

## ARTICLE 10 PERFORMANCE STANDARDS

### Section 1. Applicability

The performance standards contained in this article shall apply to all uses and activities in the Town, unless otherwise specified, whether or not specific approval or a permit is required.

### Part A. Environmental

#### Section 2. 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, and commercial or industrial development and other similar intensive land uses, shall require a soils report, prepared by a State-certified soil scientist or geologist based on an on-site investigation. 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.

#### Section 3. Shoreland Overlay District and Resource Protection District

##### A. Applicability

This section shall apply to all lands within the Shoreland Overlay District and Resource Protection District as defined in Article 3 of this Ordinance.

##### B. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *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).
- (2) There shall be no tilling of soil within seventy-five (75) feet, horizontal distance, of the normal high-water line of any water body listed in Article 3, Section 2.B or 3.B.(1) and (2) or within twenty-five (25) feet, horizontal distance, of the normal high-water line of other streams or wetlands located in a shoreland zone.
- (3) Where soil is tilled in a Resource Protection area, or where soil in excess of 20,000 sq. ft. lying either wholly or partially within the area covered by this Ordinance is tilled in the Shoreland Overlay District, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
- (4) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of the normal high-water line of any great pond, river, perennial stream or wetland. 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.

- (5) Agricultural activities within the Shoreland Overlay District involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (6) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies 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.

C. Filling, Grading, Lagooning, Dredging

Any work under this subsection shall not begin until a permit has been issued for the proposed activity by the Code Enforcement Officer. The applicant shall satisfy the Code Enforcement Officer that:

- (1) The smallest amount of bare ground will be exposed for the shortest time feasible;
- (2) Temporary ground cover, such as mulch, will be used and, as soon as possible, permanent cover, such as sod, will be planted;
- (3) Diversions, silting basins, terraces and other methods to trap sediment will be used;
- (4) Lagooning will be conducted in such a manner as to avoid creation of fish trap conditions;
- (5) Fill will be stabilized according to accepted engineering standards;
- (6) Fill will not restrict the flow of a natural drainageway;
- (7) Sides of a channel or artificial waterway will be stabilized to prevent slumping;
- (8) Sides of channels or artificial watercourses will be constructed with slopes of 2 feet horizontal to 1 foot vertical or less steep, unless bulkheads or riprapping are used; and
- (9) On slopes greater than 25%, there shall be no grading or filling within one hundred (100) feet of the normal high water mark except to protect the shoreline and prevent erosion.
- (10) There shall be no filling of wetlands, except as approved by the Planning Board or Site Plan Review Board, under the provisions of Article 10, Sections 3.E, 3.G and 3.P as applicable, and as approved by the U.S. Army Corps of Engineers and by the Department of Environmental Protection, as applicable.

Note: A person performing any of the following activities shall be required to obtain a permit from the Department of Environmental Protection pursuant to Title 38 M.R.S.A., Section 480-C, if the activity occurs in, on, over, or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them as a result of:

- (a) Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- (b) Draining or otherwise dewatering;
- (c) Filling, including adding sand or other material to a sand dune; or
- (d) Any construction or alteration of any permanent structure.

D. Clearing or removal of Vegetation for Activities other than Timber Harvesting

- (1) Within a Resource Protection District, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water mark line, except to remove safety hazards.

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

- (2) Except in areas as described in paragraph (1) above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than two hundred and fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forest 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.

- (b) Selective cutting of trees within the buffer strip is permitted, provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of Section (D)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 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

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

The following shall govern in applying this point system:

- (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;
- (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 this section “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.

- (c) Pruning of tree branches, on the bottom third of the tree is permitted.
  - (d) In order to maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species, unless existing new tree growth is present.
  - (e) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide a footpath or other permitted uses, except as described in Section 3.D.2 and 2(a) above.
  - (f) Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above the ground level may be removed in any ten (10) year period.
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five (25) percent of the lot area for that part of the lot area located in the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the mixed use, commercial,

business or industrial districts.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as permitted by this ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation, shall be regulated under the provisions of this section.

E. Piers, Docks, Wharves, Breakwaters, Causeway, Marinas, Bridges, and Uses Extending Over or Below the Normal High Water Line of a Water Body or Within a Wetland.

- (1) Any new permanent, temporary, or material expansion or alteration of a pier, dock, wharf, bridge, or other structure or use extending over or below the normal high water line of a water body or within a wetland shall require a building permit; subject to prior Special Exception review and approval by the Planning Board. Any new permanent structure, or expansion thereof, shall require a permit from the Department of Environmental Protection (DEP) pursuant to the Natural Resources Protection Act, 38 M.R.S. A. Section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters. In addition, the applicant shall be required to obtain any other federal and state approvals that may be needed, including evidence of a submerged land lease from the Maine Bureau of Public Lands, if applicable. Prior to Planning Board's final action on any Kennebunk River related application, a copy of the application shall be forwarded to the Kennebunk River Committee and Harbormaster for review and comment; which shall be made part of the Planning Board's record.
- (2) In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:
  - (a) No new permanent, temporary or material alteration of a pier, dock, wharf, bridge, or other structure shall be permitted within the wildlife habitat of species considered endangered or threatened by the Maine Department of Inland Fisheries and Wildlife or U.S. Fish and Wildlife Service,
  - (b) Piers, docks, wharves, walkways, ramps and floats shall be constructed to meet the standards for "Appurtenant Structures" as set forth in FEMA 55, Coastal Construction Manual, third edition, June 2000, as amended. The area of a float or floats shall not exceed 200 square feet, except that when shared by two or more abutting property owners as delineated in 10.3. E. (d), two such floats may be used,
  - (c) Piers, docks, wharves, walkways, ramps or floats require the lot to have a minimum of 60 feet of shore frontage. If a property owner does not meet this standard, the applicant may co-apply with an abutter or abutters and must demonstrate that in combination with such abutting property, this standard will be met. The agreement for shared maintenance, and repair costs, outlining pier location and shared access, including any property easements, must be recorded with the York County Registry of Deeds. Once a property owner has entered into a shared pier agreement, that property owner forfeits the right to build his or her own pier. Subdivisions and Condominium Homeowners Associations with 60 feet or more of frontage are allowed to build only one pier and if the frontage is at least 100 feet

- (d) No portion of a pier or float shall be located within 25 feet of a property line or property line extension seaward, unless the pier is a shared pier as per 10.3.E.(d),
- (e) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion and avoid adverse impact on coastal or freshwater vegetation. Appropriate pile installation techniques shall be utilized to minimize disturbance of sediments. Any ramp, walkway or pier shall be at least one foot above the ground, as measured from the lowest part of the structure. Deck boards shall be a maximum of 6 inches in width and spaced ½ inch apart. Paint, stains and water proofing shall not be applied. Coastal bank shall be protected from erosion by the use of suitable stairs no wider than four feet,
- (f) The location of any structure shall not interfere with existing developed or natural beach areas, nor impede legitimate passage along a beach,
- (g) The facility shall be located so as to minimize adverse effects on fisheries.
- (h) 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 noncommercial ramp, pier, walkway, dock or wharf shall not be wider than four feet. Pairs of pilings or supports shall be not closer than ten feet,
- (i) Lighting to illuminate walkways, ramps and floats only, and ,any such lighting must meet the private outdoor lighting standards of this ordinance,
- (j) No new structure shall be built on, over or abutting a pier, dock, or other structure extending beyond the normal high waterline of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity,
- (k) New permanent piers and docks on non tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the DEP, pursuant to the Natural Resources Act , 38 M.R.S.A., Section 480-C,
- (l) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high waterline of a water body or within a wetland shall be converted to residential dwelling units in any district,
- (m) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure,

- (n) Any pier, walkway, dock or wharf, including ramps and floats, shall be no longer than a total length of 100 feet nor extend more than one fifth (1/5) of way across a body of water. The Planning Board may, upon review, modify the length requirement if it is demonstrated that no other reasonable alternative exists to provide water access,
- (o) Off-season storage of temporary floats, ramps or walkways must be on upland areas so as to not damage marine or freshwater vegetation. Caution must be exercised to avoid damage to shoreline banks and shoreline vegetation. Ramps may be stored on piers or docks. All stored items must be properly and safely secured so as not to become a wind or wave borne hazard in a severe storm or hurricane, and
- (p) Enlargements, alterations, repairs, or the rebuilding of nonconforming piers, docks, walkways, wharves, ramps or floats shall be governed by the provisions of Art. 5. of the ordinance.

#### F. Campgrounds

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of suitable land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of one hundred (100) feet horizontal distance from the normal high water mark of any pond, river, tributary stream, wetland, or salt water body as defined.

#### G. Roads, Driveways and Parking Areas

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

- (1) The Planning Board, (or the Site Plan Review Board or Staff Review Committee in the case of site plan applications), may approve a road, driveway, and/or parking area plan which is exempt from the setbacks imposed by Article 8, Section 16.D upon a finding that no reasonable alternative exists, and upon a clear showing by the applicant that no greater setback can be achieved, and that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed as to avoid sedimentation of the water body, tributary stream, or wetland, On slopes of greater than twenty (20) percent, the road, driveway and/or parking area setback shall be increased by ten (10) feet horizontal distance for each five (5) percent increase in slope above twenty (20) percent. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section D.(1) except for that portion of the road or driveway necessary for direct access to the structure.

In no case shall the Planning Board, Site Plan Review Board, or Staff Review Committee reduce the road, driveway, or parking area setback to less than 50 feet from the shoreline of a water body or tributary stream, or from the upland edge of a coastal wetland or Priority 1 wetland, except for water crossings and unless otherwise allowed by the terms of the underlying district standards in the Ordinance.

- (2) Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District, except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) 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 herein.
- (5) Road and driveway grades shall be no greater than ten(10) percent, except for short segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet, plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. 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.
- (7) 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 column or heat to erode the road, driveway or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associate water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.



- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
  - (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) 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.

#### H. Sanitary Standards

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

- (1) All subsurface sewage disposal systems shall be located in areas of suitable soil of at least one thousand (1,000) square feet in size.
- (2) The minimum setback for subsurface sewage disposal facilities shall be no less than one hundred (100) horizontal feet from the normal high water mark of a perennial water body. This requirement shall not be reduced by variance.
  - a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and
  - b) a holding tank is not allowed for a first-time residential use in the shoreland overlay zone or resource protection zone.
- (3) Replacement systems shall meet the standards for replacement systems as contained in the rules.

#### I. Signs

Signs within the shoreland areas shall comply with the standards of the applicable underlying zones.

#### J. Timber Harvesting

- (1) Within the strip of land extending seventy-five (75) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards.
- (2) Except in areas as described in Paragraph 1 above, 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 one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings. A well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
  - (ii) At distances greater than one hundred (100) feet, horizontal distance, of a great pond or river flowing to a great pond and greater than seventy-five (75) feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet, they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.
- (b) No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground, and no part thereof, extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
  - (c) Timber harvesting equipment shall not use stream channels as travel routes except when:
    - (i) Surface waters are frozen; and
    - (ii) The activity will not result in any ground disturbance.
  - (d) All crossings of flowing water shall require a bridge or culvert designed in conformance with U.S. Army Corps of Engineer Standards, 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.
  - (e) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
  - (f) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

K. Water Quality

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

L. Erosion and Sediment Control

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in conformance with York County Soil and Water Conservation District Standards. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features, such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) 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.
- (3) 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.
- (4) 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:
  - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet, and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) 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.

M. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

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NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

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N. 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.

P. Shoreland Mitigation Plan

The Planning Board (or Site Plan Review Board in the case of Site Plan Application) may permit minor wetland fills and/or development within the shoreland setback area upon a positive finding that each of the following criteria have been met:

- (1) for projects that fill less than an acre of Wetland the applicant has made a clear showing that:
  - (a) no reasonable alternative exists and that no greater setback from the shoreland/wetland area can be achieved, and:
  - (b) that project meets all applicable Federal and State permit requirements, and provides evidence that the agency has reviewed the application.
- (2) Additionally, for projects filling an acre or more of wetland the applicant shall submit a Shoreland Mitigation Plan which:
  - (a) delineates and evaluates the functions and values of the wetland/shoreland site being impacted by the proposed development,

- (b) addresses the impacts to the aquatic resource, and
- (c) proposes a plan for replacing the loss of the aquatic resource and/or buffer area by creating, restoring, and/or enhancing similar aquatic resource functions and values, either within the development site or on a site nearby.

**Section 4. Aquifer Protection**

A. Applicability

This section shall apply to all lands within the Branch Brook Aquifer Protection District. For land subject to the standards of both aquifer protection and shoreland areas, where there is conflict between these standards, the stricter shall apply. Zones A and B refer to the areas of the Branch Brook Aquifer Protection District as defined in Article 8, Section 2(B), and as delineated on the official aquifer protection district map.

B. Clearing and Timber Harvesting

- (1) Harvesting activities may not create single openings greater than 14,000 square feet in the forest canopy. In such areas, single canopy openings of over 10,000 sq. ft. shall be at least 100 feet apart.
- (2) Over any ten year period, harvesting shall not remove more than 40 percent of the volume of trees over 6 inches.
- (3) Burning of slash is prohibited. Export of wood chips to wood-to-energy plants, or on-site chipping and broadcast application of chips are recommended.
- (4) Skid trails, log yards, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified filter strip is retained between the exposed mineral soil and the normal high water mark of Branch Brook and/or its tributaries. The width of this strip shall vary according to the average slope of the land as follows:

<u>Average Slope of Land Between Exposed Mineral Soil and Normal High Water Mark (percent)</u>	<u>Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along Surface of the</u>	<u>Ground)</u>
0	25	
10	45	
20	65	
30	85	
40	105	
50	125	
60	145	
70	165	

- (5) Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. No skidders or other heavy equipment may be used during spring months or other times when the ground is saturated. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.

- (6) A landowner must give prior notice to the Code Enforcement Officer and the KKW Water District of all harvesting operations which will involve use of skidders and other heavy-duty equipment.

C. Agriculture

- (1) Use of "limited" or "restricted" use herbicides or pesticides, as defined by the Maine Pesticides Control Board, is prohibited in Zones A and B. Grandfathered, nonconforming uses of "limited" or "restricted" use herbicides or pesticides require a permit from the Hazardous Materials Control Board in accord with Article 5, Section 6, of this Ordinance. After a permit has been granted, any subsequent increase in application levels or use of substances not listed in the original permit submissions must first be approved by the Hazardous Materials Control Board.
- (2) There shall be no tilling within 50 feet of the normal high water mark of Branch Brook and its tributaries.
- (3) Application of sludge to the land, and spray irrigation of industrial wastewater or sewage, are prohibited in the aquifer protection district.
- (4) Manure spreading for commercial agriculture is prohibited in Zone A, but is permitted in Zone B if carried out in conformance with a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission and if approved by the York County Soil and Water Conservation District. The Conservation Plan must include provision for control of surface water runoff and non-point sources of water pollution. Use and application of nitrogen fertilizer for commercial agriculture in Zone A must be carried out in conformance with an approved Conservation Plan which meets the standards listed above.
- (5) Home gardens can be fertilized with manure or nitrogen fertilizer, but use of potash or phosphorus is recommended.

