

TOWN ORDINANCES CLINTON, MAINE

LAND USE ORDINANCE

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LAST REVISED June 13, 2017

LAND USE ORDINANCES

TOWN OF CLINTON

PREPARED BY
COMPREHENSIVE PLAN
IMPLEMENTATION COMMITTEE

ASSISTED BY: MAINE TOMORROW

Enacted June 13, 1992

Revised	06/12/1993	06/21/1994	06/26/1995
	06/25/1996	06/19/1999	08/27/1999
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SECTION 1. GENERAL

A. TITLE

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

B. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRSA Section 3001 (Home Rule), and the State's growth management law, Title 30-A, MRSA, Sections 4311 et.seq.

C. PURPOSES

The purpose of this Ordinance is to implement the provisions of the Town's Comprehensive Plan and to promote the health, safety, and general welfare of the residents of the community.

D. APPLICABILITY

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Clinton, exclusive of the land and water area subject to the town's Shoreland Zoning Ordinance.

E. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance's regulation or statute, the more restrictive provision shall control.

This Ordinance supersedes and replaces the Clinton Site Plan Review Ordinance and Clinton Land Use Ordinance effective 3/11/88.

F. VALIDITY AND SEVERABILITY

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

G. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of the adoption by vote at Town Meeting.

H. AMENDMENTS

This Ordinance may be amended by majority vote at Town Meeting.

SECTION 2 NON-CONFORMANCE

A. PURPOSE

It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this action.

B. GENERAL REQUIREMENTS

1. **Transfer of Ownership**: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance**: This Ordinance allows, without a permit pursuant to this Ordinance, the normal upkeep and maintenance of non-conforming uses and structures.

C. NON-CONFORMING STRUCTURES

1. **Expansions**: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority, if such addition or expansion does not increase the non-conformity of the structure with respect to minimum yard dimensions, maximum lot coverage, or flood plain and wetlands setbacks. Structures shall not be enlarged in a manner that violates or worsens the standard relative to minimum lot area per dwelling-unit (e.g., expansion of a single-family dwelling on a non-conforming lot to create a multi-family dwelling). For purposes of this section, the installation or construction of accessory structures, such as garage or shed outbuildings, shall be deemed an expansion or addition of a non-conforming structure.
2. **Relocation**: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. **Reconstruction or "Replacement"**: Any non-conforming structure may be reconstructed or replaced provided that a permit is obtained from the permitting authority within (1) one year from the date of the event or occurrence causing the need to replace or reconstruct such structure; and, provided that such reconstruction or replacement is in compliance with the setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority; and, provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State Of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

D. NON-CONFORMING USES

1. **Expansions**: An existing non-conforming use may be expanded, after obtaining a review permit from the permitting authority. The permitting authority may approve an expansion of a non-conforming use unless it is found that the plan does not meet the intent of one or more of the criteria standards set forth Section 5(G.).
2. **Change of Use**: An existing non-conforming use may, after obtaining a site plan review permit from the permitting authority, be changed to another non-conforming use. The permitting authority shall approve a change of use unless it is found that the proposed use is not "equally or more appropriate to the district than the existing non-conforming use; and that the proposed use will probably have no greater adverse impact on adjacent properties than the former existing non-conforming use.

The determination of appropriateness and adverse impact shall be based upon the probable changes in the factors set forth in the criteria and standards of Section 5(G.). The performance standards of this Ordinance shall apply to such applications to establish new non-conforming uses. A permitted or conforming use shall not be changed to create a non-conforming use.

3. **Discontinuance**: A non-conforming use that has been discontinued or abandoned for one (1) or more years shall not be resumed and such non-conforming use shall be deemed extinguished. The removal or demolition of a non-conforming structure, for whatever reason, shall not constitute an abandonment of a non-conforming structure or use, provided that the required permit for such replacement structure is obtained from the permitting authority within one (1) year from the date of removal of such non-conforming structure.
4. **Supersession**: Where a non-conforming use is superseded by a permitted use, the property shall thereafter conform to the permitted uses, and such non-conforming use shall not thereafter be resumed.

E. NON-CONFORMING LOTS

1. **Non-conforming Lots:** A vacant, non-conforming lot of record legally existing as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can-be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals. If more than one residential dwelling unit or other use is built, located or created on a non-conforming lot of record, the minimum lot size requirement of the District in which it is located shall be met for each residential dwelling unit, and the frontage and all setback requirements of the District shall be met.
2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that all such lots meet the requirements of the Subsurface Waste Disposal Rules when such lots are divided, each lot thus created must conform to the dimensional requirements of this Ordinance, to the greatest practicable extent.
3. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in the same ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.
4. **Single Lot with Multiple, Principal Structures - Division:** If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot, provided that all such lots meet the requirements of the State Subsurface Wastewater Disposal Rules. Approval by the permitting authority, by issuance or a permit, shall be required prior to the creation of a non-conforming lot through the division of a lot of record with multiple, principal structures or uses thereon. The permitting authority shall issue the required permit upon its findings that each lot created by the division conforms to the greatest practicable extent, to the setback and dimensional requirements of this Ordinance, other than lot area.

5. **“NON CONFORMING LOTS” AS NOTED ENACTED JUNE 13, 1992:** If two or more lots with contiguous frontage on a right-of-way and in the same ownership are of record on the effective date of this Ordinance Amendment, pursuant to a final subdivision plan duly approved by the Town or Clinton Planning Board, then the said lots shall be considered separate and distinct parcels for the purposes of this Ordinance and shall be exempt from the dimensional requirements imposed by Section 2.E (3.) of this Ordinance with respect to Non-Conforming lots.

F. VESTED RIGHTS

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required State permits and approvals. Such rights usually arise when actual substantial construction has begun, or, in the case of pending applications, when the substantive review process to determine compliance with substantive performance standards on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

SECTION 3. LAND USE DISTRICT REQUIREMENTS

A. PURPOSE

The purpose of these district requirements are:

1. To allow the future growth to occur in designated portions of the community and to restrict growth in other areas:
2. To provide for a separation of land uses that might otherwise be incompatible:
3. To protect the natural resources of the community from degradation: and
4. To provide for an orderly future growth pattern of the community.

B. BOUNDARIES

The location and boundaries of the above districts are established as shown on the “Town of Clinton Zoning Map” and are part of the Ordinance. Revised 1993. Mylar. App. 6-25-96.

Unless otherwise set forth in the official Town of Clinton Zoning Map, district boundary lines are property lines, the center lines of roads, streets, and rights of way. Where uncertainty exists as to the exact location of the district boundary lines, the Board of Appeals shall be the final authority as to location.

Exclusive of the 250-foot Shoreland Zone, where a Land Use District Boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by applicable to the less restricted portion of the lot may be extended not more than 100 feet into the more restricted portion of the lot.

C. LAND USES

Enacted June 13, 1992

The land uses permitted in each district, in conformance with the Performance Standards of this Ordinance, are shown in the following table. If a given area or lot of land is located within the wellhead protection district, then the land use restrictions set forth in section 3A of this ordinance “Wellhead Protection District Requirements,” will supersede and control over the following table of land uses for all land use zones. Any use of land situated in the Wellhead Protection District not specifically indicated by Section 3A, Wellhead Protection District Requirements, is prohibited.

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
RESIDENTIAL						
Accessory Structure	Y	Y	Y	Y	Y	Y*
Cluster Development	N	N	Y*	Y	Y	N
Congregate Housing	Y	N	Y	Y	N	N
Duplex, 2 Family Dwelling	Y	N	Y	Y	Y	N
Home Occupation	Y	Y	Y	Y	Y	N
Manufacture Housing (Certified)	Y	Y	Y	Y	Y	Y*
Mobile Home Park	N	N	N	Y*	N	N
Multi-family Dwelling	Y*	N	Y*	Y*	N	N
Single-family Dwelling	Y	Y	Y	Y	Y	Y*
COMMERCIAL						
Accessory Structures	Y	Y	Y*	N	Y*	N
Amusement Facility	Y*	Y*	N	N	Y*	N
Automobile Graveyard, Junkyard	N	Y*	N	N	Y*	N
Automobile Repair, Body Shop, Sales, Car Wash	Y	Y	N	N	Y1*	N

*1 Only an Automobile Repair Shop or a Body Shop of two (2) or less bays and with two (2) or less mechanics/body repairmen will be allowed in the Rural Zone. No Automobile Sales or Car Washes shall be permitted in the Rural Zone

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
ppBed and Breakfast	Y	Y	N	Y	Y	N
Boarding, Lodging	Y	Y*	Y	Y*	Y*	N
Boat Building, Repair, Marina	Y*	Y	Y*	N	Y*	N
Building Materials, Retail Sales	Y	Y	N	N	Y*	N
Commercial School	Y*	Y	Y*	N	Y*	N
Firewood Processing	N	Y*	N	N	Y*	N
Fisheries Processing, Storage	N	Y*	N	N	N	N
Gasoline Service Station	Y	Y*	N	N	Y*	N
Hotel/Motel	Y	Y*	N	N	Y*	N
Indoor Theater	Y	N	Y*	N	N	N
Kennel, Stable, Veterinary Hospital	Y*	Y*	N	N	Y*	N
Mobile/Modular Home Sales	Y	Y*	N	Y*	Y*	N
Neighborhood Convenience Store	Y	Y*	Y*	N	Y*	N
Offices; Business, Professional, Medical	Y	Y*	Y*	N	N	N

