such activities shall apply in writing to the Planning Board. 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 paragraph 3.D. below. Such application shall include a statement of the proposed activities and a description of the measures to be taken:
  - a. to avoid undue erosion of land siltation or sedimentation of surface waters;
  - b. to avoid interference with existing or natural drainage-ways;
  - c. to prevent lateral movement or other subsidence of public ways or public or private property adjacent to the area;
  - d. to screen the site from view any public way and adjacent property;
  - f. to provide for the avoidance of spillage in or drainage on the public way at such entrance/exit;
  - g. to prevent disturbance to adjacent and nearby property owners by reason of dust, smoke, or noise; and
  - h. to return the land to as near its natural state as is practicable by grading, filling, drainage and/or planting.
  
3. In no event shall any person:
  - a. excavate below the grade level of an adjacent public road within one hundred fifty feet of the center line of such way, unless the slope of such areas is maintained thirty degrees, or less; and/or
  - b. excavate below the grade level of adjacent private or public property within one hundred feet of the property line, unless permission of the owner of such adjacent property is given in writing and filed at the office of the Town Clerk. In the case of Town-owned property, the Planning Board shall give or withhold permission in accordance with the advice of the Soil and Water Conservation District staff.

- c. 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:
  1. 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.
  2. The final graded slope shall be two or one (2:1) slope or flatter.
  3. 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.

E. Off-Street Parking and Loading Regulations

1. For every use, expansion of use, activity, or structure permitted by this Ordinance and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading, and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customer, employees, guests, or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose.

F. Planned Unit and Cluster Development

1. Purpose

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design maybe allowed, provided that the net residential density shall be not greater than is permitted as described under Section X.I.

2. Basic Requirements

Planned unit and cluster developments shall meet all of the following criteria:

- a. All planned unit developments and cluster development shall meet all requirements for a residential subdivision set forth in the Town of Verona's Land Use Ordinance.

- b. While individual building lots may occupy a lot smaller than that required under the minimum dimensional requirements of this Ordinance, the entire development shall meet the overall density requirements including (lot frontage and number of dwelling units per acre).
- c. The minimum area of land in a planned unit development or a cluster development shall be twelve (12) acres.
- d. Any lot abutting a public road shall have a frontage and area no less than the normally required by this Ordinance. On other than public roads, lot area and road frontage may be reduced from the requirements of this Ordinance provided that:
  - 1) No building lot shall have an area of less than ten thousand (10,000) square feet with a sewer, and twenty thousand (20,000) square feet without a sewer.
  - 2) All lots except those abutting a circular turn-around shall have a minimum frontage of one hundred (100) feet. The frontage of lots abutting a circular turn-around may be reduced further, provided that the minimum lot width at the face of the building shall be one hundred (100) feet.
- e. Setbacks
  - 1) Setbacks from abutting properties shall be thirty (30) feet.
  - 2) Setbacks from abutting properties within the cluster shall be ten (10) feet.
  - 3) Setbacks of structures shall be fifty (50) feet from all public ways.
- f. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
- g. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by a trust association, or by the Municipality.
- h. Where a planned unit development or cluster development abuts a water body, a portion of the shoreline, as well as access to it, shall be a part of the common land.
- i. Further subdivision of common land or its use for other than

non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land, subject to the issuance of a Building Permit.

- j. All dwelling units in a planned unit development or cluster development shall be connected to a suitable water supply and distribution system, at no expense to the Municipality.
- k. All structures which require plumbing in a planned unit development or cluster development shall be connected to a disposal facility which meets the standards of the State Planning Code at no expense to the Municipality.
- l. Prior to occupancy, the plumbing system, including the sewage if applicable, for each dwelling unit within a planned unit development or a cluster development must be approved according to the procedures set forth in the Maine State Plumbing Code.
- m. Buildings shall be oriented in accordance with an overall plan for site development.

#### G. Road Construction

- 1. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

#### H. Sanitary Standards

##### 1. Subsurface Sewage Disposal

All subsurface sewage disposal systems shall conform to the State Plumbing Code and the following:

##### a. Soil Conditions

- 1) All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
- 2) All subsurface sewage disposal systems shall be located in suitable soils. The determination of soil suitability shall be based on a soils report prepared by a State-certified soil scientist or geologist, based on an on-site investigation and soil observation to a minimum depth of five feet.

Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

Where daily sewage flow exceeds 2,000 gallons, the minimum setback shall be 300 feet from any shoreline. All other setback requirements of the State Plumbing Code shall be met in full. Setbacks from shorelines for all subsurface disposal facilities shall not be reduced by variance.

## 2. Privies

Privies may be permitted in areas not served by community sewer facilities under the following conditions:

- a. No plumbing of any kind shall be connected to or discharged into the privy pit.
- c. The bottom of the privy pit shall be at least two feet above bedrock and the ground water table at its highest point during the year or have a watertight vault.
- d. Privies shall not be permitted on recent flood plain soils.

## 3. Other Systems

Other systems of sanitary waste disposal may be permitted after approved by the Maine Department of Health and Welfare, and after a permit has been issued by the Planning Board.

# I. Setbacks, Frontage and Minimum Lot Size and Structures

## 1. Setbacks

All structures shall be setback 5 feet from all lot lines. All structures shall be setback 50 feet from the centerline of all State-aid roads, and 30 feet from the centerline of other roads. Communication tower setback will be the height of the tower plus 20 % from adjoining properties.

## 2. Frontage

All lots shall have a minimum of 150 feet frontage on all roads whether private or public.

## 3. Lot Size

Any single family residential dwelling units or Governmental, Institutional or Commercial building per principal structure shall require a lot of land which contains at least two acres. Nothing in this section shall prevent the local Plumbing Inspector or the Planning Board from requiring a larger lot size under circumstances essential to maintain the health and safety of persons and the sanitary condition of a water body or the property of another.

Multiple unit housing shall require a lot larger than that for a single family residential unit in proportion to the increase in actual waste disposal. For purposes of computing such proportions, the amount of sewage generated and waste disposal shall be deemed to be:

Single family residential unit, 300 gallons per day Multiple unit housing, 120 gallons per bedroom per day.

#### J. Signs and Outdoor Lighting

1. Off premises signs and billboards relating to goods and services not rendered on the premises are prohibited. Notwithstanding this provision, temporary signs relating to a civic function or an event of general interest may be displayed for a period not to exceed fifteen days. Nothing in this section shall be construed to prohibit the Town from identifying one or more locations for the erection of a standard upon which, and subject to its approval, unlighted signs of uniform or harmonious size, design or lettering may be attached.
2. On-premises signs relating to goods or services rendered on the premises or identifying a place of residence, or the sale, rental or lease of the premises shall not exceed two (2) per premises. On-premises signs which are more than six (6) square feet in area shall require approval by the Planning Board.
3. Signs shall be illuminated only by non-flashing white or yellow lights. Such lights shall be shielded and of such intensity as to preclude either danger to marine or vehicular traffic or annoyance to the occupants or surrounding property.

#### K. Soils

All land use shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impact, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation conducted by a Maine Certified Soils Scientist, Registered Engineer, or Certified Geologist. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### L. Timber Harvesting

No slash and associated wood debris accumulated as a result of timber harvesting operations shall be left within 100 feet of any public right-of-way.

M. Vehicular Access

All structures and land uses shall have safe and convenient entrance and exits from the property. The Road Commissioner may determine whether the entrance and exit shall be combined or separated, as well as the number and location of each. His/Her determination shall be based on the number and frequency of vehicular movement to and from the property, as well as the size and condition of the adjacent public way, traffic volume, and visibility.

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all commercial and industrial uses at all times.

In addition, any entrance onto a state or state aid road shall require an entrance permit approved by the Maine Department of Transportation (MDOT) prior to the issuance of a local permit. Any proposed driveway entrance onto a private or local road shall be reviewed for compliance with the (MDOT) driveway entrance standards. The Road Commissioner findings shall be considered prior to the issuance of a land use permit.

N. Waste Disposal

No waste disposal facility shall be operated in the Town of Verona without first obtaining a permit from the Planning Board. No such permit shall be issued unless all required state and federal permits are obtained and unless it can be demonstrated that such facility can be operated and maintained without polluting the air, water or ground.

The disposal or storage of hazardous wastes as designed under the U.S. Clean Water Action, Section 311, Public Law 92-500, and/or the disposal or storage of radioactive waste materials as defined by MRSA, Section 361-D.1.b., within the boundaries of the Town of Verona, Maine shall be prohibited. Any requests for an exception to this prohibition shall be submitted in writing to the Selectmen and brought to the whole Town of Verona, acting as a body politic, to be voted on by all bona fide voters present in a Town Meeting.