D. Animal Husbandry

- (1) Animal husbandry and associated manure handling must be carried out in conformance with a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the York County Soil and Water Conservation District. The Conservation Plan must include provision for control of surface water runoff and non-point sources of water pollution.
- (2) Stockpiling of manure is prohibited in Zone A.

E. Runoff, Drainage, and Dry Wells

- (1) Unless it can be shown that an increase in runoff will have no offsite impact, peak runoff from the site in the developed state shall not be increased beyond that in the undeveloped state.
- (2) Provision shall be made for on-site recharge of stormwater runoff unless the Planning Board determines that recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be

by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board.

- (3) Dry wells shall be used for control of surface runoff only if other methods of control are infeasible.
- (4) Dry wells shall not be used for disposal of any leachable materials or hazardous materials and shall not be connected to floor drains.

F. Pollutant Levels

Any pollutant introduced into soil on the site shall not exceed a concentration in the groundwater that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination. The landowner shall be responsible for the cost of all remedial actions.

G. Petroleum Storage

- (1) Petroleum storage in excess of 50 gallons is prohibited in Zone A. However, an owner of a legally nonconforming dwelling, existing as of December 16, 1986, may apply to the Board of Appeals for permission for such storage above ground. The Board of Appeals shall approve, deny, or approve with conditions the application, and in reaching its decision shall apply the standards of approval set forth for special exceptions in the Branch Brook Aquifer Protection District (Article 7, Section 3).
- (2) Petroleum storage in excess of 50 gallons above ground may be permitted in Zone B as a special exception, pursuant to the procedure and the standards of Article 7 of this Ordinance.
- (3) Underground petroleum storage is prohibited in the Branch Brook Aquifer Protection District. All petroleum storage tanks shall be above ground and shall have a secondary containment system. Outdoor tanks shall be located within an impermeable diked area which is large enough to contain the contents of the tank. The diked area must be roofed. Any tank which does not meet the above-listed standards shall be nonconforming. All nonconforming above-ground and indoor tanks must be equipped with a secondary containment system no later than December 16, 1988.
- (4) All existing underground tanks shall be made nonconforming by the enactment of this Ordinance, the date of which is December 16, 1986, and shall be precision-tested annually. The tank owner or user shall submit copies of the test results to the Code Enforcement Officer and the KKW Water District. Tanks failing to pass the precision test shall be excavated and examined for leaks. If found to be leaking, any material discharged from the tank shall be removed at the expense of the owner in accordance with Title 38 MRSA sections 543 through 551.
- (5) Any underground tank which is over 20 years old shall be extracted from the ground and permanently removed from service no later than December 16, 1987. If the age of a tank cannot be determined, it shall be assumed to be older than 20 years, extracted from the ground, and removed from service no later than December 16, 1987. Owners of underground tanks shall submit proof of tank age, or of a tank's extraction from the ground, to the Code Enforcement Officer.

H. Subsurface Waste Disposal Ssystems

- (1) Subsurface waste disposal systems in Zone A are prohibited, except in conformance with Article 8, Section 2(F)(2)(c).
- (2) Wastewater disposal systems in Zone A shall be pumped out every 3 years. Homeowners shall retain the receipt for paying the tank pumper to demonstrate compliance to the Code Enforcement Officer or Water District representative during an inspection.
- (3) Subsurface waste disposal systems in Zone B are permitted in accordance with all applicable state and local laws and with this subsection.
- (4) No more than one residence shall be connected to a wastewater disposal system, and no "engineered systems" (having a capacity in excess of 2,000 GPD as defined in State of Maine Subsurface Wastewater Disposal Rules) are permitted.
- (5) Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning septic systems, is prohibited.

I. Home Occupations

Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted.

J. Sand and Gravel Extraction

- (1) Extraction shall not be allowed below a point 5 feet above the average seasonal high water table. No ditches, trenches, pumping, or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions.
- (2) Access roads into and around the pit shall not be oiled, salted, or paved.
- (3) The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.
- (4) Storage of hazardous materials and petroleum products in the pit is prohibited, and refueling and oil changes in the pit are prohibited.
- (5) Washing and crushing operations shall not be conducted in the pit.
- (6) When the pit is permanently closed, it shall be loamed and seeded. Application of fertilizer, manure, or other soil amendments to areas of bare soils where the topsoil has been removed is prohibited unless the area has been loamed and seeded first.

K. Junkyards/Automobile Graveyards

Every automobile stored in a junkyard or automobile graveyard as defined by State law, 30 MRSA Section 2451-B, shall have its battery removed, and shall have its transmission fluid, brake fluid, and engine coolant drained into watertight, covered containers. These waste materials shall be disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of waste oil and hazardous materials. No discharge of any fluids



from any motor vehicle shall be permitted into or onto the ground.

L. Disposal of Solid Waste, Hazardous Materials, Or Leachable Materials

Unless otherwise specifically permitted, the disposal of solid waste, hazardous materials, or leachable materials is prohibited.

M. Use of Herbicides and Pesticides

Nonconforming use of "limited" or "restricted" use of herbicides or pesticides shall be as provided for in Article 5, Section 6 (Nonconformities in the Branch Brook Aquifer Protection District).

N. Off-Road Vehicles

The use of off-road vehicles in Zone A is prohibited.

**Section 5. Reserved**

**Part B. Site Elements**

**Section 6. Private Outdoor Lighting**

- A. In all zoning districts, all outdoor lighting shall be located, shielded and directed in a manner which prevents excessive illumination levels, prevents glare on nearby streets and sidewalks, and prevents light trespass beyond the property lines, except where adjacent non-residential uses have an approved, shared lighting plan as described below. In furtherance of this standard, the following requirements shall apply:
- All freestanding and facade mounted lighting shall utilize **full cut-off type fixtures** or **equivalent shielding** to prevent excessive lighting levels, minimize glare and shall be installed in a manner that does not direct light beyond the lot lines of the premises on which the light fixture(s) is located. (Where a light plan is provided which shows an acceptable shared lighting scheme between adjacent non-residential uses, the applicable review board may vary the above noted limitation regarding light trespass between such adjacent properties). The use of non cut-off type decorative fixtures in appropriate situations may be permitted provided the light source is equivalent to no more than a 150 watt incandescent lamp,( not exceeding 2,000 lumens), and provided all other applicable standards are met,
  - all parking area lighting shall be full cut off type fixtures, or non cut-off type meeting the specifications set forth above,
  - Where possible, parking lot fixtures shall be on timers to extinguish lights within 1 hour after closing of non-residential uses with exception of minimum number of fixtures for security purposes,
  - The IESNA (Illuminating Engineering Society of North America) Maintained Horizontal Illuminance Recommendations shall not be exceeded for a multifamily and/or non-residential project site. **\*(See Table A)** ,

- Maximum height of freestanding lights shall be 25 feet (but shall not exceed the building height if the building(s) are less than 25 feet)
- Canopy lighting - light fixtures mounted on/in canopies shall be recessed so that the lens cover is recessed or flush with the ceiling surface. Lights shall not be mounted on the top, sides or front face of the canopy nor shall any such side or face of the canopy be illuminated.
- Lighting plan - When compliance to these standards is in question the Code Enforcement Officer may require the submission of a detailed lighting plan showing type of fixtures, shielding, level of wattage and fixture height.
- Street Lighting- Lighting installed along access and circulation streets within a development (such street conforming to the town’s Street Design and Construction conform to the town’s Street Standards Ordinance) shall be exempt from these standards and shall conform to the Town’s Long Term Street Light Policy as adopted by the Kennebunk Street Light Committee.

**TABLE A**

	<b>IES Parking Lot Levels of Activity *(Examples)</b>	<b>IES Maintained Horizontal Illuminance Recommendations (Foot-candles)</b>					
		<b>General Parking &amp; Pedestrian</b>			<b>Vehicle Use Area Only</b>		
		<u>Ave.</u>	<u>Min.</u>	<u>U.Ratio</u>	<u>Ave</u>	<u>Min.</u>	<u>U.</u>
<b><u>High Ratio</u></b>	Major League Athletic Events						
	Major Cultural or Civic Events	3.6	.9	4:1	2.0	.67	3:1
	Regional Shopping Centers						
	** Fast Food Restaurants with drive-thru facilities						
	** Convenience Stores With Gas Pumps ** Other facilities with drive-thru facilities						
<b><u>Medium Ratio</u></b>	Community Shopping Centers	<u>Ave.</u>	<u>Min.</u>	<u>U.Ratio</u>	<u>Ave</u>	<u>Min.</u>	<u>U.</u>
	Cultural, Civic or Recreational Events	2.4	.6	4:1	1.0	.33	3:1
	Office Parks/Buildings						
	Hospital Parking						
	Transportation Parking (Airports, Commuter Lots...etc.) Residential Complex Parking (Multi-Family)						
<b><u>Low Ratio</u></b>	Neighborhood Shopping	<u>Ave.</u>	<u>Min.</u>	<u>U.Ratio</u>	<u>Ave</u>	<u>Min.</u>	<u>U.</u>
	Industrial Employee Parking	.8	.2	4:1	.5	.13	4:1
	Educational Facility Parking						
	Church Parking						

\* **Projects may utilize the standards shown for a lower level of activity as listed in Table A**

\*\* Local interpretation and application of IES Parking Lot Levels of Activity:

**Level Of Activity**

* Community shopping centers containing retail space of 5,000+ square feet	Medium
* Neighborhood shopping containing retail space of less than 5,000 square feet	Low
* Automotive dealerships	High
* Entertainment theaters, sports arenas	High
* Convenience stores with gas pumps/canopies	High
* Gas Stations	High

**B. Submission Requirements:** For “Major” Site Plan or “Major” Subdivision Plan submissions, a lighting plan shall be submitted to the applicable review board showing the following:

- Provide catalog cut(s) of fixture(s) and pole(s) (if required), including all the necessary manufacturers ordering specifications; type of lamp (color coated or clear) wattage, lumen rating, etc.,
- Provide manufacturers photometric printout of proposed site lighting,
- Photometric printout shall include: scale of plan, legend of symbols used, fixture locations, mounting height, table of fixtures and statistical data chart,
- Statistical data inclusive of all points and designation of points used in the statistical analysis, total number of points used in analysis and grid spacing,
- Criteria (IESNA) used to design the project; i.e. parking area with pedestrian use( or) vehicle use area , and
- Statistical criteria, i.e. foot candles/lux to minimum, or minimum to maximum, initial or maintained, light loss factor and identify (highlight) lowest and highest point value used in the analysis.

**C. Definitions (Pertaining to Lighting Standards)**

**Equivalent Shielding:** A device or material composition that reduces and minimizes glare from the fixture lamp source.

**Foot-Candle:** A measure of light falling on a given surface. One foot-candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away.

**Full Cut-Off Type Fixture:** A luminaire or light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a 90 degree, horizontal plane from the base of the fixture. Full cut-off fixtures must be installed as designed.

**U Ratio:** The ratio of average illumination to minimum illumination.

## Section 7. Signs

- A. **Purpose** - The purpose of this section is to permit such signs that will not, by their size, location, construction, or manner of display, endanger the safety of individuals, confuse, mislead or obstruct the vision necessary for traffic safety, or otherwise endanger the public health, safety and welfare. These sign standards are intended to:
- (1) Support and complement the land use objectives of the comprehensive plan and zoning ordinance.
  - (2) Equitably distribute the privilege of using the public environs to communicate private information.
  - (3) Safeguard the public use and nature of the streets and sidewalks.
  - (4) Enhance the visual environment of the Town.
- B. **Sign Permits** - It shall be unlawful for any person to erect, repair, alter or relocate any sign, except as exempted under 7.D. below without first obtaining a sign permit from the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to review sign permit applications to determine conformance with the standards of this ordinance and the standards of the Town's building code and electrical code.
- C. **Definitions** - As used in this ordinance, the following words and phrases shall have the meaning as noted below:
- (1) Sign - Any object, device, display or structure, or part thereof which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.
  - (2) Sign Area/Size – The permitted sign size, which is the entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure unless the supporting structure is an integral part of the display. Only one side of a two (2) sided freestanding or projecting sign shall be counted in the calculation of allowable sign area. The various allowable sign area/size dimensions listed herein shall be applied to each individual sign that is permitted and may not be divided up between or among several smaller signs unless otherwise indicated.
  - (3) Sign Types - The following types of signs shall be governed by the sign standards of this Section 7.
    - (a) Attached/Building Sign - Any sign posted, painted, constructed, suspended or attached to the wall, facade, canopy, marquee or porch of any structure.
    - (b) Freestanding Sign - A sign permanently fastened or attached to the ground. Such signs are usually supported from the ground by one or more poles or posts on uprights, with or without braces.
    - (c) Temporary Sign – Any portable sign or banner, as those terms are defined herein.

- (d) Joint Identification Sign - A sign which serves as a common or collective identification for a group of persons or businesses operating on the same lot (i.e., shopping center, office complex, etc.). Such signs shall include the development name and street address and may include the names of persons and/or businesses located on site, and/or the nature or type of business(s) occurring on the site, but shall carry no other commercial matter.
  - (e) Advertisement Sign - A sign which directs attention to the type of business or profession conducted, as well as to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
  - (f) Identification Sign - A sign giving the name, logo, trademark or other identifying symbol, the nature or type of business, and address of an occupant of the building, business, development or establishment on the premises where it is located, but shall contain no other advertising matter.
  - (g) Directional Sign - Signs limited to directional messages for pedestrian or vehicle traffic, such as "one-way," "entrance" and "exit."
  - (h) Off-premise Sign - A sign which directs attention to a business, commodity, service or entertainment, conducted, sold or offered at a location other than the premises on which the sign is located.
  - (i) Off-premise Multi-lot Identification Sign Cluster - A collection of off-premise lot identification or joint-identification signs affixed to a single sign post or other permitted structure.
  - (j) Commercial Complex Identification Sign - A sign that lists the name and address of the commercial development (e.g., shopping center, office complex, etc.) being identified but does not include information about the individual businesses located therein.
  - (k) Portable Sign – Any sign not permanently attached to the ground or some type of permanent structure, or a sign designed to be transported, including but not limited to a sandwich board.
  - (l) Banner – Any sign of lightweight fabric or similar material that is mounted to a pole, cable, fence or building at one or more edges. National, state or municipal flags, or the official flag of any institution or business, shall not be considered banners.
- (4) Premises - A lot, parcel, tract or plot of land together with the building(s) and structure(s) thereon.
  - (5) Multi-unit Lot - A lot or parcel of land upon which two or more businesses occupy an office complex, shopping center, industrial park, or other multi-unit building or buildings. For the purpose of this section, the term multi-unit lot shall also include non-residential condominium developments.
  - (6) Signage Plan - A plan that is approved as part of a subdivision or site plan approval, in

accordance with Section 7.J.