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
Publishing, Printing	Y	Y	N	N	Y	N
Radio, Television Tower	N	Y*	N	N	Y*	N
Recreation	Y	Y	N	N	Y*	N
Restaurant	Y	Y*	Y*	N	N	N
Retail Business	Y	Y*	Y*	N	N	N
Retail Business ** <7 employees	Y	Y*	Y*	N	Y*	N
Service Business	Y	Y*	Y*	N	Y*	N
Shopping Center	Y	Y*	N	N	N	N
Wholesale Business	Y*	Y*	Y*	N	N	N
Wireless Telecommunications Facility (minor) <70 feet	N	Y	N	N	Y	N
Wireless Telecommunications Facility (major) =>70 feet And/or Any expansion	N	Y*	N	N	Y*	N
INDUSTRIAL COMMERCIAL						
Accessory Use	N	Y	N	N	N	N
Bulk Oil/Gas Terminal	N	Y*	N	N	N	N
Demolition/Waste Disposal	N	N	N	N	N	N
Medical Marijuana	N	Y	N	N	N	N
Manufacturing	N	Y*	N	N	N	N
Recycling Operations	N	Y*	N	N	N	N
Sawmill	N	Y*	N	N	N	N
Transportation, Communication Facilities	N	Y*	N	N	N	N
Trucking Distribution Terminal	N	Y*	N	N	N	N
Warehousing and Storage	N	Y*	N	N	N	N

Minimum lot area per principal structure or dwelling (subject to exemptions 1 and 3 below)
(square feet)

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
Accessory Structure	Y	Y	Y	Y	Y	Y
Church, Synagogue, Parish House	N	N	Y*	Y*	Y*	N
Community Centers/Clubs	Y*	N	Y*	Y*	Y*	N
Daycare	N	N	Y	Y	Y	N
Essential Services	Y	Y	Y	Y	Y	Y
Fire Police Station	Y	Y*	Y*	Y*	Y*	N
Government Office	Y	Y*	Y*	N	Y*	N
Group Homes, Hospice	N	N	Y*	Y*	Y*	N
Nursing Homes	Y	N	Y*	N	Y	N
Hospital	Y	N	Y*	N	N	N
Out-Patient Medical Facility	Y	N	Y*	N	Y*	N
Museum, Library	Y	Y*	Y*	N	N	N
Public, Private School	Y	Y*	Y*	Y*	Y*	N
Public Utility Facility	Y*	Y*	Y*	Y*	Y*	Y*

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
OUTDOOR, RESOURCE BASED USES						
Accessory Structure	Y	Y	Y	Y	Y	Y
Agriculture/Aquaculture	Y	Y	Y	Y	Y	Y
Agricultural/Aqua cultural Products Processing and Storage	Y	Y*	N	Y	Y	N
Animal Breeding or Care	N	Y*	N	N	Y	N
Campground	N	N	N	Y*	Y*	N
Cemetery	N	N	N	Y	Y	N
Extractive Industry	N	N	N	Y*	Y*	N
Farm Stands	Y	Y	Y	Y	Y	Y
Forestry	Y	Y	Y	Y	Y	Y
Golf Course excluding miniature golf	N	N	N	Y*	Y*	N
Parks and Recreation	Y	Y	Y	Y	Y	Y

DIMENSIONAL REQUIREMENTS						
Lots in all districts shall meet or exceed the following minimum requirements (additional area may be required by other provisions of this Ordinance)						
DIMENSIONS Minimum lot area (sq ft.)	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
With Public Sewer	0	2 acres	7,500	7,500	7,500	
Without Public Sewer	43,560	2 acres	20,000	1 acre	2 acres	

Minimum lot area per principal structure or dwelling (subject to exemptions 1 and 3 below) (square feet)

DIMENSIONS	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
With Public Sewer	7,500	2 acres	7,500 (2)	7,500	7,500	
Without Public Sewer	30,000	2 acres	20,000	1 acre	2 acre	
Minimum Frontage (feet)	20	100	75	100	200	
Minimum yard Dimensions (feet)						
Front Setback	10	50	35	50	50	
Side setback (notes 4,5)	0/15 *	20	15	20	20	
Rear setback	15	20	15	20	20	
Medical Marijuana		250				
<p>1) Minimum lot area per mobile home in mobile home parks shall be 6,500 square feet with sewer and 20,000 square feet without sewer.</p> <p>2) There is no minimum lot area for single accessory apartments.</p> <p>3) The minimum lot area per dwelling unit is 3 acres in areas located over the Town's aquifers as identified in the Comprehensive Plan, Enacted June 13, 1992. "The minimum lot area per dwelling unit is 3 acres in areas located in the wellhead Protection District as identified in Section 3A of this Ordinance." And ¼ acre with Town sewer.</p> <p>4) * Commercial side setback abutting a commercial property is 0 (zero).</p> <p>5) * Commercial side setback abutting residential property is 15 feet.</p> <p>6) Minimum setback from each abutting owner on all property boundaries</p>						

Note to "Industrial Commercial": Medical marijuana Registered Dispensary and medical marijuana production facility land uses are classified as "Manufacturing uses", which are restricted to the Industrial Commercial Zone upon site plan review approval by the Planning Board.

NOTES TO TABLE:

- A. **Lot Size Calculation.** All lots created after the effective date of this Ordinance shall comply with the “Net Acreage Calculation” standard contained in the Performance Standards, Section 4(D), of this Ordinance.
- B. **Required Frontage.** All lots hereinafter created shall possess a minimum frontage on (1) a public road, or an (2) a private road or other thoroughfare or access route which meets the specifications for road construction in the Town’s Subdivision Review Standards; except that for back lots not part of a subdivision, the road frontage requirement is not applicable if a private vehicular access roads is provided in conformance with this Ordinance, Section 4A, and all dimensional requirements are attained.
- C. **Cul-de-sac Frontage.** New building lots located at the end of a cul-de-sac shall be designed so that they have a minimum of 100 feet of street frontage along the front lot lines in the rural district or a minimum of 50 feet of street frontage in all other districts; and, all other dimensional requirements shall apply.
- D. **Front Setback.** The minimum front setback along a public road shall be measured from the edge of the right-of-way line, according to the above table. The depth of any yard abutting a public road shall conform to the front setback.
- E. **Multiple Structures.** If more than one dwelling unit is constructed on a single parcel of land, the minimum lot area per principal structure or dwelling unit requirement shall apply, and all structures shall meet the front, side, and rear setback requirements. If more than one commercial or industrial structure is constructed on a lot, the minimum lot area required shall be met for each additional structure, even if such structures are connected.
- F. **Driveways, Parking Areas.** Driveways and parking areas may be located within any required setback area but shall not be located within six (6) feet of the side or rear lot lines.
- G. **Setback Measurements.** All setbacks shall be measured from the property line to the nearest part of the building.
- H. **Garages, Accessory Structures.** No garage or other accessory structure shall be located in the required setbacks except as permitted below: When located to the rear of the principal, accessory buildings no larger than 150 square feet in floor area may be located within the required side or rear setbacks provided that no such structure shall be located less than 6 feet from a side or rear lot line.
- I. **Corner Lots.** The front setback requirements shall be observed along all roads abutting the lot.
- J. **Corner Lot Obstructions.** All corner lots shall be kept free from visual obstruction for a distance of twenty-five (25) feet measured from the edge of the pavement or traveled way.
- K. **Abutting Structures.** Where a proposed structure would be abutted on both sides by existing structures, either on the same lot or adjoining lots, whose front setbacks are less than the required setback, the setback of the proposed structure may be reduced to that of the structure with the greatest front setback.
- L. **Wetlands, Floodplains Setback.** Structures shall be located outside of designated floodplain area and 75 feet from wetlands identified by the Town Shoreland Zoning Ordinance. This requirement shall not apply to pipelines, sewer lines, and electrical transmission lines that

** Derivation: Town Meeting Vote June 9, 2009 Section 3-4 Land Use Tables
Under Commercial, pg. 3-4, Add Retail Business with < 7 employees section,
allowed in Rural Zoning with Y*, site plan review by the Planning Board

** Derivation: Town Meeting Vote June 14, 2011 Section 3-4 Land Use Tables
Wireless Telecommunications Communications in Land Use Tables 3-4, added
the words "< 70 feet" to the Wireless Telecommunications Facility (minor). Added a
table for Wireless Telecommunications Facility (major) and included the words in the
description "=>70, any expansion". [*Warrant Article 29*]

** Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses
Land Use Dimensional requirements for Commercial Zone with public sewer
changed from 7,500 sq. feet to 0 (zero) feet. [*Warrant Article 30*]

** Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses
Under Minimum lot area per principal structure or dwelling changed Commercial
Zone minimum frontage from 50 feet to 20 feet . [*Warrant Article 31*]

** Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses **Minimum
yard Dimensions (feet)** changed Commercial side setback abutting a commercial
property from 15 feet to 0 (zero) feet. Commercial side setback abutting
a residential property remains 15 feet. [*Warrant Article 32*]

Minimum yard Dimensions (feet) changed Commercial front setback from 35 feet
to 10 feet. [*Warrant Article 32*]

** Derivation: Town Meeting Vote June 14, 2011 Land Use Tables

The **Potential Development Zone** column was removed when Voters approved to
rezone all Potential Development Zone plots as set forth in the plan developed by
the Planning Board – maps and descriptions will be kept with the other maps in the
Selectmen's room. The language defining the Potential Development Zone was
removed from Section 3-6. [*Warrant Article 35*]

** Derivation: Town Meeting Vote November 4, 2014 Land Use Tables

Section 3(C) pages 3-2 Automobile Repair, Body Shop, Sales, Car Wash Rural
Zone box changed from "N" to Y1*

** Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

DEFINITIONS, page 4 - wording changed as follows: "An On-Site Inspection is a visit to the proposed subdivision by the ~~Planning Board~~ Code Enforcement Officer and the Applicant or an authorized representative or agent."

** Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

ARTICLE 5: INTRODUCTORY MEETING

SECTION 2: PROCEDURE SUBSECTION c: ON-SITE INSPECTION page 6

Changes in the wording as follow:

1. Within 30 days of the Pre-application meeting, the ~~Board~~ Code Enforcement Officer shall hold an On-Site Inspection of the property.
2. The ~~Board~~ Code Enforcement Officer shall inform the Applicant in writing of the required contour interval to be used on the Final Plan.

** Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

ARTICLE 6 PLAN APPLICATION page 6 - Wording changed as follows:

"Within six months after the on-site inspection by the Board Code Enforcement Officer the Applicant shall submit a Complete Application for approval of a Final Plan at least ten days prior to a scheduled meeting of the Board."

SECTION 3A. WELLHEAD PROTECTION DISTRICT REQUIREMENTS
Enacted June 13, 1992
Amended Performance Standards June 21, 1994

A. PURPOSE

The purpose of Wellhead Protection District is to protect the quality of the Tapley Well, Clinton's public water supply, through the regulations of land use activities which have been shown to be potential sources of contamination.

The Wellhead Protection District is the surface and subsurface area surrounding the Tapley public water supply well through which contaminants are reasonably likely to move toward and reach the well. The Wellhead Protection District is composed of both the primary and secondary Wellhead Protection Districts.

B. DISTRICT BOUNDARIES

The Wellhead Protection District is depicted by the certain map entitled "Primary and Secondary Wellhead Protection Districts for Clinton's Tapley Well" prepared by Emery and Garrett Groundwater, Inc., dated January, 1993. This map identifies the boundaries of the Wellhead Protection District. The following general description of the boundaries of the district is merely a guide:

1. The Primary Wellhead Protection District is the area surrounding the Tapley Well which is underlain by saturated sands and gravels. To the North it is bounded by Evergreen Cemetery, to the South the railroad embankment, and to the East, the 12-Mile Brook. On the West the boundary is approximately 500 feet west of the well.
2. The Secondary Wellhead Protection District was defined by the geologist based on the photo lineaments, permeability of the soils, topographic divides and estimated maximum safe yield of well. It is an area totaling 638 acres. To the North it crosses 1-95 forming an arc whose furthest distance from I-95 is 1500 feet. To the East, it follows along Mutton Lane and Railroad Street and on the South it is around the cemetery. The western boundary is along the topographic divides West of the Central Maine Power Lines.
3. Questioning of the Wellhead Protection District Boundary. A landowner or developer may rebut the presumption that the land they wish to develop within the Wellhead Protection District in accordance with the following procedure:

- a. Agree to pay the fee of a hydrogeologist consultant chosen by and answerable to the Clinton Water District and Planning Board.
- b. Report to the consultant of the Water District the results of the investigation to include at least:
 - i. Several borings into surficial deposits on the sit in question to determine thickness and nature of deposits.
 - ii. Remote sensing of bedrock fractures by means of aerial imagery and geophysical surveys.
 - iii. Drilling of wells into bedrock aquifer.
 - iv. Arranging with the Water District to pump the Tapley Well while monitoring water levels at the well or wells located on the site.
 - v. Provide the Trustees of the Water District and the Planning Board with the findings of the investigation.
 - vi. Zoning changes can only be made by Town Meeting after a public hearing.

C. LAND USES

1. The following activities are strictly regulated in the Wellhead Protection District:

Industrial

Waste processing for resource recovery

Scrap metal recycling
Auto Salvage, junkyards

Outdoor unprotected storage of chemicals

Underground storage of petroleum products, coals or chemicals

Road salt storage

Textile mill or apparel processing

Lumber and wood veneer, production and preserving

Paper Manufacturing

Industrial machinery cleaning or repair

Mining, including gravel mining
Common burrow
Top Soil

Commercial

New or used car dealers

Gasoline service stations

Recreational vehicle dealers

Fuel oil dealers

Dry cleaning plants

Printing and Publishing

Miscellaneous

Stump dumps

Airports

Chemicals or biological laboratories

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- a. The above-described activities or uses are absolutely prohibited within the Primary Wellhead Protection District.
- b. There is a legal presumption that the above-described activities or uses are prohibited within the Secondary Wellhead Protection District, which is rebuttable by the procedure and proofs required herein below.

i. Applicant's Burden of Proof:

In order to rebut the presumption of prohibition, for a proposed use or activity within the Secondary Wellhead Protection District otherwise prohibited by Subsection C. (i) hereinabove, the applicant must petition and prove to the Planning Board, by clear and convincing evidence, that such a proposed use will not be a potential threat to the quality of the Tapley Well aquifer. The proposed use of activity must also be proven by the applicant to conform with the criteria and standards set forth in the Land Use Ordinance, Section 5.G. The burden of proof is upon the applicant to rebut the prohibition for such proposed use of activity.

ii. Petition to Planning Board:

The applicant must petition the PLANNING BOARD for its finding and determination that the said prohibition is not applicable to the proposed use or activity. The PLANNING BOARD shall set a public hearing on a petition filed under this Subsection upon its preliminary finding that such use or activity is deemed prohibited with the Wellhead Protection District. The public hearing shall be scheduled within sixty (60) days of the Board's receipt of a petition and site review

application containing full and complete information required by this Ordinance. In addition to the other information required by the Board in the site review application, the applicant may be required to provide the following information:

- a. A through hydrogeological assessment of the proposed site and the contiguous area including and classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers that could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment must include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer.

- b. A complete listing, description, and classification, including toxicity ratings and including a reliable estimate of the maximum quantity of annual usage, for each and every substance which may be used, processed, created, stored, discharged, or released by the proposed use, including, but not limited to, hazardous substances, hazardous waste, special waste, toxins, petroleum, petroleum by-products, biological agents, pollutants, contaminants, and chemicals, and substances which may degrade and reconfigure, whether by natural processes or by molecular reaction with other substances present in the ground or stored or released by the proposed use. This report must contain a thorough assessment by a qualified chemical or biological engineer or expert as to the risk of contamination of the Tapley Well aquifer posed by such substances during normal operation of the proposed use as well as in the event of unforeseen discharge or release of such substances at the site. The PLANNING BOARD may require an independent assessment and evaluation by an independent chemical or biological engineer or expert, retained by the Board, with the reasonable costs of such expert services payable in advance by the applicant.

c. The following activities are deemed to be a potential threat to the quality of the Tapley well Aquifer:

1. Any commercial use of heavier than water liquids (Dense Non-Aqueous-Phase liquids – DNALPs) including, but not limited to such materials as trichloroethylene, perchloroethylene, 1,1,1-trichloroethane, creosote, poly-carbonated biphenyls (PCBs), and chlorobenzenes.
2. Underground storage of petroleum products and liquid chemicals.
3. Outdoor, barrel storage of any organic or inorganic liquid or solid chemical substances.
4. Pits, ponds and lagoons for waste storage and disposal.
5. Road salt storage.

iii. Planning Board Decision:

Within thirty (30) days from the date of the public hearing, the Planning Board shall issue its written decision upon the petition. If a petition is granted by the Board, it may impose reasonable conditions or restrictions upon the proposed use or activity to alleviate possible impact on the Wellhead aquifer. For example, the Board may set a maximum limit as to the quantity of substances used, processed, created, stored, discharged, or released. The Board may also require an applicant to provide a financial or performance guarantee for an amount adequate to cover the total costs for the installation or construction of all required improvements and remedial or safety features.

iv. Notification of Change or Modification of Use:

An approved of a use or activity under this subsection shall be limited and strictly construed according to the application filed with the Board. The applicant, or its successors, shall notify the Board prior to a change or modification of the substances used, created, processed, stored, discharged, or released by the use or activity. This notification must contain a complete listing, description, and classification,

including toxicity ratings and reliable estimate of quantity, for each substance at issue. Within thirty (30) days of receipt of such notification the Board shall determine whether the change or modification is a significant variation to the use or activity. If affirmative, then the Board shall require that a petition be submitted under this subsection with proof, by clear and convincing evidence, that such proposed change or modification will not pose a potential threat to the quality of the Wellhead aquifer. A change or modification of use shall include the increased usage of substances in excess of a maximum, allowable quantity set by the Board; and, the increased usage of substances in excess of the quantity permitted as a pre-existing non-conforming use under this Ordinance.

v. Pre-Existing Non-Conformance:

A use or activity, otherwise prohibited, which lawfully exists within the Wellhead Protection District, at the effective date of this Ordinance, shall be permitted as a pre-existing, non-conforming use under Section 2 of the Ordinance. For each such use or activity, the Planning Board shall require the filing of a complete listing, description, and classification, including toxicity ratings and quantity of annual usage, for each and every substance which is used, processed, stored, discharged, or released. The requirements of the foregoing “Notice of change or Modification of Use”, shall apply to a grandfathered use in event of a change or modification of substances and an increased quantity of usage of substances, subsequent to the effective date of this Ordinance.

vi. Penalty for Non-Compliance:

A person or entity which violates the provisions of this Ordinance, including the failure to file notification for the change or modification of use, shall be subject to a fine up to \$2,500.00 per day of violation enforced pursuant to Section 6, (F) of this Ordinance.

vii. Appeals Rights:

An aggrieved party may appeal this decision of the Planning Board under this Ordinance to the Appeals Board within thirty (30) days from the date of the written decision.

viii. Party Status of Water District:

The Planning Board shall promptly notify the

Clinton Water District, or its successors, (hereinafter called “The Water District”), of an application or petition respecting a use or activity regulated under this section, The Water District shall be made and interested party to the action, and shall be furnished with all materials and information submitted by the Petitioner. The Water District shall be entitled to present evidence to the Board at any hearing conducted upon petition. Upon request of the Water District, the Planning Board may continue the proceeding for a reasonable time to enable the Water District to prepare expert testimony or evidence in reply to information presented by the petitioner. The Water District shall have the right to express its views to the Planning Board at any hearing; and, the Planning Board shall consider the position of the Water District prior to rendering its decision on the petition.

2. The following uses are allowed, (y*), provided the Planning Board reviews the activities for their impact on the Wellhead Protection District. The Planning Board may impose reasonable conditions or restrictions upon an activity or use to alleviate potential impact on the Wellhead Protection District.

Footnotes are to Special Performance Standards in section D, below.

Pipelines, pump stations*

Public sewer systems*

Home occupations *3

Agriculture*1

Golf course,

Recreational

Facilities and Parks*

Roads and parking

Lumber and hardware

lots*4

retail stores*7

Retail nurseries and

Power laundries, beauty

garden stores

Shops, photo finishing

Labs (car wash operations are OK so long as they are connected to public sewer)*5

Automobile or small
engine repair shops*2

Food processing*

Fabricated metal products* Residential*6,8
Medical, vet offices
Require hookup to public sewer system*

Electronic and electrical
Equipment repair and
Manufacture*

D. SPECIAL PERFORMANCE STANDARDS TO PROTECT THE CLINTON WELL

1. Agricultural Activities- involving tillage of more than one acre, or the spreading, disposal, or storage of manure in the Wellhead Protection District shall be conducted in accordance with Management Plan specially prepared for the farmers by the Kennebec County Soil and Water Conservation District. The use of pesticides and herbicides shall be in compliance with the rules and regulations of the Maine D. E. P., U.S. E.P.A, and Management Plan of the Kennebec County Soil and Water Conservation District.
2. Fabricated Metal: Automobile and Small Engine Repair Shops- Activities shall only be conducted on flooring impervious to the materials being used. Floor drains shall be connected to the sewers. All waste oils and spent solvents shall be stored in leak-proof containers and disposed of in a legally approved disposal or recycling facility. There shall be no underground storage of gasoline or oil.
3. Home Occupations- Applicant shall indicate any incidental use of chemicals in the occupation in the home. If the home is not on public sewer, plans for disposal of grease or chemicals shall be submitted through the Planning Board.
4. Parking Lots- Provisions shall be made to catch storm water runoff from paved parking lots. The catch basin should have provisions to either drain into a storm sewer or a grass-covered catch basin. The catch basin should be cleaned on a regular basis.
5. Power Laundries, Beauty Shops and Photo Finishing shall be allowed in areas served by sewers. All chemicals, detergents, cleaners, photo finishing substance shall be stored inside and waster products contained. Floor drains must be connected to the sewers.
6. Residential-Consistent with dimensional requirements in Section 3 of this ordinance, minimum lot size for residences with public sewers must be 7,500 square feet. Without public sewer, the minimum lot area per dwelling unit is 3 acres in the Wellheadd Protection District.

7. Retail, Hardware, Lumber, Nurseries and Garden Sales- Pesticides and fertilizers shall be stored in areas protected by a roof and adequate sides to prevent exposure to precipitation.
8. Sanitary Provisions- Any septic systems located in the Wellhead Protection District shall be inspected annually by the property owner to insure that the system is functioning properly. Property owners may request inspection by the Code Enforcement Officer or Plumbing Inspector. Malfunctioning systems shall be repaired or replaced.
9. Sewer System- The sewer pipes under the Wellhead Protection District shall be monitored for leaks annually and maintained on a regularly schedule basis.

Derivation: Town Meeting June 9, 2009

Section 3A Wellhead Protection District Requirements, Subsection C.,1-A,b.vii

Replaced the words "Kennebec County Superior Court" with "Board of Appeals".

GENERAL STANDARDS

A. ACCESS TO PROPERTY

Public or Private Road Access. Each property shall be provided with access to the property by abutting public or private ways or road. Private rights-of-way shall be protected by permanent easements. Access to backland shall be retained as land is developed according to the following requirements:

1. A thirty (30) foot wide right-of-way from a public road serving only two (2) or less dwelling units;
2. A fifty (50) foot wide right-of-way from a public road serving more than two (2) dwelling units;
3. Any right-of-way serving three (3) or more dwelling units shall be built to the road standards set forth in this Ordinance and the Town Subdivision Ordinance.

B. BUFFER STRIPS

Any residential dwelling shall be located at least 100 feet from the boundary of property upon which active farming operations are conducted.

C. EXPLOSIVE MATERIALS

No flammable or explosive liquids, solids or gases shall be stored in bulk (more than 500 gallons) above ground unless they are located at - least 75 feet from any lot line, or 40 feet for underground storage, and all materials shall be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

D. NET ACREAGE CALCULATION

The net acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:

1. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
2. Portions of the lot shown to be in a floodway as designated on the Flood Insurance Rate Map or Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.

3. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - a. slopes greater than 20%
 - b. hydric soils as defined by the U. S. Soil Conservation Service
 - c. 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board
4. Portions of the lot subject to rights of way.
5. Portions of the lot located in the Resource Protection District (Shoreland Zoning).
6. Portions of the lot covered by surface waters, other than man-made.
7. Portions of the lot utilized for storm water management facilities.

E. SA NITARY PROVISIONS

1. When not serviced by the public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.
2. Industrial or commercial waste waters may be discharged to municipal sewers only in such quantities and/or of such quality as to be compatible with municipal sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to municipal treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The disposal of industrial or commercial waste waters by means other than the municipal sewerage system shall comply with the laws of the State of Maine concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system.

F. STORAGE OF MATERIALS

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

G. OCCUPANCY

Enacted June 13, 1992

No structure shall be occupied until an occupancy permit has been received from the Code Enforcement Officer indicating that all terms and conditions of the applicable permits have been complied with and the structure has passed all applicable inspections. No residential structure may be inhabited unless equipped with an operable and approved waste disposal system and potable water supply.

SPECIFIC STANDARDS

H. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

Automobile graveyards and junkyards shall meet the following standards:

1. Permit Required No automobile junkyard shall be established, operated, or maintained without first obtaining a nontransferable permit to do so from the selectmen, which permit shall be valid only until the first day of the year following.
2. DEP Permit Prior to issuance of the Town permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from DEP stating that a permit is not required.
3. Site Considerations:
 - a. No permit shall be granted if said area is within a radius of 300 feet of any dwelling, public park, public playground, public bathing beach, school, church, or cemetery, and which is in ordinary view thereof.
 - b. No motor vehicle or material shall be located on a sand and gravel aquifer or on an aquifer recharge area, as shown in the Comprehensive Plan.
 - c. No motor vehicles or material shall be located within the 100 year flood plain, as mapped by the Federal Insurance Administration. No motor vehicles or materials shall be located within 100 feet of a wetland as defined in this Ordinance.