O. Home Occupations

1. Permitted home occupations shall be carried out without altering the residential character of the structure or neighborhood, or changing the character of the lot from its principal use as a residence. A home occupation shall be permitted if it complies with all of the requirements of this section.
2. A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.
3. One non-illuminated sign, no larger than six square feet may be erected

on the premises.

4. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.
5. Garage sales or similar temporary activities conducted no more than two consecutive days at any one time, more than three times per calendar year, shall not be considered a home occupation.
6. The off-street loading and parking requirements contained in Section X.E. shall apply to home occupations. Traffic generated by a home occupation is prohibited within a public right-of-way.

## **SECTION XI. LAND USE PERMIT APPLICATION**

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 which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use if any of the above activities exceed \$2,000.00 in value.

Applications for permits shall be submitted in writing on the forms provided. To the appropriate official as indicated in Section XI, all applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee. 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. 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. The Planning Board may require the submission of whatever information is necessary to determine conformance with the provisions of this Ordinance. This may include:

- A. A map or maps prepared at a scale of not less than one (1) inch to fifty (50) feet and shall include:
  1. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest;
  2. existing soil conditions as described by either a soil scientist, geologist, engineer or S.C.S. medium intensity soil surveys;
  3. municipal tax maps and lot numbers and names of abutting landowners;
  4. perimeter survey of the parcel made and certified by a registered land

- surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. Areas within 200 feet of the proposed development site shall be included;
5. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way;
  6. location, ground floor area and elevations of buildings and other structures on parcels abutting the site;
  7. if the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;
  8. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public streets and curb and sidewalk lines;
  9. landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening for any proposed commercial development;
  10. topography indicating contours at intervals of either 5, 10 or 20 feet in elevation as specified by the Planning Board;
  11. location of natural features including water bodies, drainage ways, groundwater recharge areas, flood plains, and wildlife habitats.

- B. A written statement by the applicant that shall consist of:
1. evidence by the applicant of this title and interest in the land for which the application covers, including all book and page numbers of applicable deeds in the Hancock County Registry of Deeds;
  2. a description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;
  3. total floor area, ground coverage and height of each proposed building and structure and percentage of lot covered by each building or structure;
  4. summary of existing and proposed easements, restrictions and covenants placed on the property;
  5. method of solid waste disposal;
  6. erosion and sedimentation control plan;
  7. copies of letters to the abutting landowners and selectmen, notifying them of the proposed development;
  8. statement of financial capacity which should include the names and sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both; this submission requirement shall not apply to single family homes;
  9. list of applicable local, state, and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, the flood prone areas subject to the National Flood Insurance Act, etc.;
  10. an estimate of the date when construction will start and when the development will be completed.

## **SECTION XII. LAND USE PERMIT REVIEW**

- A. Within 30 days of the filing of an application, the Planning Board shall notify the applicant in writing either that the application is complete or that the application is incomplete, and the additional material needed to make a complete application. After the Planning Board has notified the applicant and abutters that a complete application has been filed, it shall begin its review of the proposed development.
- B. The Planning Board may hold a public hearing within 30 days of the filing of the complete application. The Planning Board shall publish the time, date, and place of the hearing at least once in a newspaper of area-wide circulation. The abutting landowners shall be notified by the Planning Board of the hearing.
- C. Within 30 days of the public hearing, or 60 days of receiving the complete application, the Planning Board shall either approve, approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant. Failure to reach a decision in the allotted time shall constitute a disapproval of the application.
- D. Within seven days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action. 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.

### **SECTION XIII. LAND USE PERMITS ISSUED BY THE PLANNING BOARD**

1. The Planning Board shall approve or deny those applications 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 this Ordinance, the proposed use:
  - a. Will not result in unsafe or unhealthful conditions;
  - b. Will not result in erosion or sedimentation;
  - c. Is in conformance with the provisions of Section XII, Land Use Standards.
  - d. Will protect known archaeological and historic resources as designated in the comprehensive plan.

2. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void. The project shall be completed as proposed within 3 years or the issued permit shall become void.

3. 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.