- D. **Exemptions** - The following signs shall not be included in the application of the regulation herein; provided, however that exempted signs must comply with Section F “Prohibited Signs.” Unless specifically noted, off-premise signs are not permitted under these exemptions.
- (1) One sign not exceeding one (1) sq. ft. in area and bearing only property number, post box numbers, and/or the name of occupants residing at premises.
  - (2) Signs including off-premise signs erected and maintained pursuant to and in discharge of any governmental functions, or required by law, ordinance or other governmental regulation.
  - (3) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
  - (4) Signs directing and guiding traffic and parking on private property, not exceeding four (4) sq. ft. in area and bearing no commercial matter. Where confusion would occur, the name of the business may be included on the sign.
  - (5) Signs located on the interior of a structure.
  - (6) Awnings, except that awnings which contain identification or advertisement matter shall be considered one of the allowable signs per single-use or multi-use lot and shall, therefore, reduce the number of signs permitted per lot by one.
  - (7)
    - (a) One real estate advertisement sign not exceeding six (6) sq. ft. in area per lot or per dwelling unit located in the Resource Protection District or the Residential Zones (Rural Conservation, Rural Residential, Aquifer Protection, Village Residential, Suburban Residential, and Coastal Residential), and not exceeding fifteen (15) sq. ft. in area per lot located in the Commercial or Industrial Zones (Upper Square, Suburban Commercial, Downtown Business, Mixed Residential and Commercial Use, Lower Village Business, West Kennebunk Village, Business Park, and Industrial), and to be located on the lot being advertised only or the lot upon which the advertised dwelling unit is located, except as set forth in paragraph b of this subsection.
    - (b) Where a property offered for sale either does not have frontage on a public way or is not visible from the traveled portion of a public way, no more than one directional sign may be placed off-premise, either on public property or on private property with the permission of the owner, for the purpose of directing potential buyers to the site. An off-premise sign allowed under this subsection shall not exceed 1.5 square feet in area and shall only be allowed for the period of time that the property is offered for sale. Directional signs under this subsection shall be allowed for either improved or vacant land and shall be allowed in addition to the signage permitted under subsection (a). In no event shall any such off-premise sign be located so as to create a traffic hazard or to impede a sidewalk or other established pedestrian way.
  - (8) One subdivision or tract name sign bearing only the name of the development and not

exceeding thirty (30) sq. ft. in area, and such sign shall contain no other advertising matter. The total sign area of any subdivision or tract name sign exempted under this subsection shall not apply toward the maximum total signage per lot/sign size permitted on the subject lot. For residential subdivisions abutting more than one street, one (1) additional on-premise sign not exceeding fifteen (15) square feet in area shall be allowed at the second entrance.

- (9) Fuel price/informational signs that meet the requirements set forth in Title 10 M.R.S.A. § 1661-B, as amended.
- (10) Memorial signs or tablets, names or historic buildings and date of erection when engraved in surface of building or constructed of permanent material.
- (11) Civic group signs: One (1) freestanding joint identification off-premise sign announcing the name of churches, social organizations and the time and place of meeting of civic clubs shall be permitted at the major entrances of the Town, provided that they shall be designed as an integrated unit and shall be landscaped. Such freestanding signs shall not exceed twenty (20) feet in height and shall not exceed fifty (50) sq. ft. in total combined signboard area.
- (12) "Posted," "No Trespassing," "Beware of Dog" and "Private Driveway" signs of no greater than two (2) sq. ft. in area.
- (13) Holiday decoration of a temporary nature and not containing advertising matter.
- (14) Signs of valid, Kennebunk non-profit or not for profit agencies, with gross signage not exceeding thirty (30) sq. ft. in area. In addition, one (1) off-premise sign, not exceeding four (4) sq. ft. in area and installed only for the purpose of directing traffic to the non-profit, or not for profit agency. Written permission of the property owner of such off-premise sign location shall be required.
- (15) School scoreboards.
- (16) Service bay instruction signs, such as instructional signs for automatic teller machines (ATM's) and food boards for drive-in restaurants, but which do not contain other information which would not be needed by an individual utilizing the service bay or drive-in facility. Such exempt signs shall not exceed fifteen (15) square feet in sign area.
- (17) One (1) "open" and/or one (1) "closed" sign not exceeding six (6) square feet in sign area, having a solid background color and containing no advertising matter.
- (18) Banners placed in the public right-of-way or athletic fields. Those signs shall comply with the Town's Temporary Street Banner Policy or Athletic Field Banner Policy, as adopted and amended by the Board of Selectmen.
- (19) Any sign that was included in a signage plan that was approved as part of site plan or subdivision approval in accordance with Section 7.J.

**E. Sign Standards by Zoning District**

- (1.) Resource Protection, Rural Conservation, Rural Residential, Aquifer Protection, Coastal Residential, Village Residential, Suburban Residential Districts.

The following standards shall apply to all signs in the Residential Zoning Districts listed above:

- (a) Maximum number of signs permitted per lot - One (1).
  - (b) Maximum sign size:  
For residential & home occupation - Two (2) sq. ft.  
For other permitted uses - Six (6) sq. ft.
  - (c) Types of signs permitted - Attached or freestanding identification signs.
  - (d) Minimum set backs - All signs shall be set back at least five (5) feet from the property line.
  - (e) Maximum height of freestanding signs - Ten (10) feet.
  - (f) No sign shall be located on the roof of a building.
  - (g) For traffic safety, where vision may be obscured for a vehicle entering a street, the whole of the signboard area shall be set back from the street to allow the sight distances specified in Article 11, Section 8.(6) (a).
  - (h) Legally non-conforming uses - Notwithstanding the standards of (a) and (b) above, for any nonconforming use on a lot, there shall be permitted two (2) identification signs, which signs shall not exceed thirty (30) sq. ft. combined sign area per lot.
  - (i) Illumination - All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white lights shall be used for external illumination. Illuminated signs shall not be illuminated with an intensity of greater than 50 foot candle at 100 feet from the sign when directly viewed.
- (2) Downtown Business, Upper Square, Lower Village Business, York Street Mixed Residential and Commercial Use, West Kennebunk Village, Portland Road Mixed Use Districts.
- (a) Maximum number of signs permitted per single-use lot - two (2), (except for lots abutting more than one street, in which case one (1) additional sign, either attached or freestanding, is permitted for a maximum total aggregate of three (3) signs).
  - (b) Maximum total signage per lot - Sixty (60) sq. ft., with no individual sign to exceed thirty (30) sq. ft. in sign area.
  - (c) Types of signs permitted - Attached, freestanding, identification and advertisement signs.



- (d) Minimum setbacks - No minimum set back required as long as all parts of the sign(s) are located within property lines.
- (e) Maximum height of freestanding signs - Fifteen (15) feet.
- (f) No sign shall be located on the roof of a building.
- (g) For traffic safety, where vision may be obscured for a vehicle entering a street, the whole of the sign board area shall be set back from the street to allow the sight distances specified in Article 11, Section 8.(6) (a).
- (h) Signs on multi-unit lots - Notwithstanding the standards of (2) (a)-(c) above, the following standards shall apply to signs on multi-unit lots:
  - ((1.)) One (1) attached or freestanding identification sign per building not exceeding twenty (20) sq. ft. in sign area;
  - ((2.)) One (1) attached identification sign per each business in the complex and with an allowable sign area of one (1) square foot per each linear foot of the business unit's building frontage, but in no case shall the sign exceed thirty (30) square feet in sign area;
  - ((3.)) One (1) joint identification sign no larger than thirty (30) sq. ft. in sign area is required. Such joint identification sign shall list the name and street address of the multi-unit lot complex, and may include the names of the businesses or other entities present therein;
  - ((4.)) For lots abutting more than one (1) street, a maximum of one (1) additional sign meeting the standards of (h) ((1.)), ((2.)), or ((3.)) above is allowed, provided that the sign is directed toward the additional street;
  - ((5.)) Individual businesses shall not be allowed to apply for a sign permit unless they can show that their sign proposal is part of an overall sign plan for the multi-unit lot which meets the standards of this section. The purpose of the standard is to coordinate all the signage on a multi-use site.
- (i) Total area of attached signs shall not exceed five percent (5%) of the area of the building face on which the signage is to be located.
- (j) Illumination - All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white lights shall be used for external illumination. Illuminated signs shall not be illuminated with an intensity of greater than 50 foot candle at 100 feet from the sign when directly viewed.
- (k) Freestanding signs located on multi-unit lots shall be installed no further than one-hundred (100) feet from the principal building where the business or facility is carried on or practiced; provided, however that joint identification signs are exempt from this restriction.

(3) Suburban Commercial, Business Park, Industrial Districts.

The following standards shall apply to all signs in the Suburban Commercial, Business Park, and Industrial Zoning Districts:

- (a) Maximum number of signs permitted per single-use lot - two (2), (except for lots abutting more than one street, in which case one (1) additional sign, either attached or freestanding, is permitted for a maximum total aggregate of three (3) signs).
- (b) Maximum total signage per lot - one hundred (100) sq. ft. with no individual sign to exceed fifty (50) sq. ft.
- (c) Types of signs permitted - Attached, freestanding, identification and advertisement.
- (d) Minimum setbacks - All signs (unless otherwise stated) shall be set back at least five (5) feet from the property line.
- (e) Maximum height of freestanding signs - Twenty Five (25) feet.
- (f) No sign shall be located on the roof of a building.
- (g) For traffic safety, where vision may be obscured for a vehicle entering a street, the whole of the sign board area shall be set back from the street to allow the sight distances specified in Article 11, Section 8.(6) (a).
- (h) Signs on multi-unit lots - Notwithstanding the standards of (3.) (a) - (c) above, the following standards shall apply to signs on multi-unit lots:
  - ((1.)) One (1) attached or freestanding identification sign per building not exceeding twenty five (25) sq. ft. in sign area;
  - ((2.)) One (1) attached identification sign per each business in the complex and with an allowable sign area of one (1) square foot per each linear foot of the business unit's building frontage, but in no case shall the sign exceed fifty (50) square feet in sign area;
  - ((3.)) One (1) joint identification sign no larger than fifty (50) sq. ft. in sign area is required. Such joint identification sign shall list the name and street address of the multi-unit lot complex, and may include the names of the businesses or other entities present therein;
  - ((4.)) For lots abutting more than one (1) street, a maximum of one (1) additional sign meeting the standards of (h) ((1.)), ((2.)), or ((3.)) above is allowed, provided that the sign is directed toward the additional street;
  - ((5.)) Individual business shall not be allowed to apply for a sign permit unless they can show that their sign proposal is part of an overall sign plan for the multi-unit lot which meets the standards of this section. The purpose of the standard is to coordinate the signage on a multi-use site.
- (i) Total area of attached signs shall not exceed five percent (5%) of the area of the building face on which the signage is to be located.

- (j) Illumination - All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white lights shall be used for external illumination. Illuminated signs shall not be illuminated with an intensity of greater than 50 foot candle at 100 feet from the sign when directly viewed.
- (k) Freestanding signs located on multi-unit lots shall be installed no further than one-hundred (100) feet from the principal building where the business or facility is carried on or practiced; provided, however that joint identification signs are exempt from this restriction.

F. **Prohibited Signs** - Notwithstanding other provisions of this section, the following signs shall not be allowed:

1. Internally illuminated, except in Suburban Commercial, Business Park, and Industrial Zones.
2. Intermittently illuminated, neon, traveling light, animated, or flashing light signs, including, but not limited to, blinking or static electronic message boards, blinking or static electronic reader boards, LED's (where the individual light fixtures or lamps themselves are externally visible) , LCD's, electronic diodes and similar signs.
3. Banners and portable signs for permitted temporary signs or signs governed by the Town's Temporary Street Banner Policy and Athletic Field Banner Policy, as adopted and amended by the Board of Selectmen.
4. Any private sign located on public property or public rights-of-way, except for:
  - a) Permitted temporary signs.
  - b) Signs which are attached to buildings located in the Downtown Business and Lower Village Business Zones and which are set back at least two (2) feet from the curb line (or if no curb line, shall be set back two (2) feet from any travel portion of the right-of way). A clear space of not less than eight (8) feet shall be provided below all parts of such signs. Notwithstanding this provision, in no case shall any part of the sign interfere with the use or maintenance of the public right-of-way.
  - c) Permitted off-premise signs
  - d) Signs governed by the Town's Temporary Street Banner Policy or Athletic Field Banner Policy, as adopted and amended by the Board of Selectmen.
5. A sign that violates any provision of any law of the state relative to outdoor advertising.
6. Any sign which advertises or publicizes an activity not conducted on the premises upon which the sign is located except as temporary sign - (see temporary sign standards) or except as allowed by Section 10.7.I. or the Town's Temporary Street Banner Policy, as adopted and amended by the Board of Selectmen.
7. Political signs that do not comply with the requirements set forth in 23 M.R.S.A. §1913-A.

8. Signs posted in the Town's flower beds.
- G. Temporary Signs – Banners and portable signs may be erected and maintained in the Town only in accordance with the following standards:
1. Only temporary banners and portable signs meeting the requirements of this subsection and/or relevant Town policies are permitted.
  2. Banners located in the Town's right-of-way or in a public athletic field are not subject to the requirements herein but must comply with the Town's Temporary Street Banner Policy or Athletic Field Banner Policy, as adopted and amended by the Board of Selectmen.
  3. Banners and portable signs require a temporary sign permit from the Code Enforcement Officer.
  4. Permits for banners and portable signs are only valid for thirty (30) days.
  5. No more than a combined total of six (6) permits for banners and/or portable signs may be obtained within any twelve (12) month period. Only one (1) permit for a banner or portable sign may be issued at a time. In the case of a multi-unit lot, these limitations apply per business storefront and written approval from the property owner is required for any banner or portable sign.
  6. One (1) portable sign may be posted on the lot of the subject use in any zone.
  7. Off-premise portable signs are not allowed, except that sandwich boards are permitted within twenty (20) feet of the subject business in accordance with the requirements herein.
  8. Portable signs may not exceed twelve (12) square feet in size.
  9. One (1) banner not to exceed fifty (50) sq. ft. in size may be displayed on the lot of the subject use in any zone. Off-premise banners are not permitted unless they comply with the Town's Temporary Street Banner Policy or Athletic Field Banner Policy, as adopted by the Board of Selectmen.
  10. Any banner or portable sign that prevents safe vehicular or pedestrian passage along public rights-of-way is prohibited.
- H. **Non-conforming Signs** - For the purpose of this section, a non-conforming sign shall be defined as a sign existing as of the effective date of this section, June 14, 2011, which does not comply with the terms of this ordinance.
1. No non-conforming sign may be enlarged or altered in a way which would increase its non-conformity.
  2. Any non-conforming sign which is changed, replaced or destroyed shall not be changed, reconstructed or replaced except in conformity with this ordinance.
  3. All non-conforming signs shall be removed or shall be altered to conform to the

provisions of this ordinance within five (5) years of the effective date of this amended Section 7.