- d. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines. There shall be a setback of 50 feet from any abutting residential property line.

4. Operational Considerations:

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

I. CAMPGROUNDS AND TENTING GROUNDS

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

1. All camping units or structures shall be located at least 200 feet from any residence (except residences belonging to the campground owners).
2. No occupied camper, tent, or other shelter shall remain in any camp or tenting ground for a period longer than 120 days and one having occupied a space or spaces in any single campground for a consecutive period of 120 days shall not be permitted to return to the campground for at least 30 days.
3. No trailers other than recreational vehicles as defined herein shall be permitted within any camper park, temporarily or otherwise.
4. Each recreational vehicle or tent site shall contain a minimum of three thousand (3,000) square feet, not including roads and driveways, except it shall be five thousand (5,000) square feet when within two hundred and fifty (250) feet of normal high water mark of any stream or pond.
5. Each recreational vehicle, tent, or covered shelter site shall be provided with a picnic table and an adequate trash receptacle. The park management shall empty said containers as often as necessary to keep a clean environment.
6. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent sites.
7. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations.

J. CLUSTER SUBDIVISION

The cluster provisions of the Subdivision Ordinance shall apply. (Note: Cluster development is required for all new subdivisions in the Rural District, unless it is determined not to be feasible or not to offer open space advantages. There is a two-plan requirement for all other districts).

K. EXTRACTIVE ACTIVITIES

1. Any extractive industry which requires a permit from the Maine Department of Environmental Protection, under the Site Location of Development Act shall obtain written approval from the Department of Environmental Protection in addition to approval by the Planning Board under the site plan review procedures of this Ordinance. Site plan approval by the Planning Board shall be conditioned upon State approval.
2. The Planning Board may require a performance guarantee sufficient to cover the cost of rehabilitation of the site at the conclusion of operations.
3. A buffer strip of not less than one hundred (100) feet shall be maintained between the location of any extraction of materials and all property lines.
4. All areas of standing water exceeding two (2) feet in depth shall be entirely enclosed by a fence.
5. No extraction of materials shall be permitted which creates a slope steeper than two (2) feet horizontal to one (1) foot vertical.
6. Operation of equipment and extraction of materials from the site shall be permitted only Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m., and Saturday between the hours of 8:00 a.m. and 7:00 p.m.
7. Suitable traffic control measures shall be made available by the operator at all access points to public roads.
8. Upon cessation of the extraction of materials or upon the expiration of the Planning Board approval, the site shall be rehabilitated in accordance with a plan approved and endorsed by the County Soil Conservation Service and approved by the Planning Board.

L. GASOLINE SERVICE STATIONS

The following provisions shall apply to gasoline service stations as well as convenience stores which sell gasoline.

1. All structures, including underground storage tanks, shall be no less than fifty feet from any property line.
2. No commercial fuel tanks shall be located on a sand and gravel aquifer or an aquifer recharge area as shown in the Comprehensive Plan., with the following exception;
 - A. An above-ground commercial fuel tank may be permitted upon the site review of the Planning Board under Section 5 if such above-ground tank is: (i.) approved and permitted by the State Fire Marshall's Office and other applicable state agency; (ii.) not more than 1,000 gallons capacity; (iii.) a double-walled tank designed with pump/fill valves located on the top of the tank; and (iv.) installed on a concrete slab of similar frost-proof platform with the tank being sufficiently anchored to such platforms, and with sufficient guard rails or posts for the protection against vehicular collision; provided, however, that the Planning Board may require a containment structure or design, including a concrete containment barrier with the capacity to contain 110% of the fuel tank capacity, upon review of: (1.) specific design of the proposed fuel tank, (2.) the specific soils, topography, surface waters, or similar features of the land upon which the fuel tank is to be sited, and (3.) the proximity of the fuel tank site to the boundaries of a Shoreland Zone.
3. Points of ingress and egress shall be located not less than fifty feet from the nearest intersecting roads, measured along the road center line.

M. HOME OCCUPATIONS

1. Permitted home occupations shall be carried out without altering the residential character of the structure or neighborhood or changing the character of the lot from its principal use as a residence.
2. A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.
3. The Performance Standards of this Ordinance shall apply.
4. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

N. KENNELS AND VETERINARY HOSPITALS

1. All pens, runs, or kennels and other facilities shall be designed, constructed, and located on the site to minimize the adverse effects upon the surrounding properties, and in no case less than 100 feet from all property lines.
2. The owner or operator of a kennel shall maintain the premises so that no garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
3. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be 100 feet from all property lines.
4. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement asphalt or a similar material to provide for cleanliness and ease of maintenance.
5. Any incineration device for burning excrement- papers and/or animal organs or remains shall be located a minimum distance of 250 feet from nearest residence other than the applicant's, and shall have a chimney vent not less than 35 feet nor more than 50 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator.

O. INDUSTRIAL FACILITIES AND RELATED USES

1. All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the residential area.
2. All other yards abutting or across a road from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.
3. Access points from a public road to industrial operations shall be so located as to minimize traffic congestion and to avoid directing traffic onto roads of a primarily residential character.
4. All materials including wastes shall be stored, and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

P. MOBILE HOME PARK STANDARDS

1. Compliance with Laws and Ordinances

Except as stipulated below, mobile home parks shall comply with all State laws and Town ordinances. All proposed mobile home parks consisting of 3 or more units shall be submitted to the Planning Board for review as a subdivision and shall meet the requirements of the Subdivision Ordinance, as appropriate. (All mobile home parks must meet the two-plan requirement.)

Q. MULTI-FAMILY DEVELOPMENTS

1. Applications

All proposed multi-family construction consisting of 3 or more units shall be submitted to the Planning Board for review as a subdivision and shall meet the requirements of the Subdivision Ordinance as appropriate. Applications for approval shall include: a map of the area; dimensions, boundaries and principal elevations of the land for which approval is sought; the names of all property owners of, record within 200 feet of the proposed site and/or immediate abutters and property owners across the street or stream; building layout and general construction plans; a site plan of all driveways and parking areas proposed to be constructed; and other information which addresses all appropriate performance standards and design requirements and all appropriate factors to be considered in evaluating proposals.

2. Additional Design Requirements

- a. All multi-family dwellings shall be connected to a central water supply and distribution system. If within the Water District, at no expense to the Town, the applicant shall demonstrate by a signed letter from an authorized representative of the Water District that an adequate water supply can be provided to the development at an adequate pressure for firefighting purposes.
- b. All buildings shall be constructed according to all appropriate State building standards.
- c. All dwelling units shall have an approved smoke or fire alarm system installed pursuant to appropriate State standards.
- d. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance.

R. OFF-STREET PARKING AND LOADING

1. General

- a. Handicapped parking spaces shall be provided for places of public accommodation, as defined in Title 5 MRSA Section 4553, in accordance with the requirements of Title 5 MRSA Section 4594 (1 clearly marked space for every 25 spaces.)
- b. Entrance/exit design shall be reviewed by and be in conformance with the standards of the Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

S. RECREATIONAL FACILITY

All recreational facilities shall meet the provisions below:

1. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
2. Containers and facilities for rubbish collection and removal shall be provided.
3. Screening, buffer areas, or landscape provisions shall be built, planted, or maintained to protect adjacent residences from adverse noise, light, dust, smoke and visual impact.
4. The proposed use shall not create a traffic hazard.
5. Adequate sanitary facilities shall be provided

T. SIGNS

All signs shall comply with standards of the Maine Department of Transportation, including regulations as to design, illumination, size, and site location. No sign shall be greater than thirty-six (36) square feet in size. Signs of a greater size will require approval of the Land Use Board of Appeals as a variance.

TOWN OF CLINTON

U. Relating to Wireless Telecommunications Facility Siting

1. Section 4 (Performance Standards) of the Land Use Ordinance of the Town of Clinton is amended to add a new Subsection W to read as follows:

U. WIRELESS TELECOMMUNICATIONS FACILITIES.

1. Standards:

All Wireless Telecommunication Facilities, as defined in paragraph 2, shall meet and comply with the following standards

- a. **Setbacks.** All wireless telecommunication towers shall be setback from any existing residential lot or public building by a distance of not less than 105% of tower height. Towers, guys and accessory facilities shall meet the minimum zoning district requirements.
- b. **Building Codes & Safety Standards.** To ensure the structural integrity of telecommunications facilities, the owner shall ensure that it is designed, constructed, and maintained in conformance with industry standards and applicable federal, State, and local building, electrical, and safety codes. Unless it can be demonstrated that the tower is access secure and not a safety hazard, 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.
- c. **Lighting.** 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 of the surrounding properties and views.
- d. **Screening and Buffers.** A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
- e. **Color and Materials.** A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required by law, muted colors, earth tones, and subdued hues shall be used.
- f. **Co-Location.** A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers.