## **SECTION IV: BARKING DOGS**

**(insert)**

## **SECTION XV: DEMOLITION DEBRIS**

**(insert)**

## **SECTION XVI. APPEALS AND VARIANCES**

### A. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

1. Administrative Appeals: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance. For the purpose of this section, administration does not include enforcement proceedings initiated by the Town pursuant to violations of this ordinance or violations of permits issued in accordance with this ordinance.
2. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

### B. Variances

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

1. The strict application of the terms of this Ordinance would result in undue hardship to the applicant;
  - 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 XIII.1, paragraphs a-d and the provisions of Section X except for

the specific provision which has created the non-conformity and from which relief is sought.

3. 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.

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. 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. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  1. A concise written statement indicating what relief is requested and why it should be granted.
  2. 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.
- c. Upon being notified of an appeal, 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 the appeal within thirty (30) days of its receipt of an appeal request.

2. Decision by Board of Appeals

- a. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant

on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

- c. The person filing the appeal shall have the burden of proof.
- d. The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof. All determinations and related records shall be forwarded to the Planning Board for their records.

E. Appeal to Superior Court

An appeal may be taken within thirty days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State law and within forty-five (45) days from the date of any decision of the Board of Appeals.

F. Reconsideration

The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony. A vote to reconsider and the action taken on that reconsideration must occur and be completed within thirty (30) days of the date of the vote on the original decision.

A. Nuisances

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

B. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed by the municipal officers annually by July 1st.

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.

C. The Code Enforcement Officer shall conduct on-site inspections to insure 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.

D. 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 Quality Control within the Department of Environmental Protection.

E. Legal Action

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 of 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.

F. Fines

Any person including but not limited to a landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100 for each violation. Each day a violation continues is a separate offense. Guilty parties shall be penalized in accordance with Title 30-A, M.R.S.A., subsection 4452.

## **SECTION XVII. DEFINITIONS**

Terms not defined herein shall have the customary dictionary meaning. As used in this

Ordinance, the following definitions shall apply:

**Timber Harvesting** - The butting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

## **ROAD TERMS**

**Driveway** - A vehicular access-way serving two lots or less.

**Road** - A route or tract, other than a driveway, 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.

**Accessory Structure or Use** - A structure or use of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted. Accessory uses or structures, 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** - A person whose land is directly or indirectly affected by the grant 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 a group of five or more citizens of the municipality who represents an interest adverse to the grant 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.

**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.

**Commercial Use** - The use of lands, buildings, or structures, other than a "home occupation," defined above, 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.

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

**Emergency Operations** - Emergency operations shall include 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 and livestock from the threat of destruction or injury.

**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.

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

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

**Foundation** - The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

**Home Occupations** - An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes and employ no more than two (2) employees other than family members residing in the home.

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

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

**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 operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum Lot Width** - The closest distance between the side lot lines of a lot.

**Multiple Unit Housing** - "Multiple unit housing" shall mean a structure or structures located on a single lot, which structures are designed or used to house two or more families.

**Non-Conforming Lot** - A single lot of record which, at the effective date of adoption 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 that 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.

**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.

**Privy** - A pit in the ground into which human excrement is placed.

**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.

**Recent Flood Plain Soils** - Recent flood plain soils include the following soils as described and identified by the National Cooperative Survey:

Alluvial land  
Hadley silt loam  
Limerick silt loam  
Ondaw fine sandy loam  
Pondunk fine sandy loam  
Rumney fine sandy loam  
Saco silt loam  
Suncook loamy sand  
Winooski silt loam

**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.

**Residential Dwelling Unit** - A room or groups of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

**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. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

**Substantial Expansion** - A substantial expansion of an existing structure or land use shall include:

An increase of more than 50% in the volume of sanitary waste;

An increase of more than 50% in the total floor area of the building; and/or

An increase of more than 50% in the total value of structures and other improvements.

**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** - A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 412 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

**Subsurface Waste Disposal** - "Subsurface waste disposal" means any system for disposing of wastes or waste waters on or beneath the surface of the earth including, but not limited to, holding ponds, surface spraying, septic tanks, drainage fields and wells, but shall not include any discharge or the waste treatment system related thereto licensed under Title 38, Section 413 or any discharge into a municipal or quasi-municipal sewer system.

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

**Waste** - "Waste" means any liquified sewage, garbage, sewage sludge, chemical, biological or radiological materials, human body wastes, or any other refuse or effluent in a liquid form generated from domestic, commercial or industrial activities, except wastes generated from agricultural activities or animal husbandry.