**I. Off-Premise Signs** - Off-premise signs are allowed only for those uses that conform to all of the following criteria:

1. premises upon which the use is located receives its only access from a street or right-of-way which intersects one or more of the following major streets - Route One (Portland Road, Main Street or York Street), Route 35, Route 9, Route 9A, Alfred Road, Beach Street - but has no frontage on such major street,
2. the use being advertised must be a conforming use or a legally non-conforming use,
3. off -premise signs for “home occupations” are not allowed,
4. the subject use and the proposed off-premise sign location are located in the following commercial/industrial zoning districts: Downtown Business, Upper Square, York Street Mixed Residential & Commercial Use, Business Park, Suburban Commercial, Lower Village Business, West Kennebunk Village Mixed Use, and/or Industrial Districts,
5. dimensions/location/installation - choose a) **or** b) below:
  - a) For off-premise signs located on private lots or private rights-of-way:
    - types of permitted signs - for single-use advertising/sending lots: identification; for multi-unit advertising/sending lots: joint identification; for any hosting/receiving lot: off-premise multi-lot identification sign cluster.
    - maximum signage for hosting/receiving lot - the maximum number of off-premise multi-lot identification sign clusters allowed to be located on a private lot or private right-of-way is one (1).
    - maximum signage for advertising/sending lot - the maximum number of off-premise signs allowed per lot being identified (whether single-user lot or multi-unit lot) is one (1), unless the lot abuts more than one street or right-of-way, in which case one (1) additional sign is permitted for a maximum total aggregate of two (2) signs.
    - maximum sign size for the advertising/sending lot - each identification or joint identification sign may have a maximum of ten (10) square feet of sign area per lot being advertised; provided, however that any lot containing a building with a total gross floor area of fifty-thousand (50,000) square feet or more shall be permitted to have twenty (20) square feet of sign area, any lot containing a building with a total gross floor area of one hundred thousand (100,000) square feet or more shall be permitted to have forty (40) square feet of sign area it is allowed only one off-premise sign and the lot owner may elect the street or right-of-way at which to place such sign.
    - maximum sign size for the hosting/receiving lot - each off-premise multi-lot identification sign cluster may have a maximum of fifty (50) square feet of aggregate sign area.
    - maximum height - same as for on-premise signs.
    - minimum setback from lot lines - same as for on-premise signs.
    - no roof signs are allowed.
    - sign shall be located within fifty (50) feet of subject intersection.
    - written approval from the property owner regarding proposed sign location.
    - design, construction and installation shall be by applicant.

- illumination - All illuminated signs shall have lights which are shielded or hooded so that the light source is not visible off of the premises. Only white lights shall be used for illumination. Illuminated signs shall not be illuminated with an intensity of greater than 50 foot candle at 100 feet from the sign when directly viewed.
  - signs shall not be internally illuminated.
  - signs shall be installed no further than one-thousand-five-hundred (1,500) feet from the principal building where the business or facility is carried on or practiced.
- b) For off-premise signs located within public rights-of-way:
- types of permitted signs - for single-use lots, identification; for multi-unit lots, commercial complex identification.
  - maximum number of off-premise signs allowed per lot (whether single-use lot or multi-unit lot) is one (1).
  - required material for all signs - ½" thick MDO Board (*Medium Density Overlay*).
  - maximum sign size - the sign shall be 10" x 43" (three (3) Sq. Ft.) (i.e.: nameplate size) (two identical nameplates shall be provided by the applicant).
  - sign installation shall be by Town, with review by the Code Enforcement Officer and the Public Services Director.
  - sign design, construction, and maintenance shall be by applicant.
  - signs shall not be illuminated.
6. an advertising/sending lot's total allowable on-premise sign area shall be reduced by the amount of off-premise sign area proposed, except for lots containing a building with a total gross floor area of one hundred thousand (100,000) square feet or more.
7. a hosting/receiving lot's total allowable on-premise sign area shall not be reduced by the size of any off-premise multi-lot identification sign cluster proposed to be located thereon,
8. off-premise signs shall not obscure visibility of vehicles, pedestrians, or other signs, and
9. changeable message signs are not allowed.
- J. **Approval of signage plan.** An application for a subdivision or site plan may include a signage plan. Any signage plan submitted as part of a subdivision or site plan approval shall be reviewed by the Board or Committee that is reviewing the subdivision or site plan application for compliance with the applicable requirements of this Section.

An applicant for approval of a signage plan shall submit the following information:

1. A site plan showing the proposed location of all signs included in the signage plan. This can be included on a site plan showing additional information required for review of the subdivision or site plan, provided that it shows all information required for the reviewing Board or Committee to determine compliance with the requirements of Section 7.
2. Computations of the following:
  - a. A listing of each building sign (existing and proposed) identifying the location of each such sign and its sign area;
  - b. A listing of each freestanding sign (existing and proposed) indicating the area,

- height and setback of each sign; and
- 3: An illustration of each proposed sign, with a listing of dimensions, materials, source of illumination and construction method for each sign.

If a signage plan is approved as part of a subdivision or site plan application, the Code Enforcement Officer will issue construction permits for the individual signs shown on the signage plan prior to the installation of those signs, but further review will not be required as long as the signs comply with the signage plan approval. Any changes to the signage plan will require approval by the Board or Committee that approved the signage plan, except for de minimis changes that do not alter the number of signs or size, location or materials of signs approved in the signage plan. Such de minimis changes shall be reviewed by the Code Enforcement Officer and approved if they comply with the requirements of this Section and do not impact any specific conditions of approval.

**Section 8. Reserved**

**Section 9. Off-Street Parking.**

**A. Intent**

It is the intent of this section to:

- (1) ensure there are adequate parking and loading facilities to serve the use or uses of the property;
- (2) ensure that any parking facility is designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjoining properties from nuisance caused by noise, fumes, and glare of headlights which may result from vehicles parking off the street;
- (3) reduce congestion in the streets and contribute to traffic safety;
- (4) encourage alternate modes of travel that will reduce dependence on automobiles; and
- (5) provide flexibility in the standards regarding the expansion and conversion of commercial space in Kennebunk's downtown districts.

**B. Applicability**

In all new construction, expansions of a structure, expansions of use, changes of use, and any changes to a certificate of occupancy, including but not limited to the addition of employees, off-street parking shall be provided in accordance with the requirements and standards found in this Section.

**C. Minimum Requirements for Off-Street Parking**

(1) General Provisions

- (a) Off-street parking is considered an accessory use when required or provided to serve any legal use located in any district.
- (b) An off-street parking plan is required and must show the physical layout and functioning of all required off-street parking areas and compliance with this Section.
- (c) New parking plans and changes to existing parking plans shall meet current ADA standards.
- (d) The off-street parking plan and related requests under this Section shall be reviewed for compliance with this Section and approved, by the applicable authority (CEO, Staff Review Committee, Site Review Board or Planning Board), as provided below:



**Off-Street Parking Plan Review Procedure by Applicable Authority**

	<b>Code Enforcement Officer</b>	<b>Staff Review Committee</b>	<b>Site Plan Review Board</b>	<b>Planning Board</b>
<b>i. New Plans</b>	Off-street parking plans submitted in conjunction with a building permit application when neither Site Plan Review nor Planning Board review is required for the parking plan or underlying project. The CEO shall not approve parking plan, or change thereto, that include parking that will abut a lot in a residential zone or residential use.	Off-street parking plans that are either 1) subject to minor site plan review in their own right, or 2) are related to an underlying project or land use approval that is subject to minor site plan review.	Off-street parking plans that are either 1) subject to major site plan review in their own right, or 2) are related to an underlying project or land use approval that is subject to major site plan review.	Off-street parking plans that are related to an underlying project requiring Planning Board approval.
<b>ii. Plan Changes</b>	De minimis changes to any off-street parking plan that was previously approved by the CEO.	1) Changes to any off-street parking plan previously approved by the Staff Review Committee; or 2) De minimis changes to an off-street parking plan previously approved by the Site Plan Review Board or Planning Board.	Changes to any off-street parking plan previously approved by the Site Plan Review Board, unless the changes are de minimis, in which case the Staff Review Committee may review and approve the changes.	Changes to any off-street parking plan previously approved by the Planning Board, unless the changes are de minimis, in which case the Staff Review Committee may review and approve the changes.
<p><b>De minimis changes are non-substantive changes to a previously-approved off-street parking plan. The Staff Review Committee shall determine whether a change is de minimis; provided, however that any change to an off-street parking plan that involves the expansion of a parking area/lot or an increase in the number of parking spaces is not de minimis.</b></p> <p><b>Any off-street plan that involves de minimis changes shall not be required to bring the parking area or lot into compliance with standards adopted after the date of approval of the area or lot or any changes thereto, including but not limited to any additional buffer or setback standards.</b></p> <p><b>Substantive changes must comply with all requirements of this Section; provided, however that when a substantive change is reviewed under this Section, such review shall be limited to the specific change requested and shall not otherwise apply to any parking area, lot or plan approved prior to March 10, 2014, (that being the first public hearing date of these amendments) to the extent not being changed.</b></p>				

- (e) The Staff Review Committee shall provide an initial recommendation on all off-street parking plans, related requests, and plan changes that are subject to review and approval by the CEO, Site Plan Review or Planning Board.
- (f) Notwithstanding the above chart, once an off-street parking plan application is deemed to be complete, the Staff Review Committee may refer the application to either the Site Plan Review Board or Planning Board, as applicable, for review under this Section, if the Staff Review Committee determines that:
- (1) the off-street parking plan will generate significant public interest, either in the neighborhood where parking is proposed, or on a Town-wide basis; or
  - (2) the off-street parking plan will cause significant traffic or environmental impacts.
- (2) On-Site Parking Requirements. Required off-street parking in all districts shall be located on the same lot as the principal building or use, or on an adjacent lot owned or controlled by such use. Once all on-site and adjacent parking options have been exhausted, the remaining off-street parking requirements may be satisfied off-site, as set forth herein.
- (3) Off-Site Parking. Off-site parking shall be approved for uses in the Lower Village Business, Upper Square, Portland Road Mixed Use, Suburban Commercial, West Kennebunk Village and Downtown Business Districts upon a positive finding that the following criteria have been met:
- (a) Off-site parking may be located within a 1000 foot radius of the principal building or proposed use.
  - (b) Legal interest in the land for which the off-site parking is proposed shall be provided annually to the Code Enforcement Officer. The applicant must have a legally sufficient interest to establish control as long as the use exists and such legal interest shall become a condition of the building permit.
  - (c) Parking must comply with the design standards set forth herein.
  - (d) For uses which require 10 or more parking spaces in an off-site parking area, a sidewalk connection must be provided between proposed (or expanded use) and the off-street parking area.
- (4) Multiple Uses on a Lot. Off-street parking shall be provided for each use in accordance with this Section.
- (5) Joint Use of a Parking Facility or Space. The Board or Staff Review Committee responsible for reviewing and approving the parking plan shall permit the joint use of a parking facility or space by two or more principal buildings or uses where it is clearly demonstrated that the joint use will meet the intent of the requirements of this Section by reasons of variation in the probable time of maximum use by patrons or employees among such uses and the parking plan otherwise meets the requirements of this Section.

- (6) Minimum Number of Off-Street Parking Spaces. The following minimum number of off-street parking spaces, rounded up to the nearest whole number, shall be provided and maintained for each use on a lot, including each use within all buildings:

*The maximum number of employees scheduled during peak demand/shift shall be used in calculating the number of required parking spaces when employee is referenced in the list below.*

*Gross Floor Area as defined in IBC Building Code shall be used in calculating the number of required parking spaces, unless otherwise noted. For purposes of this section "gross floor area" shall mean "the floors area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.*

(a) Residential

- |       |   |   |
|-------|---|---|
| (i)   | Single Family (detached), including mobile and manufactured homes | 2 spaces per dwelling unit (paving not required)  |
| (ii)  | Two-Family  | 2 spaces per dwelling unit (paving not required)  |
| (iii) | Multifamily   | 2 spaces per dwelling unit, plus .25 spaces per dwelling unit to accommodate guest parking                |
| (iv)  | Renting of rooms  | 1 space per guest room, plus 2 spaces per dwelling unit, plus .5 space per employee (paving not required) |
| (v)   | Home Occupation   | 2 spaces in addition to required parking for residence(s) (Paving not required)                           |
| (vi)  | Convalescent/Rest Home  | 1 space per 4 beds, plus 1 space per employee   |
| (vii) | Elderly Congregate Housing  | See Article 10, Section 11, of this ordinance   |

(b) Public/Semi-Public

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|-----|---------------------------------|---|
| (i) | Municipal Uses/Public Utilities | 1.25 spaces per employee, plus 1 space per 150 sq.ft. of public assembly and meeting area |
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| (ii)  | Museums/Libraries  | 1 space per 300 sq.ft., plus<br>1 space per employee  |
| (iii) | Places of Public Assembly,<br>such as; Theaters/Cinemas/<br>Auditoriums/Stadiums/<br>Sports Arenas | 1 space per 4<br>seats, plus 1 space<br>per 2 employees   |
| (iv)  | Church/Synagogue   | 1 space per 4 seats   |
| (v)   | Schools  | For schools containing places of<br>public assembly, parking shall be<br>required per Subsections C(6)(b)(iii)<br>above or the following, whichever is<br>greater |
|       | Grades K-8   | 1 space per classroom,<br>plus 1 space for each employee  |
|       | Secondary  | 8 spaces per classroom  |
|       | Post Secondary   | 1 space per 2 students,<br>plus 1 space per employee  |
|       | Nursery Schools and<br>Day Care Centers  | 1 space per employee,<br>plus a safe off-street area for<br>vehicle pickup and drop-off of<br>students/children   |
|       | Schools not listed above   | 1 space per 2 students at<br>capacity, plus 1 space per<br>employee   |
| (vi)  | Lodges/Community Buildings   | 1 space per 150 sq ft., plus 1 space<br>per employee  |
| (vii) | Health service facility  | 1.25 spaces per 4 beds, plus 1 space<br>per full-time staff doctor, plus<br>one space per other<br>employee   |
| (c)   | <u>Commercial</u>  |   |
| (i)   | Retail sales   | 3 spaces per 1,000 sq.ft.   |
| (ii)  | Gas and/or Service<br>Station; Auto Repair Garage  | 1 space per employee, plus 4<br>spaces per service bay  |

For gas stations involving other uses (e.g., gas pumps with convenience stores), the minimum

number of required off-street parking spaces shall be the total of the requirements for each use, plus the standards listed above).

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|--------|---|---|
| (iii)  | Motor Vehicle Sales and Service                 | 3 spaces per 1,000 sq.ft. (or 1 space per 333 sq.ft. or portions thereof) of non-Service bay area, plus 2 spaces per employee |
| (iv)   | Banks   | 4 spaces per use or 3 spaces per 1,000 sq.ft. (or 1 space per 333 sq.ft. or portions thereof), whichever is greater           |
| (v)    | Studios of Artisans/<br>Limited Manufacturing   | 3 spaces per use or 3 spaces per 1,000 sq.ft. (or 1 space per 333 sq. ft. or portions thereof), whichever is greater          |
| (vi)   | Personal Services and Business Services         | 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater           |
| (vii)  | Business and Professional Offices (non-medical) | 3 spaces per use or 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof), whichever is greater           |
| (viii) | Business and Professional Offices (medical)     | 4 spaces per doctor, plus 1 space for each other employee   |
| (ix)   | Wholesale Sales/Rental of Equipment             | 4 spaces per use or 1 space per 1,000 sq.ft, plus 1 space per employee, whichever is greater                                  |
| (x)    | Eating Places/<br>Drinking Places               | 1 space per 4 seats   |

(Measurement of standing and seating capacity shall be based upon the latest adopted edition of the Maine Uniform Building Code, the IBC and NFPA 101, whichever is more stringent).