TOWN OF CLINTON

Relating to Wireless Telecommunications Facility Siting

2. Definitions:

As used in this Subsection and in Subsections C and F of Section 5, unless the context indicates otherwise, the following terms shall have the following meanings:

- a. **Alternate Tower Structure:** "Alternate Tower Structure" means clock towers, bell steeples, light poles and water towers, and similar alternate-design mounting structures.
- b. **Antenna:** "Antenna" means the system of any poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic frequency signals.
- c. **Antenna Height:** "Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is the antenna. Measurement of tower height shall include antenna, base pad, and the appurtenances and shall be measured from the finish grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- d. **Co-Location:** "Co-Location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- e. **Commercial Mobile Services:** "Commercial Mobile Services" means any mobile service that is provided for the profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by FCC regulations.
- f. **Expansion:** "Expansion" means the addition of antennas, towers, or other devices to an existing structure.
- g. **FAA:** "FAA" means the Federal Aviation Administration, or its lawful successor.
- h. **FCC:** "FCC" means the Federal Communications Commission, or its lawful successor.
- i. **Height:** "Height" means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- j. **Interconnected Services:** "Interconnected Services" means service that is interconnected with the public switched network (as such terms are defined by regulation by the FCC) or service for which a request for interconnection is pending.

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- k. **Mobile Service:** "Mobile Service" means a radio communication service conducted between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services; a mobile service which provides a regular interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile communications by eligible users over designated areas of operation; and any service for which a license is required in a personal; communications service .
- l. **Parabolic Antenna:** "Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of an electromagnetic radiation signals in a specific directional pattern.
- m. **Personal Wireless Service Facilities:** "Personal Wireless Service Facilities" means facilities for the provision of personal wireless services.
- n. **Personal Wireless Services:** "Personal Wireless Services" means commercial mobiles services, unlicensed wireless services, and common carrier wireless exchange access service.
- o. **Tower:** "Tower" means any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.
- p. **Unlicensed Services:** "Unlicensed Service" means the offering of telecommunication services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.
- q. **Wireless Telecommunications Facility:** "Wireless Telecommunications Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR) common carrier wireless exchange phone service, specialized mobile radio communications (SMR) common carrier wireless exchange access services, and personal communications service (PCS) or pager services. A wireless telecommunications facility shall not include any of the following:
 - 1. Amateur ham radio stations licensed by the FCC.
 - 2. Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.

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3. Temporary Wireless Telecommunications Facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
 4. An antenna that is an accessory to a residential dwelling unit and is less than twenty (20) feet above roof peak or less than forty-five (45) feet above ground.
3. Notice to Abutters:
1. No application for approval of a wireless telecommunications facility shall be issued unless abutting property owners have been notified by the applicant by certified mail, at least 14 days prior to initial Planning Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, place, and date of the Planning Board consideration if applicable. Public hearings may be called at the discretion of the Planning Board or CEO after notification has been given to the Board of Selectpersons.
 2. Subsection C (Classification of Projects) of Section 5 (Site Plan Review) of the, Land Use Ordinance of the Town of Clinton is amended in the second paragraph as follows:

Major developments shall include projects involving the construction or addition of 5,000 or more square feet of gross nonresidential floor area, projects involving the installation of 5,000 or more square feet of impervious surfaces, projects involving the establishment or expansion of a campground, projects involving extraction industries, construction of a new wireless telecommunication facility exceeding 75 feet in height and expansion of such existing facility that increases the existing height by more than 20 feet, or other projects requiring review which are not classified as a minor development.
 3. Subsection F (site Plan Review Application) of Section 5 (Site Plan Review) of the Land Use Ordinance of the Town of Clinton is amended in paragraph 3 to add a new subparagraph d to read as follows:
 - d. Wireless Telecommunication Facilities.

Applications for approval of wireless telecommunications facilities shall include the following additional information:

- i. Name of owner or operator of the wireless telecommunications facility and owner of property.
- ii. Date the wireless telecommunication facility was initially constructed or is proposed to be constructed.

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- iii. A description and construction detail of the wireless telecommunication facility, including: plot plan identifying location of the tower on property; dimensions of the tower; and structural supports, if any. This description shall also identify any accessory structures that are essential to operation of the telecommunication facility.
- iv. Certification that construction of the structure meets industry standards and satisfies all federal, state, and local building code requirements.
- v. Provide documentation of FCC approval and licensure.
- vi. Written evidence showing a need for a new structure and show that Co-location on an existing structure is not available.

4. Subsection 0 (Permit: Application) of Section 6 (Administration) of the Land Use Ordinance of the Town of Clinton is amended at paragraph 1 as follow:

1. **Application Requirements.** Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate officials as indicated by Sections 2 and 3 of this Ordinance. Applications for Site Plan Review must contain the required plans and related information as indicated in Section 5 of the Ordinance. Applications for approval of wireless telecommunication facilities that are not subject to approval by the Planning Board, shall be submitted to the Code Enforcement Officer and shall contain all of the information required under paragraph 3 of Subsection F of Section 5 of this ordinance.

5. The definition of "Essential Services" in Subsection B of Section 8 (Definitions) of the Land Use Ordinance of the Town of Clinton is amended as follows:

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of waste, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings; but excluding wireless telecommunication facilities that are subject to Site Plan Review under this Ordinance.

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6. Subsection B of Section 8 (Definitions) of the Land Use Ordinance of the Town of Clinton is amended at the end to add a definition of "Wireless Telecommunication Facility" to read as follows:

Wireless Telecommunications Facilities: A use or structure as defined in Section 4, Subsection H, paragraph 2 of the Ordinance. For the purpose of Section 3, Subsection C (Land Use) of this Ordinance, "Wireless Telecommunications Facility (Major)" means any such facility that is over 70 feet in height or the expansion of any such facility that increases its height by more than 20 feet, or any such facility that requires a permit by the Planning Board. "Wireless Telecommunications Facility (Minor)" means any such facility that is not "Major", and requires a permit only by the Code Enforcement Officer.

7. Subsection C (Land Uses) of Section 3 of the Land Use Ordinance of the Town of Clinton is amended to delete the term, "radio, television tower" as it appears in the table of Land Use and to insert in its place, the term **Wireless telecommunications facility (Major)** and to place that term and related district uses at the end of the listed Commercial uses (after "Wholesale Business").

** Derivation: Town Meeting Vote June 14, 2011 Section 4 Performance Standards

[Warrant Article 33]

Section R Off Street Parking and Loading: this section covered all of pages 4-9, 4-10, and part of 4-11. All language was stricken except the reference to Handicapped parking and Exit and Entrance designs – both Maine State Law guidelines/requirements.

Note to "Industrial Commercial": Medical marijuana Registered Dispensary and medical marijuana production facility land uses are classified as "manufacturing uses", which are restricted to the Industrial Commercial Zone upon site plan review approval by the Planning Board.

Section 4. "Performance Standards":

V. MEDICAL MARIJUANA

The purpose of these standards is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

(a) **Approval Process:** Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require site plan review approval of the Planning Board. In this circumstance alter means the addition of any additional caregivers, square footage, cultivation or processing capacity. The Planning Board and applicant shall follow the Application and Review Process in section 5. Notification of site walks and public hearings shall include all property owners within 1,000 linear feet, measured in a straight line from the property boundary of the proposed Dispensary or Facility. Notification of property owners shall be mailed at least 10 days before the scheduled site walk and public hearing. Applicants shall be responsible for mailing notifications to property owners to the addresses identified on a mailing list provided by the Town. In addition to other public notification requirements, the Town shall notify the Police Department and the proper State of Maine designated regulatory services prior to the public hearing on any application.

(b) **State Authorization:** Before submission of a Site Plan Review Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

(c) **Exemptions:** As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any Medical marijuana caregiver's primary year-round residence in every zone, without any requirement for land use permitting.

(d) **Performance Standards:** In addition to other requirements of this Section and related provisions of this Ordinance, the following shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility.

- (1) **Medical Marijuana Registered Dispensary limit:** There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Clinton.
- (2) **Medical Marijuana Production Facility Limit:** There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.
- (3) **Proximity limit:** Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility or Medical Marijuana Registered Dispensary is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.
- (4) **Proximity Location to other Uses:** No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground, church or adjoining property.
- (5) **Security:** Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Clinton Police Department and the Police Department finds the security measures are consistent with the State requirements.
- (6) **Outside Appearance:** No signs containing the word "Marijuana" or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisement, displays of merchandise or signs depicting the activities of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.
- (7) **Odors:** No use shall emit offensive, harmful, or noxious odors beyond the property line.

SECTION 5. SITE PLAN REVIEW

A. PURPOSE

The purpose of site plan review is to provide a level of municipal review, that would not otherwise occur, of projects that potentially could impact the Community;

B. APPLICABILITY

Site plan approval by the Planning Board in conformity with the criteria and standards of this Section, shall be required for uses in each district which specifically require site plan approval, regardless of size, and a change of use when the new use is subject to site plan review.