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|--------|--|---|
| (xi)   | Lodging Uses, which include Motels, Hotels, Inns, Renting of Rooms & Furnishing of Board/B&B's | 1 space per guest room, plus 1 space per employee, plus 4 spaces per 1,000 sq.ft. (or 1 space per 250 sq.ft. or portions thereof) of public assembly area |
| (xii)  | Funeral Homes  | 1 space per 4 seats   |
| (xiii) | Kennels  | 3 spaces per use or 3 spaces per 1,000 sq. ft.  |

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| (xiv)                        | Veterinary Clinics                        | 4 spaces per doctor, plus 1 space per other employee                      |
| (d) <u>Industrial</u>        |   |   |
| (i)                          | Manufacturing                             | 1 space per employee  |
| (ii)                         | Warehouse                                 | 1 space per employee  |
| (iii)                        | Non-Vehicular Repair Facilities           | 1 space per employee  |
| (iv)                         | Research and Development                  | 1 space per employee  |
| (v)                          | Testing Facilities                        | 1 space per employee  |
| (vi)                         | Tradesmen's Shops                         | 3 spaces per use or 3 spaces per 1,000 sq. ft., whichever is greater      |
| (vii)                        | Data Processing Facilities                | 1 space per employee  |
| (e) <u>Recreation/Marine</u> |   |   |
| (i)                          | Golf Courses                              | 4 spaces per hole (paving not required)                                   |
| (ii)                         | Marina                                    | 1 space per boat slip (paving not required)                               |
| (iii)                        | Fully Enclosed Place of Recreation        | 5 spaces per 1,000 sq.ft. (or 1 space per 200 sq.ft. or portions thereof) |
| (iv)                         | Outdoor Recreational Facilities           | 1 space per 2 participants/visitors (paving not required)                 |
| (v)                          | Marine Sales/Services                     | 3 spaces per use or 3 spaces per 1,000sq.ft., whichever is greater        |
| (vi)                         | Boat Building                             | 1 space per employee (paving not required)                                |
| (vii)                        | Recreational Fishing/<br>Boating Services | 1 space per 4 participants  |

- (7) Off-Street Parking Requirement Reductions. Notwithstanding Subsection C (6) above, for each non-residential use located in the Downtown Business, Lower Village Business, West Kennebunk Village and Upper Square Zoning Districts, the minimum number of required off-street parking spaces may, upon written request by an applicant and in conformance with the criteria set forth, be reduced as follows:
- (a) Proximity to Public Parking. The off-street parking requirement may be reduced by 20% or 10 parking spaces, whichever results in a greater parking obligation, if delineated public on-street parking spaces and/or a parking lot owned or operated by the Town of Kennebunk for public use are located within a 1,000 foot radius of the proposed use(s).
  - (b) First Floor Retail/Eating Place/Drinking Place. The off-street parking requirement for any first floor retail, restaurant eating or drinking place use may be reduced by up to 10 parking spaces.
  - (c) The reductions in this Subsection may not be combined.
  - (d) Reductions will only be granted to the extent that the off-street parking requirements as calculated under Subsection C (6) above cannot be satisfied by an applicant's available on-site parking spaces. Before an applicant will be eligible for a reduction, they must demonstrate that they will use any available on-site parking spaces to satisfy their off-street parking requirements as calculated under Subsection C (6) above.

Applicant must also show that the need for parking reduction is not due to on-site parking being eliminated due to building expansion

#### D. Off-Street Parking Design and Functioning Standards

The following design standards shall be required for all new and expanded off-street parking areas:

- (1) An off-street parking space shall be a minimum of 9 feet wide by 18 feet long (or similar length for angle spaces) may be open or covered, and shall have no obstruction to its use.
- (2) Off-street parking areas shall be paved unless not required for the proposed use as noted in this Section, or exempted through the waiver process.
- (3) Travel and queuing aisles associated with off-street parking, drive-in facilities and motor fuel pumps shall be provided and shall not interfere with the use of or be part of the required off-street parking spaces.
- (4) Pedestrian circulation to and from any off-site parking must be safe and separated from vehicle circulation.
- (5) Parking areas shall be designed such that vehicles will not back out into a street. Residential multifamily subdivisions which propose use of a private street are exempt from this standard provided the approved subdivision plat or other filing plat provides a plan note stipulating that the road shall remain privately owned and privately maintained.
- (6) Parking areas shall not inhibit emergency vehicle access to any building or structure.

- (7) Where parking is placed or expanded in front of the lot, and a green perimeter strip is not required per Article 8, a landscaped area at least ten (10) feet wide shall be placed between the street right-of-way and the parking area. A walkway may be placed in this border strip, but in no event shall it reduce the border strip to less than five (5) feet.
- (8) Parking areas shall be separated from the front of all buildings by a landscaped area at least five (5) feet wide.
- (9) Wheel stops/curbs shall be placed where needed to prevent encroachment into walkways, landscaped areas, circulation aisles, streets and structures.
- (10) Parking spaces and travel aisles shall be clearly delineated.
- (11) All parking areas shall be designed to adequately control drainage. In furtherance of this standard, drainage calculations used shall reflect a paved condition and all parking areas shall be constructed with base material which can withstand normally expected vehicle loading and winter maintenance.
- (12) All off-street parking plans must be reviewed for conformance with the site review approval standards and criteria in Article 11, Section 8.

*Note: In many cases, federal and state regulations concerning accessibility to the handicapped are applicable to the design of parking lots, and applicants are responsible for complying with such regulations. Those regulations include the Americans with Disabilities Act (ADA) and the Maine Human Rights Act. A copy of each of these documents is on file in the Town Planner's Office and may be reviewed upon request.*

E. Waiver Provisions

- (1) Waiver of Required Off-Street Parking Spaces and Other Provisions of this Section. In all zoning districts, the Site Plan Review Board, Staff Review Committee or Planning Board, as applicable, may, subject to the limitations set forth herein, waive the requirements of this Section where it finds, based upon the evidence presented by the applicant and due to the unique circumstances of the site that the following conditions exist:
  - (a) the waiver requested involves a change of use in an existing building that is located on a lot that has no land or inadequate land available for the creation of safe, accessible parking, meeting the requirements of this Section;
  - (b) limiting site conditions are not the result of action(s) taken by the applicant or prior owner(s) since the amendment effective as of January 21, 1993;
  - (c) the waiver will not result in any public safety hazards, and
  - (d) the applicant has made every reasonable effort to conform to the standards of this Section and has provided documentation substantiating the existence of the required conditions for a waiver. Such documentation must include, when applicable, evidence the applicant contacted potential sources of off-site parking and parking was either not available or not financially feasible.



- (2) Any waiver granted, when combined with the reductions allowed under the provisions of Subsection C, may not exceed 50% of the total number of the required off-street parking spaces for the use(s).
- (3) Waiver of Paving Requirement. Notwithstanding the paving requirement herein, the Site Plan Review Board or Planning Board, as applicable, may permit, upon written request of the applicant, or, in order to minimize the loss of green space or to reduce drainage impacts, may itself require all or a portion of the required off-street parking to be unpaved provided the parking plan conforms to the following criteria:
  - (a) the remaining design standards of Subsection D- above,
  - (b) all travel aisles and parking spaces which are dedicated to the physically handicapped shall be paved,
  - (c) all required fire lanes shall be paved and clearly marked,
  - (d) areas which necessitate special drainage or contaminant control shall be paved (e.g. gasoline service areas or vehicle repair areas),
  - (e) any vehicle circulation route which cannot be safely controlled through the use of other markings shall be paved and striped, and
  - (f) any commercial use under Subsection C (6) that requires 25 or more parking spaces shall be paved.

## **Part C. Residential Uses**

### **Section 10. Multifamily Dwellings and Multifamily Lots**

#### **A. Minimum Size of Units**

Each multifamily dwelling unit and each dwelling unit on a multifamily lot, exclusive of accessory apartments as defined in this Ordinance, shall contain not less than four hundred fifty (450) square feet floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways, stairways, or building entrance ways used in common with other dwelling units. Each dwelling unit shall contain of its own private bath and its own cooking and food keeping facilities.

#### **B. Utilities**

All multifamily dwellings and all multifamily lots shall be served by public sewerage and public water supply systems.

#### **C. Internal Streets, Roads, and Driveways (for projects consisting of more than 4 dwelling units)**

1. Unit driveways and entrance ways shall not be connected directly to an external street or road, but to an internal street.
2. All streets and roads leading into, through or internally around a multifamily

development shall be constructed to the Town of Kennebunk Street Design and Construction Standards Ordinance.

D. Open Space, Recreation, Landscaping

1. At least 25 percent of the site's gross area shall be devoted to unpaved, non-vehicular open space which is usable for passive recreational purposes.
2. Adequate landscaping and screening shall be provided to minimize the visual, noise, lighting, and other impacts of the development on surrounding properties. A landscape plan shall be provided that shows that existing vegetation is to be preserved wherever possible.
3. **Perimeter Buffer**  
Except for the area needed to allow access to the site, a 50-foot landscaped buffer shall be provided around the perimeter of the site as part of the required landscape plan. Generally, outdoor lighting shall not be allowed in the perimeter buffer.
4. For any part of permitted multifamily projects that is a rehabilitation and reuse of a building, the standards of paragraphs C(1), D(1), D(2), and D(3) above shall not apply; however, the plans for such projects shall address the intent of those standards to the greatest practical extent.

**Section 11. Elderly Congregate Housing**

A. Purpose

Elderly congregate housing is a form of residential housing that consists of not just private apartment and/or residential care units, but also a variety of common areas and support services which permit the elderly to live independently, but with the knowledge that assistance is nearby.

B. Standards

All proposed elderly congregate housing developments shall be reviewed by the Planning Board as Subdivisions and shall meet the following standards as well as all applicable subdivision review standards:

1. Permitted Districts

Elderly congregate housing shall be allowed only in the following districts:

- a. Downtown Business
- b. Lower Village Business
- c. Village Residential
- d. Suburban Commercial
- e. York Street Mixed Residential and Commercial Use

2. Deed Restriction and Required Plan Notation

Proposals shall be accompanied by a written covenant that restricts occupancy to the elderly, as defined in the term elderly congregate housing (see Definitions), except for staffing, and a note to this effect shall appear on the face of the subdivision plat for the development.

3. Density and Height Limits

- a. The minimum net lot area per dwelling unit shall be 1,500 square feet in the Downtown Business District and 2,000 square feet in other districts in which this use is allowed; provided, however, that a "residential care unit," as defined in this Ordinance (see Elderly Congregate Housing) shall be counted as 1/2 a dwelling unit for the purpose of calculating density.
- b. Notwithstanding district regulations to the contrary, the maximum height of an elderly congregate housing development shall be 40 feet, and no such development shall exceed three stories.

4. Utilities

- a. Any elderly congregate housing development shall be connected to public water supply and public sewerage.
- b. Any application for elderly congregate housing development shall include an outdoor lighting plan.

5. Required Common Areas and Services

The following common areas and services shall be required of all elderly congregate housing projects:

- a. Shared dining facilities
- b. 24-hour internal emergency response system/unit call buttons for emergency assistance
- c. Staff person on site 24 hours per day
- d. Weekly, on-site access to health care

6. Services and Amenities Encouraged

Other services and amenities which are encouraged to be incorporated into an elderly congregate housing plan include:

- a. Transportation services
- b. Housekeeping services
- c. Other personal and social services
- d. Other cultural and recreational amenities
- e. Assisted living units and nursing care beds
- f. Alzheimer's Disease care unit and other specialized care facilities

7. Off-Street Parking and Loading

Off-street parking shall be required as follows:

- a. 1 space per dwelling unit, plus 1 space per employee on the peak shift, plus 1 space per 6 residential care units, as applicable
- b. At least one loading area for the delivery of goods and supplies shall be provided for projects involving more than 15 dwelling units and/or residential care units

8. Open Space, Recreation, and Landscape Plan

All elderly congregate housing projects shall provide an open space, recreation, and landscape plan in compliance with Section 10 (D), Multifamily Housing, of this Article.

9. Maintenance Plan

An application for an elderly congregate housing project shall include a maintenance plan that specifies the person(s) responsible for the maintenance of buildings and grounds and lists the facilities to be maintained.

10. Planning Board Variance Provision

When four-fifths of the full Planning Board, or all members present and voting, find that the minimum dwelling unit size and/or the minimum per unit parking requirement are not appropriate due to the specific nature or particular circumstances of the elderly congregate housing project being proposed, the Planning Board may vary those particular standards to the minimum extent necessary to address the specific needs of the development, provided such variance(s) will not affect the general health, safety or welfare of the Town. In granting any such variance, the Planning Board may require such conditions as it deems necessary in its judgement. However, in no case shall the Planning Board reduce the dwelling unit size to less than 350 square feet, nor reduce the dwelling unit parking requirement to less than one (1) space per three (3) dwelling units. The burden is on the applicant to provide supporting evidence and documentation to justify any such variance request. All variances which are granted shall be noted on the face of the plan. Any future change in the use of the property or change in the type of residential use approved as part of this elderly congregate plan, or any change in the reason(s) justifying the variance shall require reconsideration and approval of the variance by the Planning Board, or the variance will become null and void.

**Section 12. Affordable Housing**

A. Applicability

This Section applies to subdivisions and other residential development proposed in the following districts: Village Residential and York Street Mixed Use District.

B. Public Sewer and Public Water

Any development pursuant to this Section shall be connected to the public sewer and public water systems.

C. Density Bonus

1. The Planning Board may decrease the minimum net lot area per dwelling unit in the applicable district by up to 25% if between 25% and 49% of lots or units in a residential subdivision or other residential development are earmarked for affordable housing, as defined in this Ordinance, and by up to 50% if at least 50% of lots or units in a residential subdivision or other residential development are earmarked for affordable housing.
2. This decrease in minimum net lot area per dwelling unit shall not apply in mobile home parks.

D. Assurance of Affordability

1. An application for a subdivision or other residential development that includes a request for a density bonus under this Section shall demonstrate to the satisfaction of the Planning Board that, either by means of the terms of a mortgage held by a governmental agency whose purposes include the provision of affordable housing, or by means of an affordable housing covenant to be conveyed to a qualified holder, along with a signed statement by the qualified holder that it will serve as the holder of the affordable housing covenant, the designated share of units will remain affordable, as defined by this Ordinance:
  - (a) for at least 30 years from the date of first occupancy, in the case of units to be occupied by renters, whether or not the units are subsequently sold for owner-occupancy; and
  - (b) for at least 10 years from the date of first occupancy, in the case of units to be occupied by the owners of the units.

The affordable housing covenant shall provide, further, that the units will be rented or sold during the designated period of time only to persons whose incomes meet the guideline for affordability, as defined in this Ordinance.

The terms "affordable housing covenant" and "qualified holder" shall have the meaning as set forth in Article 2, Definitions, of this Ordinance. Nothing in this paragraph shall preclude a qualified holder itself from being the applicant for the development of an affordable housing project, provided that it demonstrates to the satisfaction of the Planning Board that, by means of deed restrictions, financial agreements, or other appropriate legal and binding instruments, the designated share of units will remain affordable for the required period of time.

2. An application for a subdivision or other residential development that includes a request for a density bonus under this Section shall include a written statement on the subdivision plat or other filing plat which shall be filed at York County Registry of Deeds indicating the share of dwelling units earmarked as affordable, and, in the case of dwelling units to be sold to others individually, the actual units (or the lots that will accommodate such units) earmarked as affordable such plat must be approved and signed by the Planning Board and then filed at the York County Registry of Deeds prior to receiving any building permits.
3. An application for a subdivision or other residential development comprised of rental

units that includes a request for a density bonus under this Section shall include as part of the affordable housing covenant a written description of the mechanism by which the subdivider and his successors shall document annually to the qualified holder and to the Planning Board that the designated share of units to be rented have remained priced and, if occupied, actually rented at affordable levels and have been rented to households

within the guidelines of affordability, as defined by this Ordinance. Failure to make such annual documentation shall constitute a violation of the subdivision or other residential development plan approval.

4. Any dwelling unit that is earmarked for affordability and is to be sold shall include a restriction in its deed that requires:
  - (a) any buyer within a 10-year period from the date of first occupancy to be within the guideline of affordability, as defined by this ordinance; and
  - (b) the price of the dwelling unit not to be increased by a percentage greater than the percentage increase in the median household income in nonmetropolitan York County, as reported by the U.S. Department of Housing and Urban Development, between the date of purchase of the dwelling and the date of sale of the dwelling.

A copy of the deed restriction shall be included as part of the subdivision or other residential development application and the deed restriction shall reference the book and page number at which the subdivision/residential development plat is recorded in the York County Registry of Deeds.

### **Section 13. Mobile Home Park Development**

#### **A. Authority and Purpose**

- (1) Notwithstanding other provisions of this ordinance, the Planning Board in reviewing and approving proposed mobile home park developments in the Village Residential District, shall apply the provisions of this section, as well as the requirements of the Kennebunk Standards for Reviewing Land Subdivisions. Where the provisions of this section conflict with specific provisions of the subdivision regulations, the provisions of this section shall prevail.
- (2) The purpose of this section shall be to accommodate the creation and expansion of mobile home park development in a manner that will encourage and provide for the:
  - (a) Preservation of open space;
  - (b) Creation of recreation areas;
  - (c) Preservation of environmentally sensitive areas;
  - (d) Preservation of natural features;
  - (e) Promotion of a more efficient use of the land through the use of smaller networks of utilities and streets; and
  - (f) Creation of affordable housing units.

B. Performance Standards

All proposed mobile home park developments shall meet the following general requirements:

- (1) Affordability - The developer of the proposed mobile home park shall submit evidence, and the Planning Board shall determine that the sales and/or rents of at least 50% of the manufactured housing units or lots within the proposed mobile home park can be afforded by households at or below 80% of the median household income for nonmetropolitan York County as reported by the U.S. Department of Housing and Urban Development. In making a determination on the affordability of the units, the Planning Board shall find that "shelter expenses" do not exceed 30% of the 80% median household income figure. Shelter expenses shall include the following: mortgage and/or rental costs, taxes, homeowners/tenant insurance and utilities. Future sales and rents will be maintained at the rate approved by the Planning Board for at least 5 years after project completion and release of the performance guarantee, unless Planning Board approval of a modified rate is obtained.
- (2) Location
  - (a) Permitted Zones - A mobile home park is permitted only in the parts of the following zoning district(s) which are served by public sewer or which will be served by public sewer as part of the mobile home park plan:
    - (1) Village Residential
  - (b) Prohibited Overlay Zones - No part of a mobile home park development shall be located in the Historic Preservation Overlay Zone or the Shoreland Area Overlay Zone.
  - (c) No more than 20% of a mobile home park shall consist of inland or coastal wetland (as herein defined) and/or very poorly drained soils.
- (3) Ownership - The applicant must demonstrate to the Planning Board that he/she has sufficient right, title and interest in the site of the mobile home park to control and complete its development as approved.
- (4) Permitted Uses - The use of land in a mobile home park development shall be for single family residential uses only. Each manufactured housing unit shall be used exclusively for single family residential use only.
- (5) Density - The minimum size of a mobile home park shall be five (5) acres.

The overall area of a mobile home park shall be no less than the combined area of the individual lots as permitted pursuant to 10.C.13.B.(6).a) of this ordinance plus:

- (a) The area located within the full width of the right-of-way of any proposed public or private street;
- (b) The area required for buffer strips pursuant to 10.C.13.C.(6);
- (c) The area required for open space and storage pursuant to 10.C.13.B.(7) which

combined areas shall be no less than 10% of the combined areas of the individual lots.

Any mobile home park site which is divided by an existing road, water body, or similar physical condition which interrupts the continuity of the site, must independently meet the density requirements of this section for each of the portions so divided.

(6) Lot Size, Width and Setbacks - The dimensional requirements for individual lots within a mobile home park shall be as follows:

- (a) Minimum lot area .....6,500 sq.ft.  
Minimum lot width.....50 feet  
Minimum setbacks (front, side & rear).. 15 feet
- (b) All structures in a mobile home park located adjacent to a public road shall be set back from the public road at least a distance equal to the setback requirements for other residential developments in the zone.
- (c) All buildings on the lot, including accessory buildings and structures, shall not cover more than 50% of the lot area.

(7) Open Space

- (a) An area of no less than 10% of the total area devoted to individual lots shall be set aside for open space. Such space shall be suitable for use as storage and recreation for park residents. Parking space, driveways, streets and buffer areas shall not be used to meet the 10% open space requirement.
- (b) At least 50% of the required open space shall consist of land that is suitable for active recreation and storage.
- (c) The developer shall submit, as part of his/her application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation and storage.

(8) Alternative Site Design Approach

The Planning Board, upon finding that the proposed mobile home park plan meets the minimum requirements of Section 13.B. (5), (6) and (7) of this ordinance, may permit submission of an alternative mobile home park lot layout and design which utilizes a more creative and environmentally sensitive site design approach. Such alternative mobile home park design shall meet the following standards:

- (a) such alternative layout shall create more usable private yard areas and open space areas,
- (b) such alternative layout shall avoid uniform setbacks,
- (c) a minimum 15 foot front yard setback shall be maintained,
- (d) spacing between manufactured housing units shall be at least 20 feet, and
- (e) the park design shall meet all of the design standards listed below.



C. Design Standards

Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable state laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Town of Kennebunk Subdivision Regulations, the provisions of this section shall prevail.

(1) Manufactured Housing Unit Design

All manufactured housing units shall be designed to have a permanent foundation, pitched, shingled roof, with overhang and exterior siding that is residential in appearance as herein defined.

(2) Road Design, Circulation and Traffic Impacts

All streets, roads, access drives and parking areas shall be designed to conform to reasonable safety standards. The road network shall provide for vehicular and pedestrian safety, emergency access, delivery and collection services, and snow storage.

Streets within a park shall be designed by a professional engineer, registered in the State of Maine.

- (a) Streets which the applicant proposed to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Town of Kennebunk Subdivision Regulations.
- (b) Streets which the applicant proposed to remain private ways shall meet the following geometric standards:
  - (i) Minimum right-of-way width: 23 feet.
  - (ii) Minimum width of traveled way: 20 feet.
- (c) Any mobile home park expected to generate average daily traffic of 200 trips per day (40 units) or more, shall have at least two (2) street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more, shall have at least two (2) street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- (d) No individual lot within a park shall have direct vehicular access onto an existing public street.
- (e) The intersection of any street within a park and the existing public street shall meet the following standards:
  - (i) Angle of intersection - The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
  - (ii) Maximum Grade within 75 feet of Intersection - The maximum permissible grade within 75 feet of intersection shall be 2%.
  - (iii) Minimum Sight Distance - A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distance shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye, 3 1/2 feet above the pavement, and the height of the object, 4¼ feet.

(iv) Distance from Other Intersections - The centerline of any street within a park intersection and existing public street shall be no less than 125 feet from the centerline of any other street intersecting with that public street.

(f) The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 trips per day (80 units), the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

(3) Utilities

Utilities may be located anywhere within the mobile home park development, except that transformer boxes, meters, pumping stations, and other components of the utility system which may be located above ground shall be located as not to be unsightly or hazardous to the public and shall be landscaped and buffered.

(4) Utilization of Parcel

The plan for the development shall reflect the natural capabilities of the site to support development. Buildings and support facilities shall be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas such as wetlands, steep slopes, floodplains and unique natural features shall be included as part of the open space area. Natural drainage areas shall be preserved to the maximum extent.

(5) Relationship of Residences to Open Spaces

The dwelling units and other improvements shall be located so that each unit has direct access to the open space and/or recreational facilities. The open space shall be located to enhance the living environment of each unit in the development.

(6) Landscaped Buffer

If a mobile home park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped perimeter buffer area not less than fifty (50) feet in width which shall contain no structures, above ground utilities or streets (except to access the site). The first 25 feet of the buffer strip, as measured from the exterior boundaries of the park, shall contain evergreen shrubs, trees, or any combination which forms an effective visual barrier around the perimeter of the park. This required buffer may include lot setbacks.

(7) Storage

At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

(8) Pedestrian Circulation

The development plan shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The pedestrian access may be located either in the street right-of-way or outside the street right-of-way in common open space. The system shall be designed to link residential units with recreation facilities, school bus stops and existing sidewalks in the neighborhoods. Pedestrian ways may take the form of sidewalks or walking paths.

(9) Parking

Two (2) off-street parking spaces shall be provided for each dwelling unit.

(10) Landscape and Buffer Plan

The development plan shall provide for adequate landscaping within the interior of the site and within the buffer areas of the project. The Planning Board shall require a landscape plan which includes a plant listing of size and location. The approved landscaping plan shall be considered an integral part of the Planning Board's approval of the mobile home park development and the obligation to maintain the landscaping, including the replacement of any dead plant materials within one (1) growing season, shall continue after approval.

(11) Vehicular Access to Units

All vehicular access to buildings and sites shall be from a street within the development and not from an existing public road.

(12) Unified Ownership

No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements of the new use. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.

- (a) The land within the park shall remain in a unified ownership and the individual ownership of lots or portions of lots shall not be transferred.
- (b) No dwelling unit other than a manufactured housing unit shall be located within the park.

D. Approval Standard

(1) Approval Criteria

Prior to approving the mobile home park, the Planning Board shall find that:

- (i) The plan is acceptable pursuant to this Section 13 of the zoning ordinance and to the Town's subdivision regulations and is in accordance with state statute governing subdivision review, except for those standards which are in conflict with Maine's Mobile Home Park Law;
- (ii) The plan protects environmentally sensitive areas;
- (iii) The plan makes optimal utilization of site features by placing the buildings and lots

in those areas of the site most suitable for development and protects natural drainage features and scenic resources;

- (iv) The plan provides for the permanent preservation and maintenance of open space areas; and
- (v) The plan creates a relationship between the developed portions of the site and the open spaces which benefits all units in the project.

(2) Approval Procedure

The Planning Board shall follow the approval procedures set forth in the Town of Kennebunk Subdivision Regulations and any additional procedures required by this ordinance.

(3) Supplemental Submission Requirements

In addition to the materials required to be submitted under the Town's subdivision regulations, the following additional information shall be submitted to the Planning Board.

To be submitted with preliminary plan application:

- (a) A detailed soil erosion and sedimentation plan.
- (b) A site inventory plan identifying the major development opportunities, constraints and natural features of the site. This plan shall identify natural drainage features, environmentally sensitive areas, prime development areas, scenic vistas, soils, woodlands, general vegetation and other significant manmade and natural features of the site.
- (c) A detailed site plan showing the mobile home park lots and the footprint and location of all buildings and structures, recreation facilities and service facilities.
- (d) A detailed landscaping plan showing the location, size and type of all landscaping proposed to be installed, and areas to be left in their natural state.
- (e) The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the open space shall be permanently maintained as open space and that there shall be no division of open space.
- (f) In the case where an "alternative site design approach" is proposed, the applicant shall submit both a conventional park design which meets the conventional mobile home park zoning standards of Section 13.B., and a plan showing the alternative approach desired.
- (g) Evidence that Section 13.B.(1) affordability has been met.

To be submitted with final plan application:

- (h) Legal documents relating to the ownership, use, management and maintenance

of all mobile home park facilities, including open space, recreation facilities, utilities, roads and parking areas and structures. Legal documents shall also restrict sites from being sold to individuals, unless the use of the property as a mobile home park is discontinued or abandoned and an alternative use is approved pursuant to ordinances and laws then in effect.

- (i) A copy of the proposed park rules and regulations.

E. Filing of Approved Plan

The approved plan for mobile home park development, including any legal documents relating to the ownership and management of common facilities, shall be filed by the applicant in the York County Registry of Deeds within 90 days of Planning Board approval, unless the filing period is extended by the Planning Board upon written request for extension made before the expiration of the 90 days. If the plan is not so recorded, Planning Board approval shall expire, without prejudice to the resubmission of the plan.

F. Development According to Approved Plan

All development activities, including site work, clearing, construction of buildings and utilities and landscaping shall be in accordance with the approved plan.

G. Amendment

No variation from or modification of the approved plan (including the addition of any structures not approved as part of the park plan) shall be allowed unless first reviewed by the Planning Board under this section and approved as an amendment to the originally approved plan.

H. Effective Date

The effective date of this amendment shall be January 1, 1990.

**Section 14. Home Occupations**

Home occupations shall comply with the following:

- A. there shall be no exterior storage or display of materials or products related to the home occupation, no display of products visible in any manner from the outside of the dwelling, nor any visible evidence of the conduct of a home occupation, except for one (1) sign not to exceed 2 square feet as permitted per the sign standards of Article 10, Section 7;
- B. there shall be no external structural alterations which are not customary to residential buildings;
- C. there shall be no more than one (1) full-time or two (2) part-time nonresident(s) employed at the home occupation. Any employee working 30 or more hours a week shall be considered "full-time";
- D. the home occupation shall not utilize an area which is more than 30% of the total floor area of the dwelling unit nor shall it occupy an area of more than 600 square feet; except that for lots with a gross lot area of 3 acres or more in the Rural Residential and Rural Conservation Districts, the limit is 90% of the total floor area of the dwelling unit with an area no more than 900 square feet.
- E. the home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than that which is typical for a one-family residence;
- F. no nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbances shall be generated by the home occupation;
- G. the home occupation shall not require, nor shall it provide, more than two off-street parking spaces, in addition to the parking provided to meet the normal requirements of the dwelling; and
- H. no vehicular traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. The home occupation shall not be permitted if it would generate more than a daily average of ten (10) vehicular trip ends (5 round trips) based on data contained in the latest edition of ITE, Trip Generation Manual, or if the home occupation in fact generates more than an average of ten trip ends (5 round trips) per day.

**Section 15. Accessory Apartment**

- A. The following standards must be met in order to create and maintain an accessory apartment:
  - (1) Either the primary or converted unit shall be occupied by the owner of the property as its primary physical residence (primary residence shall be defined as more than 6 months per year).
  - (2) Both the primary and the accessory unit shall be occupied as primary residences.
  - (3) Evidence must be submitted to show that either:
    - (a) approval has been received from the sewer district for the accessory apartment, or that
    - (b) the existing septic system can be utilized or enlarged to handle the extra dwelling unit and meet the Maine Subsurface Wastewater Disposal Rules, or that

- (c) a new septic system can be located on the lot which meets the Maine Subsurface Wastewater Disposal Rules.