C. CLASSIFICATION OF PROJECTS

Projects subject to site plan review shall be divided into two (2) classes; minor developments, and major developments. Minor developments shall include those projects involving the construction or addition of less than five thousand (5,000) square feet of gross nonresidential floor area, projects involving the installation of less than 5, 000 square feet of impervious surfaces, projects involving the conversion of existing buildings or structures from one use to another use which requires site plan approval, or projects involving non-conforming structures or uses requiring review under Section 2 of this Ordinance.

Major developments shall include projects involving the construction or addition of 5, 000 or more square feet of gross nonresidential floor area, projects involving the installation of 5,000 or more square feet of impervious surfaces, projects involving the establishment or expansion of a campground, projects involving extraction industries, or other projects requiring review which are not classified as a minor development.

The Planning Board shall classify each project as a minor or major development. If the applicant is uncertain as to the classification of the project, he/she may request a determination.

D. CONTENTS OF SITE INVENTORY AND ANALYSIS

The site inventory and analysis for major developments is intended to provide both the applicant and the Planning Board with an understanding of the site and the opportunities and constraints to its use created by both the natural environment and the built environment.

The site inventory and analysis submission shall contain, at a minimum, the following information:

1. The names and addresses of the owner of record and the applicant, and of all consultants working on the project.
2. Five copies of an accurate scale plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing at a minimum:
 - a. the name of the development, north arrow, date and scale;
 - b. the boundaries of the parcel;
 - c. the topography of the site at an appropriate contour interval (2 foot to 5 foot) depending on the nature of the use and character of the site;
 - d. major natural features of the site including wetlands, streams, ponds, flood plains; groundwater aquifers. significant wildlife habitats or other important natural features;
 - e. existing restrictions or easements on the- site;
 - f. the location and size of existing utilities or improvements servicing the site;
 - g. soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.
3. Five copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
4. Five copies of a site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site 'are unsuitable for development or use, which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available, which areas of the site have development limitations (steep slopes, poor soils, wetlands, aquifers, wildlife habitat, scenic areas, flood plains, drainage, etc.) which must be addressed in the development plan, areas where there may be off-site conflicts or concerns (i.e., noise, lighting, traffic. etc.) and areas well suited to the proposed use.

5. A summary narrative of the key constraints and opportunities which need to be addressed in the development plan.

E. REVIEW OF SITE INVENTORY AND ANALYSIS

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Board. The Board shall review the submission to determine if the information provides a clear understanding of the site and the opportunities and constraints they create for its use and development. If additional information or analysis is required, the Board shall advise the applicant of this in writing. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application.

F. SITE PLAN REVIEW APPLICATION

Applications for site plan review shall be submitted on application forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer who shall forward it to the Chairman of the Planning Board. The submission shall contain at least the following exhibits and information:

1. A fully executed and signed copy of the application for development review.
2. One (1) original of all maps and drawings on durable, permanent transparency material.
3. Five (5) copies of written materials plus five (5) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report. The maps or drawings shall be at a scale sufficient to allow review of the items listed under approved criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development.
 - a. General Information
 - i. name of owner of record and address and applicant' s name and address if different.
 - ii. the name of the proposed development.
 - iii. names and addresses of all property owners within five hundred (500) feet of the edge of the property line.

- iv. sketch map showing general location of the site within the Town.
- v. boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
- vi. the tax map and lot number of the parcel or parcels.
- vii. a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right , title or interest in the property on the part of the applicant.
- viii. the name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan.

b. Existing Conditions

- i. zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
- ii. the bearings and distances of all property lines of the property to be developed and the source of this information.
- iii. location and size of any existing sewer and water mains, culverts and drains on the property to be developed and of any that will serve the development from abutting roads or land.
- iv. location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
- v. the location, dimensions and ground floor elevations of all existing buildings on the site.
- vi. the location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
- vii. location of intersecting roads or driveways within two hundred (200) feet of the site.
- viii. the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained.
- ix. the direction of existing surface water drainage across the site.

- x. the location, front view and dimensions of existing signs.
 - xi. location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- c. Proposed Development Activity
- i. the location of all building setbacks, yard sand buffers required by the this Ordinance.
 - ii. the location, dimensions, and ground flood elevations of all proposed buildings on the site.
 - iii. the location and dimensions of proposed driveways parking and loading areas, and walkways.
 - iv. the location and dimensions of all provisions for water supply and wastewater disposal.
 - v. the direction of proposed surface water drainage across the site.
 - vi. location, front view, and dimensions of proposed signs.
 - vii. location and type of exterior lighting.
 - viii. proposed landscaping and buffering.
 - ix. copies of applicable State approvals and permits, provided however, that the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.
 - x. a schedule of construction, including anticipated beginning and completion dates.

Space shall be provided on the plan for the signatures of the Planning Board and date together with the following words, "Approved: Town of Clinton Planning Board."

4. Major Developments. Applications for major developments shall include the following additional information:
- a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as - the Planning Board may determine.
 - b. A storm water drainage and erosion control program showing:

- i. the existing and proposed method of handling storm water run-offs.
 - ii. the direction of flow of the run-off through the use of arrows.
 - iii. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
 - iv. engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - v. methods of controlling erosion and sedimentation during and after construction.
- c. A groundwater impact analysis prepared by a ground-water hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2, 000) gallons per day.
 - d. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
 - e. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs, and other plants to be planted on the site.
 - f. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
 - g. If applicable, a written statement from the Utility District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows.
 - h. The location, width, typical cross-section, grade and profiles of all proposed streets and sidewalks.
 - i. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.
 - j. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until they are accepted by the Town.

- k. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.
 - l. Written offers of dedication or conveyance to the Town, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.
 - m. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and interest in financing the project.
5. A narrative and/or plan describing how the proposed development scheme relates to site inventory and analysis if the application is for a major development.

6. The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable" or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town.

G. CRITERIA AND STANDARDS

The following criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan approval. The standards are not intended to discourage creativity, invention and innovation. The Planning Board may waive the criteria presented in this section upon a determination by the Planning Board that the criteria are not applicable to the proposed action or upon a determination by the Planning Board that the application of these criteria are not necessary to carry out the intent of this Ordinance. The Planning Board shall approve the site plan unless the plan does not meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Planning Board.

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

Environmentally sensitive areas such as wetlands, slopes greater than 20 percent, flood plains and unique natural features shall be maintained as open space. Natural drainage areas shall be preserved to the maximum extent.

2. **Access to the Site.** Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. The determination of level of service shall be based on the Highway Capacity Manual, Special Report 209, published by the Research Board, National Research Council, Washington, D.C., 1985. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current level of service.

The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

- a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
 - b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.
3. **Access into the Site.** Vehicular access into the development shall provide for safe and convenient access.
 - a. Any exit driveway or proposed street shall be so designed as to provide a minimum sight distance of ten times the posted speed limit in each direction, as measured from the point at which the driveway or street meets the public or private right-of-way.
 - b. points of access shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.

- c. The grade or any exit driveway or proposed street for a distance of one hundred feet from its intersection with any existing street shall be a maximum of three (3) percent.
 - d. The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which will allow safe access into and out of the project if less than four hundred (400) trips are generated.
 - e. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.
4. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.
- a. Nonresidential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.
 - b. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
 - c. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.
 - d. All streets and access ways shall be designed to follow the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
5. Pedestrian Circulation. The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.
6. Environmental Standards. The site plan shall be designed in accordance with applicable standards designed to protect the environment.

- a. Site Preparation. Appropriate fill shall be used.
- b. Conservation, erosion and sediment control. The following measures shall be included where applicable as part of any site plan review and approval.
 - (1) Stripping of vegetation, re-grading or other development shall be done in such a way as to minimize erosion.
 - (2) Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with the topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
 - (3) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
 - (4) Disturbed soils shall be stabilized as quickly as practicable.
 - (5) Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
 - (6) The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
 - (7) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
 - (8) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
 - (9) Any activity on a stream, watercourse or swale or upon a floodway or right-of-way shall comply with the State's Natural Resources Protection Act, Title 38 M.R.S.A. Sections 480A-480S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
 - (10) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

c. Site Conditions

- (1) During construction, the site shall be maintained and left each day in a safe and sanitary manner. The site area shall be regularly sprayed to control dust from construction activity.
- (2) Developed areas shall be cleared "of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request and to the satisfaction of the Code Enforcement Officer.
- (3) Changes in elevation. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

7. Open Space

- a. Common open space areas shall be contiguous, where possible.
- b. Common open spaces as shown on any approved development plan shall contain a notation that common open space areas shall not be further developed for any other use.
- c. When reviewing the location and type of open space designated in an application, the Planning Board shall require:
 - (1) Individual lots, buildings, streets, and parking areas shall be designed and situated:
 - (a) to minimize alterations of the natural site;
 - (b) to avoid the adverse effects of shadows, noise and traffic on the residents of the site;
 - (c) to relate to surrounding properties, to improve the view from and of buildings.
 - (2) Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.