Please note that Title 30-A M.R.S.A. §4211, Sub§3, may be applicable if a septic system is to be expanded.

- (4) No more than one accessory apartment is permitted per single family lot.
- B. No permit for an accessory apartment shall be legal until the owner files the following statement with the Code Enforcement Officer and in the Registry of Deeds: "A permit for an accessory apartment has been issued to the owner of this property. This permit does not run with the land, and is automatically invalidated by the sale or transfer of this property. Prospective purchasers should be advised that only one (1) unit on the property may be rented; and other must be occupied by the owner".

## **Part D. Mixed Uses and Nonresidential Uses**

### **Section 16. Mixed Residential and Commercial Uses**

Residential and commercial uses may be combined on a single lot in any district, provided that:

- A. The uses are only those allowed within the district in which the lot is located; and
- B. Unless otherwise specifically stated within the district regulations, each of the uses shall individually meet the space and bulk standards set forth in the district; and
- C. Unless otherwise specifically stated within the district regulations, each of the uses shall individually meet the off-street parking requirements of this Article; and
- D. Any signs comply with the standards for signs set forth in this Article.

### **Section 17. Lodging, including Motels, Hotels, Inns and Renting of Rooms and Furnishing of Board/B&B's**

#### **A. Cooking Facilities**

No cooking facilities shall be permitted in any individual motel, hotel, or inn rental unit unless said unit is protected by a fire sprinkler system per the NFPA13 Code Standards.

#### **B. Minimum Unit Size**

Each motel, hotel, or inn rental unit shall contain not less than two hundred (200) square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel, hotel, or inn rental sleeping room shall not be less than twelve by fifteen feet horizontal dimensions, exclusive of bath. Each rental unit shall include a private bath.

#### **C. Series of Motel Units**

- (1) This paragraph applies to motel structures, but not to hotel structures or inns.
- (2) Each motel structure shall contain not less than five, nor more than ten individual motel rental units, unless each section of ten units is separated from any additional sections by

an unbroken firewall. Each motel structure may be connected with other similar structures by a covered walkway, if the walkway is constructed of fire resistive materials. Whether or not so connected, the nearest parts of the walls or corners of such structure shall be separated by a land space, open and unbuilt on, of not less than thirty feet, and in which, within the area unbounded by the intersecting projections of the side lines of adjacent buildings, there shall be no automobile parking or loading.

D. On-Site Manager

On each motel, hotel, inn or other “Lodging” lot there shall be provided and occupied at least one apartment or residence for a resident owner, manager, or other responsible staff person.

E. Parking - Parking plan shall be provided showing on-site parking and circulation meeting the standards of Article 10, Section 9.

F. Water/Sewer Service Approval - Evidence shall be provided showing signoff(s) from Water District and/or Sewer District, if such service is to be provided by them; or, if private well and/or septic is proposed, evidence that the system(s) conform to State code shall be provided as part of application to Town.

**Section 18. Keeping of Horses**

A. Standards

The keeping of horses or ponies shall be permitted on lots in the Rural Conservation, Rural Residential, Coastal Residential, Village Residential, Suburban Residential, Lower Village Business, and Upper Square Districts, subject to the following restrictions and limitations:

- (1) The minimum lot size on which one horse or pony may be kept shall be two acres of fenced open area, exclusive of those areas occupied by dwellings (not intended to include outbuildings) for temporary or permanent human occupancy;
- (2) In the Coastal Residential, Village Residential (VR & WKVR), Suburban Residential, Lower Village Business and Upper Square Zones, one additional horse or pony may be kept on each additional one-half acre of such land, to a limit of four horses or ponies.  
In the Rural Conservation and the Rural Residential Zones, one additional horse or pony may be kept on each additional one-half acre of such land.
- (3) No portion of the area which the horse or pony may occupy shall be closer than forty (40) feet from the nearest point of any dwelling for temporary or permanent human occupancy on any adjacent lot.
- (4) No manure shall be retained on any area within three hundred (300) feet of the normal high water line of a lake, pond, flowing or intermittent stream, tidal inlets and estuaries, or wells used to supply water for human consumption;
- (5) The perimeter of the lot on which the horse or pony is kept shall be enclosed by a fence sufficiently substantial to contain the horse or pony at all times. The fence may be constructed of wooden poles or boards, posts and rails or runners, or the like; or two-strand electrified wires, designed and marked with signs so that they will present no hazard; and



(6) All grains shall be kept in rodent-proof containers.

**B. Application Required**

Prior to keeping or maintaining of a horse or pony, application shall be made to the Code Enforcement Officer for a permit. Said applicant shall demonstrate full compliance with the requirements and limitations contained in this section.

**Section 19. Kennels**

- A. Kennels located in the Rural Conservation District and the Rural Residential District shall be on lots of at least three (3) acres.
- B. Any part of the kennel designed for or used for outside activities, including but not limited to dog runs and outdoor pens, shall be located at least 50 feet from any property line.

**Section 20. Day Care Centers and Nursery Schools**

All requests to operate a Day Care Center or Nursery School shall conform to the following standards, in addition to Special Exception review where applicable:

- A. Evidence shall be submitted showing that septic system conforms to State Plumbing Code for the existing and proposed use(s).
- B. Parking plan shall be submitted showing on-site parking, circulation and drop-off area adequate for the use proposed and not resulting in traffic hazards to abutting street (s).
- C. If outside play area is located within 20 feet of neighboring homes, nature of existing and proposed buffering shall be submitted,
- D. A copy of the current State license for the site or evidence of pending application with the State(showing approval for at least the number of children or adults proposed in the application) shall be submitted prior to issuance of a building permit,
- E. Day Care Centers and Nursery Schools which are located in dwellings are limited to 12 or fewer children/adults.
- F. Day Care Centers and/or Nursery Schools in excess of 12 children (or adults) or utilizing over 1,000 sq. ft. of floor area shall fall under the Requirements of Art. 11, Section 3.A. and be reviewed under Site Plan Review Standards.

**Section 21: Small Wind Energy Systems (SWES)**

These performance standards shall apply to all Small Wind Energy Systems as defined in Article 2.

**A. Authority**

The Code Enforcement Officer shall have the authority to review and approve or reject a building permit application for a SWES which is 100 feet or less in height and has a rated capacity of less than 50 kilowatts.

B. Development Standards

(1) Height/Capacity

In Village Residential Districts ( VR, WKVR, SR & CR), Mixed Use Districts ( York St., US), Downtown Districts ( DB, LVB, & WKV), and SC, maximum system height is 100 feet and maximum system capacity is 10 kw. In Business Park, Industrial and Rural Districts (RC, RR & BB), the maximum system height is 100 feet and maximum system capacity is 50 kw. Maximum height shall be defined as the vertical distance measured from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the Small Wind Energy System tower to the highest point of the wind turbine blade when the tip is at its full vertical position.

(2) Setbacks

A small wind energy system shall be setback a minimum horizontal distance of 110% of the total height of the system from property lines, roads.

(3) Noise

Small Wind Energy Systems shall not exceed 55 dBA as measured at the property boundary line of the proposed site except during short-term storm events or power outages.

(4) Compliance with International Building Code (most recently adopted edition)

Building Permit Applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure, including tower, base and footings. An engineering analysis of the tower showing compliance with the International Building Code and certified by a Maine licensed professional structural engineer shall be submitted.

(5) Compliance with National Electrical Code (most recently adopted edition)

Electrical Permit Application shall provide a drawing with enough detail of electrical components to determine compliance with national electrical code. Again, this information is frequently supplied by manufacturer. A licensed electrician must connect the SWES to residential or other structures.

(6) Written evidence that the utility company serving the site has been informed of any system which is proposing to connect to the electricity grid.

(7) The system's tower and blades shall be a non-reflective color

(8) No tower shall be lighted unless required by FAA.

(9) A Small Wind Energy System which is not used for a period of eighteen (18) consecutive months shall be deemed abandoned and shall be removed from property at the expense of the owner.

C. Submission Requirements

(1) Name and address of applicant and landowner.

(2) Address of SWES location including map/lot number and parcel size.

(3) Project description including

- Type, size, rotor material, rated power output, performance, safety and noise
- characteristics of the system
- Name of manufacturer and model number

- (4) Site plan showing proposed system location, distance to property lines, roads, ROWs and any overhead utility lines on subject property or adjacent property within 110 % of the total height of the system , and any proposed landscaping or screening.
- (5) A scaled elevation drawing showing system height and manufacturers recommendation regarding system height.
- (6) Structural drawings from manufacturer or engineer showing foundation and anchor design along with specifications for soil conditions at the site.  
As noted previously, the structural plans will need to be stamped by a Maine certified structural engineer.

## **Section 22     Telecommunications Facilities**

Performance Standards. All telecommunications facilities approved in accordance with the provisions of Article 7, Section 4 shall meet all of the following performance standards. Terms used herein are to be interpreted in accordance with the definitions in Article 7, Section 4.

- A.     Design for Co-location. All new towers and related equipment must be designed and constructed to accommodate future co-location of at least two additional telecommunications facilities or providers.
- B.     Location.
  - (1)     Permitted Zones. New telecommunications facilities are permitted in the Industrial (I) and Business Park (BP) zoning districts through either a special exception or CEO-approved permit granted in accordance with Article 7, Section 4 and this Section.
  - (2)     Co-location, Alternative Tower Structures, Accessory Uses. Telecommunications facilities that are (i) co-located on existing telecommunications facilities; (ii) installed on alternative tower structures; or (iii) installed as a qualifying accessory use, may be allowed in all zoning districts through either a special exception or CEO-approved permit granted in accordance with Article 7, Section 4 and this Section.
- C.     Height.
  - (1)     Telecommunications facilities shall not exceed the height limits listed below for each zoning district:
    - (a)     Downtown Business, Suburban Commercial, Lower Village Business, York Street Mixed Residential & Commercial Use, West Kennebunk Village Zones - 125 feet.
    - (b)     Industrial and Business Park Zones - 250 feet.
    - (c)     All other zones except Historic Overlay Zone - 70 feet.
    - (d)     Historic Overlay Zone - present highest point of building or structure.

- (2) Alternative Tower Structures. Telecommunications facilities on alternative tower structures may not extend more than twenty-five (25) feet higher than the present highest point of the building or structure and in no case shall exceed the maximum height for the applicable zoning district as set forth above in this subsection.

D. Setbacks.

- (1) Towers shall be set back a distance equal to at least one hundred twenty-five percent (125%) of the tower height from all property lines. The applicable height calculation used shall be the maximum design height approved for the site.
- (2) Accessory facilities and other secondary equipment and structures shall meet the minimum setback requirements for the applicable zoning district.
- (3) These setback requirements shall not apply to telecommunications facilities mounted on alternative tower structures or to co-location of telecommunications facilities on towers and other structures that exist as of the date of adoption of this ordinance; provided, however that accessory facilities and other secondary equipment and structures shall comply with the minimum setback requirements for the applicable zoning district.

E. Aesthetics, Landscaping, Buffers & Fencing.

- (1) Towers shall have a galvanized steel finish or be painted a neutral color so as to reduce visual obstruction.
- (2) All towers and related secondary facilities shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.
- (3) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screenings and landscaping that will blend the tower facilities with the natural setting and built environment.
- (4) Towers shall not be artificially lighted, unless required by the FAA or other Federal or State authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views.
- (5) Road access to the telecommunications facility shall be the minimum size necessary to allow safe access.
- (6) The base of a tower may not be located in a wetland or floodplain.
- (7) A security fence or wall not less than eight (8) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.

F. Maintenance.

- (1) Telecommunications-facility owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failure and accidents that are likely to cause damage, injury or nuisance to the public.
- (2) Telecommunications-facility owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state and local regulations.
- (3) All telecommunications facilities shall maintain compliance with current FCC radiofrequency emissions standards.
- (4) In the event that the use of a telecommunications facility is discontinued, the telecommunications facility owner shall provide written notice to the Town of its intent to discontinue use and the date when the use shall be discontinued.

G. Other Requirements.

- (1) **Building Codes & Safety Standards.** To ensure the structural integrity of telecommunications facilities, the owner shall ensure that they are designed, constructed and maintained in conformance with applicable Federal, State and Local building, electrical and safety codes.
- (2) **Advertising.** No advertising or signage is permitted on telecommunications facilities except for safety or other signage that may be required by the FCC.

**Section 23 DESIGN REVIEW Standards**

A. **Purpose**

The purpose of these design review standards is to allow for growth and development while preserving the historical integrity, habitat and ecosystem integrity, architectural integrity, and visual integrity of the community. Kennebunk's major design goals are:

- Develop and maintain attractive gateway(s) to our community;
- Create a functional and safe environment for pedestrian, bicycle and vehicle activity;
- Encourage habitat preservation and natural ecosystem integrity;
- Respect Kennebunk's unique character and sense of place;
- Support development and redevelopment that enhances the town's positive image to our residents, to visitors and to businesses; Prevent the loss of community character by prohibiting the repetition of generic architectural forms frequently used by commercial chains throughout the country, and instead encourage site-specific architectural building based on traditional New England design; and
- To ensure that all sites, including sites with drive-through facilities, enhance pedestrian amenity and are designed to provide a safe environment for users, employees, adjacent uses and pedestrians on both public and private sidewalk areas.

**B. Applicability of Design Review**

1. The provisions of this article shall apply to activities that are subject to design review, per subsections B.2. and B.3 below and which are located in **one or more of** the following zoning districts:

**Suburban Commercial, York St. Mixed Use, Portland Rd. Mixed Use, and Business Park and Branch Brook B - BPA.**

2. Activities subject to design review include the following:

- a) Any new construction or relocation of a principal or accessory building or structure on a site that is to be used for other than single family residential purposes;
- b) Addition to or alteration of the exterior of any building on a lot which fronts on/or faces Route 1 and proposes to increase or decrease the square footage of the building, whether enclosed or not;
- c) Alteration of the exterior wall of a building by tearing down or removing any portion thereof, or by filling in of an-existing window or door opening;
- d) The construction or relocation of site features, including parking areas, drive –through lanes, and loading docks;

Any material change in the exterior appearance of an existing building, sign, light, fence, landscape and/ or structure - other than routine maintenance, repair and/or minor renovations of such features as determined by the Staff Review Committee to be exempt minor renovations. Exempt minor renovations would include replacing windows, siding, signs and/or doors with new of same size, material, color, and style.

3. Undeveloped pad sites that are part of a Site Plan or Subdivision Plan that received plan approval prior to the enactment of these design standards shall be exempt from these design review standards if such plans included the pad site’s building layout and design, the pad site’s parking layout and the vehicle circulation route to and from the pad site.

**C. Design Review Application Procedure**

1. Submissions - An applicant for design review shall submit the following additional information if the information is not already included in the “subdivision” or “site plan” submission for the proposal:

- a) A site plan, drawn to scale, showing the proposed layout, dimensions and height of all structures and other site improvements , including:
  - Location and design of buildings, including façade treatment, roof pitch, canopies, window and door openings and other architectural features,
  - Driveways,
  - Drive–through , ATM , and other customer service areas,

- Pedestrian walks, sidewalks, crosswalks, and pedestrian connections to abutting properties,
  - Fences, Walls,
  - Existing and proposed landscaped areas – with type and size of materials proposed, as well as identification of existing trees to be retained ,
  - Off-street parking, loading , storage and utility service areas, with the methods / materials proposed for use in screening such areas from public view,
  - Photo documentation showing abutting sites in relation to subject lot - including an aerial image of site if available,
  - Entrances, exits and traffic flow – with dimensions for each in order to provide enough detail to review adequacy of turning and vehicle maneuvering areas, and
  - Attached and freestanding signage and lighting ;
- b) Proposed architectural elevations/renderings, drawn to scale, and showing the front, side, and rear elevations of the proposed building(s) and indicating components such as windows, doors, roof configuration, visible mechanical hardware and utility structures, and the materials and colors to be used. In the case of minor plan revision applications, Staff may waive this submission if they determine that adequate information regarding the proposed appearance of the building has been submitted.
2. Review Process: The additional standards of this Art. 10. Section 23 shall be made a part of the Site Plan Review Standards/Process (Zoning Art. 11) or the Subdivision Review Standards/Process, as applicable. (Please note that in some cases, these standards and the Design Standards Manuals are more stringent than the Site Plan Review Standards.) In the event that a proposal meets the applicability criteria of Section B. 2. And B.3. above but is not subject to the applicability criteria of either Site Plan Review or Subdivision Review, it will be reviewed by the Site Plan Review Board under the provisions of this Section. A pre application informational meeting with Town Staff is required as part of this process.
3. Design Review Standards Manual(s) : Reference is made to the Kennebunk Design Review Standards Manual and the Better Models for Commercial Development booklet (prepared by Ed McMahon and The Conservation Fund) which are provided as guides to understand what the Town’s design goals are for development along Route 1 North and Route 1 South. These manuals provide direction and shall be used by both the applicant and the review board in the plan review and approval process.
4. Waiver of Criteria: All requests for waivers of any of the Art. 10, Section 23. Design Review Standards shall be decided by the applicable review board utilizing the waiver provision of Zoning Art. 11, Section 9.

#### **D. Design Criteria**

In considering the application before it, the applicable review authority shall determine that the following site layout and building design standards have been met:

**1. Site Layout and Design -**

a) **Site Design for new buildings and infill development** – Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity of the proposed building(s). The design of the site shall be based on existing topography, vegetation and drainage characteristics and shall retain significant and /or unique site features such as historic resources, existing ponds or streams and mature trees to the greatest practical extent. In addition, building layout shall conform to the following:

- Building frontages shall be located at the street edge where possible, and new buildings shall be compatible with the front facades of existing buildings which are presently located along the Route 1 street edge;
- Buildings shall be aligned to the front setback line from the Route 1. R.O.W. , and from both streets if building will be located on a corner lot. The review board may permit a reduction in the front setback requirement and green buffer requirement - to a minimum of 15 feet - where applicant provides a plan for locating the new building(s) in line with front facades of existing buildings in the area. In addition, when the creation of an outside seating area or outdoor use area is part of the design for front of building, some variation in this front setback standard will be permitted;

In addition, the review board may require that a maximum front setback from the edge of Route 1 R.O.W. be set at 40 feet ; with a greater setback from street permitted only if the location of the building and the proposed setback will enhance the public realm;

- Locate main entrance, or at least one functional entrance, on the side of building(s) directly facing Route 1;
- Drive – through lanes shall not cross a business’s principal entrance to the building;
- Walls along the street(s) should be transparent (not opaque); with windows and doors to maximize views in and out of the building;
- Parking shall be located entirely to the side or rear of the building. In the case of sites where existing buildings will be retained or reconfigured, every effort shall be made to locate the new parking to the side or rear of building closest to Route 1; and
- For multi-building developments , a conceptual master plan shall be prepared to show the general location of both current buildings and proposed future buildings, parking areas, driveways, walkways and natural features to be retained or protected (such as wetlands).

**b) Site Features**

**Internal Traffic Flow and Connections to Adjacent Sites** - To ensure safety of motorists, delivery trucks, bicyclists and pedestrians, the site plan shall clearly delineate internal traffic patterns for both vehicles and pedestrians. Special attention shall be given to location, number of access points, increased traffic to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient. In addition, the plan shall show



potential connections between parking lots and driveways on adjacent parcels (whether developed or undeveloped) in order to minimize turning movements on Route 1 and to provide safe, direct access between adjacent lots.

**Shared Driveway Access** - Entrances to and exits from uses located along the Portland Rd. and the York St. corridors shall be combined and shared with neighboring uses to the maximum extent possible in order to minimize the number of curb cuts and increase vehicular and pedestrian safety.

**Connections to abutting streets** – Where a development abuts or receives its primary site access from Route 1, the Board may require that the site provide a connection to an abutting street or R.O.W. or to a rear access road if available.

**Parking** – Where new off-street parking areas are proposed, they shall be located to the side or the rear of the principal building, and no parking shall be located closer than 25 feet of Route 1 R.O.W. In no case shall parking be located closer to Route 1 than building located closest to Route 1. No more than 50 % of the lot's frontage width may be used for parking. Parking lots shall be designed as inviting, pedestrian friendly places with careful attention to landscaping, lighting, and internal walkways. Shared parking is encouraged, especially where abutting uses have differing hours of peak parking demand. (Cross access easements may be required to allow shared parking.) Where multiple buildings are proposed, parking should be located within the core/central area if possible, to provide adequate ADA adjacency and also street screening. Parking lots shall be screened from Rt. 1 and visually broken up through the use of trees, landscaped parking islands, building locations, hedges, shrubs, or a combination of all these elements.

**Pedestrian and Bicycle Movement** – The circulation plan shall provide safe pedestrian and bicycle movement – both within the site and to abutting sites and public sidewalks. The plan shall also demonstrate how linkage(s) can be made to adjacent properties, both developed and undeveloped. Internal crosswalks shall be provided and marked by a change in pavement texture, pattern, and/or color to maximize pedestrian safety.

**Service Areas** – Service areas (e.g. solid waste/recycling facilities, above ground transformers, mechanical equipment, utility areas and loading areas) shall be located to the side or rear of the building and, wherever possible, shall be hidden and incorporated into the design of the building – with maximum screening from public view.

Service areas shall be screened with privacy fencing, walls and/or landscaping in order to minimize visibility from public and private roadways, main entrances, abutting neighborhoods, public open spaces, and pathways.

Additionally, the location of proposed ATMs and /or vending machines shall be shown on the plan and screened from Route 1 view.

**Roof Top Equipment** - Where roof top utility and/or equipment areas are necessary, they shall be hidden and incorporated into the architecture of building and screened from all visible sides.

**Landscaping** - A Landscape Plan, conforming to the standards of Art. 11, Section 6.B. (7) and Art. 11, Section 8. (1) and (2) of this Ordinance - as well as the standards of this

Section, shall be provided as part of any plan involving new building construction, parking lot, and/or drive through development. Landscaping shall be used to complement the architecture, enhance the human scale, reinforce circulation paths, highlight entrances, provide shade, and add color and seasonal interest to site.

Existing mature trees and natural vegetation along the street frontage and edges of the site shall be evaluated and, when determined to be in good condition, shall be retained. Within the green perimeter strip abutting Route 1, the plan shall include one shade tree per 30 linear feet, or fraction thereof, for the length of the property line, exclusive of the driveway, with most trees being evenly spaced within such strip. Shade trees shall have a minimum caliper of 2 ½ inches.

**Advertising Features** – The size, number, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from or adversely affect the design, appearance, and environmental and aesthetic qualities of proposed building and structures and the surrounding properties.

**Snow Storage** – Provisions shall be made for adequate snow storage in the design of all parking areas, and shall avoid conflicts with landscaping, visibility, drainage and icing during winter months. Alternatively, a snow management plan indicating how the snow removal will be handled shall be reviewed and included in the plan approval process.

- c) **Additional Standards for Auto oriented uses and Drive -Throughs** – Auto oriented establishments such as gas stations, convenience stores, fast food restaurants ( in zones where they are permitted) , car wash facilities, and drugstores or banks with drive through windows/ATMs, shall orient the building close to the Route 1 and shall locate all the automobile-related activities such as parking, fuel pumps, drive through windows and drive through lanes to the side or rear of the building – with no such auto oriented activities to be located between the building and Route 1. Drive-through facilities are permitted only as accessory uses to a permitted use within the zoning district, and not as a principal or sole use.

**Queuing and Circulation** – Each drive-through or queuing lane shall be separated from the general circulation lanes necessary either for entering or exiting the property or for providing interior circulation within the property. This separation shall be done by means of an island, and the lanes shall be distinctly marked and striped.

**Pedestrian Circulation** – Pedestrian safety shall be an important consideration in the design of access routes leading to or from auto - oriented uses. Site layout shall minimize conflicts with pedestrian access to the on-site businesses, to businesses on adjacent sites, and to public

sidewalks. Drive - through lanes shall not cross a business's principal entrance to the building. Traffic calming measures shall be included where appropriate to discourage speeding within the site and between abutting sites. Measures may include raised crosswalks, curbing, roadside plantings, curbed islands, and appropriate signage.

**Facility Design** - Drive-through operations and other automobile-oriented facilities shall be designed with façade and roofline elements that reduce their scale and are consistent with the architectural character of the main building.

**Traffic Standards** - All streets and intersections to be impacted by a proposed drive-through facility shall show that they will meet the Maine DOT Level of Service Standards after development and shall provide evidence of such conformance as part of the review process. No vehicular entrance to or exit from a drive-through facility shall be located within two hundred feet (200) of a street intersection. Entrances to drive-through facilities shall be located off of interior roadways, interior drives, or parking areas, rather than off the public street. Queuing lane(s) shall be designed so they do not result in vehicles needing to back into or block public streets.

**Buffer / Screening** - Landscaped buffers in addition to walls and/or fences, shall be used to soften the visual impact of parking areas, service areas, commercial buildings, drive through lanes, street frontages and adjacent properties.

2) **Building Design** – **The Town encourages high quality architectural design that is inspired by Kennebunk’s traditional building style. The following standards shall be addressed as part of the proposed building design:**

**Architecture** - The goal of these standards is to produce architecture that draws its inspiration from traditional New England vernacular. Traditional building styles and materials shall be used in a way to accommodate contemporary building needs.

Buildings shall present an inviting, human-scaled façade to the street, internal drives, parking areas, and abutting properties.

**Scale of Building(s)** – The scale of a building depends on its overall size, the mass of it in relationship to the open space around it, and the sizes of its doors, windows, porches and balconies. The scale gives a building “presence”, that is, it makes it seem so big or small, awkward or graceful, overpowering or unimportant. The scale of a building should be visually compatible with its site and with its neighborhood.

Linear commercial structures, e.g. shopping centers, multi-tenant office buildings, and other large commercial structures, shall be visually unified through the use of complimentary architectural forms, similar materials and colors, variations in rooflines, detailing, and building heights, and coordinated signage.

Facades greater than 100 feet in length shall be designed with façade and roofline elements that reduce their scale and add architectural interest. Where the plane of a wall is broken, the offset shall be proportional to the building’s height and length. Projections used to break up the mass of the building shall extend to the ground.

**Height** – Heights of new buildings and reconstruction of existing buildings should be visually compatible with the heights of the buildings in the neighborhood. A sudden dramatic change in the building height can have a jarring effect on the overall look of the street. If a building’s proposed height is 50% or higher than neighboring buildings, the applicant shall incorporate architectural features in the building’s design that limit the visual impact of the proposed building.

**Roof Shape** – The shape and proportion of the roof shall be articulated so as to lend visual interest and reduce the apparent size of new building(s) and should be visually compatible with the architectural style of the building and with neighboring buildings.

**National Franchises** – National franchises ( e.g., restaurants, service stations, retail stores, ) are welcome and permitted forms of land use otherwise permitted in some of the zoning districts covering the Route One corridor. Since the design of these buildings can contribute to a loss of identity for Kennebunk by repeating the generic architectural forms that are repeated throughout the country, buildings that are stylized to the point where the structure is a form of advertising are not permitted.

**Façade Design and Materials** – The first impression that a building gives is very important. All buildings shall present an inviting, human scaled façade to the street, internal drives, parking areas, and surrounding neighborhoods. Buildings with Rt. 1 frontage shall have at least one entrance to the building along the Route 1 frontage.

-- All sides of a building should receive design consideration. Blank walls facing public or private streets, residential neighborhoods, or abutting properties are prohibited. Where side or rear facades are visible from adjacent properties or roadways, they shall be designed to complement the architectural treatment of the primary façade to give scale and visual interest.

-- The pattern of solids and voids, windows and doors in the front façade of a new or altered building should be visually compatible with the architectural style of the building and with that of its neighbors.

-- Materials used on facades help to provide added character to a building – clapboards, shingles, brick, etc. – and therefore should be visually compatible to those of other buildings around it. For facades of buildings visible from a public way, preference shall be given to clapboard, brick, shingle and other materials commonly used in local architecture. (Cinder block, highly reflective metal siding, stucco type siding are discouraged.)

**Canopies** - Canopies should incorporate features to help them fit the scale and architectural character of the building A pitched roof or other traditional roof form shall be used and the fascia of the canopy shall be short in height, generally not to exceed two feet.

**Primary Entrance** - The primary building entrance shall face the street unless the applicant can demonstrate that the circumstances of a given application merit an alternative orientation. The entrance shall be identified through the use of architectural details that may include awnings or roofs for shelter, recessing, decorative lighting, trim or railings, in addition to pedestrian walkways connecting to parking areas and public sidewalks.

**Street Corners** - Buildings located on street corners are important because these high visibility locations help define the character of both streets, therefore the building facades along both streets shall be articulated. No parking, vehicular travel ways, or service areas shall be located between the building and the property lines along both streets.

**Signage** - The size, scale, materials, illumination, colors, style and location of signs on the site have a visual impact on the streetscape. Signs shall state clearly the name of the business without overwhelming either the architecture or the streetscape. Multi-use sites shall prepare a signage master plan that provides size, design and locations of the signs for all the proposed business spaces proposed for the site, as well as any shared or joint identification signage proposed.

**Color** – Colors used on building exteriors should integrate a building’s various design elements or features. The use of bright colors should be avoided. Softer, muted or earth-toned colors are preferred. Colors should be compatible with the architectural character of surrounding buildings and neighborhood, unless such surrounding buildings are not in conformance with these design standards. To view examples of acceptable paint choices please see Historic Colors of America Palette by California Paints.

**Lighting** - The proposed lighting plan shall be consistent with the architectural style of the principal building and shall conform to the standards of Art 10, Section 6.

#### **Section 24 – Retail Marijuana.**

The following uses as defined in Article 2, Section 2 of this Ordinance and 7 M.R.S.A § 2442, as may be amended, or any successor provisions thereof, are hereby prohibited in all zoning districts, either as principal or accessory uses:

- a. Retail marijuana social clubs.
- b. Retail marijuana establishments, including the following uses:
  - i. Retail marijuana products manufacturing facilities.
  - ii. Retail marijuana cultivation facilities
  - iii. Retail marijuana stores.
  - iv. Retail marijuana testing facilities.