- (3) Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).
 - (4) Open space intended for recreation or public use shall be determined by the size, shape, topographic, graphic and location requirements of the site.
8. Relation of Proposed Buildings to Environment. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimal adverse effect on the environmental and aesthetic qualities of the developed and neighboring areas.
9. Surface Water Drainage. Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five year storm frequency. Emphasis shall be placed on the protection of flood plains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.
10. Groundwater Protection. The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.
11. Water Supply. The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.
12. Sewerage Disposal. A sanitary sewer system shall, be installed at the expense of the developer, or, if in the opinion of the Planning Board, service by a sanitary sewer system is not feasible, the Board may allow individual underground waste disposal systems to be used.

- a. Upstream sewage flows shall be accommodated by an adequately sized system through the proposed development for existing conditions and potential development in the upstream area or areas tributary to the proposed development.
 - b. All individual on-site systems shall be designed by a licensed soil evaluator in full compliance with the Maine State Plumbing Code, as amended. Upon the recommendation of the Local Plumbing Inspector, the Planning Board may require the location on the individual lots of reserve areas for replacement systems.
13. Utilities. Any utility installations above ground shall be located so as not to be unsightly or hazardous to the public and shall be landscaped or otherwise buffered so as to screen the components from public view.
14. Advertising Features. The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.
15. Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
16. Exterior Lighting. All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.
17. Emergency Vehicle Access. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
18. Landscaping. Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

19. Waste Disposal. The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.
 - a. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
 - b. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

SECTION 6. ADMINISTRATION, ENFORCEMENT AND PENALTIES

A. ADMINISTERING BODIES AND AGENTS

1. Code Enforcement Officer

- a) Appointment. A Code Enforcement Officer shall be appointed or reappointed annually within one week after the annual Town Meeting.
- b) Powers and Duties The Code Enforcement, Officer shall have the following powers and duties:
 - i. Enforce the provisions of this Ordinance.
 - ii. Act upon building, construction and use applications, refer permits requiring site plan approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals.
 - iii. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent, to inspect the property or building for compliance with this Ordinance.
 - iv. Investigate complaints and reported violations and issue violation notices.
 - v. Keep written inspection reports and thorough records.
 - vi. Participate in appeals procedures and appear in court when necessary.
 - vii. Revoke a permit after notice and hearing if it was issued in error or if it was based on erroneous information.

2. Planning Board

The Planning Board shall be responsible for reviewing and acting upon applications for Site Plan Review approval. Following approval, applicants shall return to the Code Enforcement Officer for a building permit.

3. Board of Appeals

The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Section 7.

B. PERMITS REQUIRED

After the effective date of this Ordinance no person shall, without first obtaining a permit engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

1. Building Permit. A building permit shall be obtained from the Code Enforcement Officer for uses which are listed as permitted uses in Section 3 of this Ordinance.
2. Site Plan Review Permit. Site plan review approval shall be obtained from the Planning Board for all uses which are listed as uses requiring site plan approval in Section 2 and Section 3 of this Ordinance.
3. Plumbing Permit (When applicable)

C. PERMIT APPLICATION

1. Application Requirements Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate officials as indicated by Sections 2 and 3 of this Ordinance. Applications for Site Plan Review must contain the required plans and related information as indicated in Section 5 of this Ordinance.
2. Authorization. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
3. Date All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. Plumbing Permit. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
5. Application Fee.

A fee is payable with application for a Building/Land Use Permit or with application for a Site Review. See page 6-6 for the current fee structures.

All land use permit fees shall be amended by the municipal officer (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers

(Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land-use fees at any properly warned public hearing.

D. PROCEDURE FOR ADMINISTERING PERMITS

1. Preliminary Procedure for Site Plan Review.

- a. Pre-Application Meeting Applicants are encouraged to schedule a meeting with the Planning Board, prior to a formal submission for review, so as to discuss their plans and gain an understanding of the review procedures, requirements, and standards. The Planning Board may waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project.
- b. Commercial/Industrial Projects For commercial/ industrial projects, applications for site plan approval shall not be submitted until a site inventory and analysis, as is required in Section 5D of this Ordinance, is first submitted to the Code Enforcement Officer and reviewed by the Planning Board. The Planning Board shall act on the completeness of the site plan inventory and analysis within 30 days of its receipt.

2. Determination of Complete Application Within 30 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 2 or Section 3, shall notify the applicant in writing either that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.

3. Public Hearing. If a public hearing is held, it shall be held within 30 days of the date of acceptance of the complete application.

4. Timing of Actions The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 30 days of a public hearing, or if no public hearing is held, within 30 days of the date of acceptance of the application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 30 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 30 days of the public hearing, if one is held or following acceptance of the complete application, if no hearing is held.

5. Professional Review

- a. Professional Services. The Planning Board may require that an expert consultant or consultants review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance, and advise if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant.
 - b. Additional Studies The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.
6. Financial Guarantee. The Planning Board may require the posting, prior to final approval of any plan, of a bond or escrow agreement in such amount as is approved by the Board as being reasonably necessary to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Board and Town Selectmen. The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.
7. Conditions. The Planning Board may attach reasonable conditions to Site Plan approvals to ensure conformity with the standards and criteria of this Ordinance.
8. Burden of Proof. The applicant shall have the burden of proving that a proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

E. EXPIRATION OF PERMIT

Following the issuance of a permit, if no substantial start is made in construction or in use of the property within one year of the date of the permit, the permit shall lapse and become void.

F. ENFORCEMENT

1. Enforcement Procedure

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

2. Legal Action

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

3. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452.

G. Fees

As of June 14, 2011: A fee of \$5.00 is payable with application for a Building/Land Use Permit or with application for a Site Review.

** Derivation: Town Meeting Vote June 14, 2011 [*Warrant Article 34*]

SECTION 6. ADMINISTRATION, ENFORCEMENT AND PENALTIES

The wording on page 6-2, section C, subsection 5 was changed to read:

“A fee is payable with application for a Building/Land Use Permit or with application for a Site Review. See page 6-6 for the current fee structure.”

and the following language was added “All land use permit fees shall be amended by the municipal officers (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers (Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land use fees at any properly warned public hearing.”

SECTION 7. APPEALS

A. APPOINTMENT AND COMPOSITION

1. The Municipal Officers shall appoint members of the Board of Appeals.
2. The Board shall consist of five (5) members serving staggered terms of three (3) years, plus two alternates for a term of one year each.
3. The Board shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record.

B. POWERS AND DUTIES

1. Administrative Appeals

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.

2. Variance Appeals

To authorize variances upon appeal, within the limitations set forth in this Ordinance.

- a. Variances may be granted only from dimensional requirements including frontage, lot area, lot width, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - ii. The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

- aa. That the land in question cannot yield a reasonable return unless a variance is granted;
 - bb. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - cc. That the granting of a variance will not alter the essential character of the locality; and
 - dd. That the hardship is not the result of action taken by the applicant or a prior owner.
- iii. A variance cannot be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent districts.
- d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions posed.
- e. If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within 30 days of the final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this provision.

C. APPEAL PROCEDURE

1. Time Limit

The administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.

2. Written Notice

Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- a. A concise written statement indicating what relief is requested and why it should be granted.
- b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.

3. Record of Case

Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

4. Public Hearing

The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

5. Decision by Board of Appeals

- a. Quorum A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. Majority Vote The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, remand the matter to the Code Enforcement Officer or the Planning Board, or to decide in favor of the applicant on any matter which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.
- c. Burden of Proof The person filing the appeal shall have the burden of proof.
- d. Action on Appeal Following the public hearing on an appeal, the board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer or Planning Board. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. when errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer or Planning Board for correction.

- e. Time Frame. The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - f. Findings. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.
6. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws within thirty (30) days from the date of any decision of the Board of Appeals.
7. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

SECTION 8. DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

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

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

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

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

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

The word "building" includes the word "structure".

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

The words "Town" or "municipality" means the Town of Clinton, Maine.

B. DEFINITIONS:

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

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

Accessory Use or Structure: A use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

Agriculture: The cultivation of soil, producing or raising crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof, but these two terms, when used alone, shall refer specifically to a place where flowers, plants, shrubs, and/or trees are grown for sale.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

Aggrieved Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

Animal Breeding or Care: The keeping or raising of four or more animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Automobile Body Shop: A business establishment engaged in general repair, engine rebuilding, or parts replacement.

Automobile Graveyard, Junkyard: A yard, field, or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing autobody repair work for the purpose of making repairs to render a motor vehicle serviceable, for 3 or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in Title 29, Section 1, Subsection 7, or parts thereof.

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

Boarding, Lodging Facility: Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

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

Building: Any 3 dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, parking lots, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

Business and Professional Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operation.

Campground: Land upon which one or more tents are erected or trailers are parked for temporary use for a fee on sites arranged specifically for that purpose.

Cemetery: Property used for the interring of the dead.

Church: A building or structure, or group of buildings or structures; designed, primarily intended and used for the conduct of religious services, excluding school.

Civic Convention Center: A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

Club: Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Cluster Development: A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this Ordinance.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming pools etc., but not including bowling alleys or amusement centers, as defined herein.

Commercial School: An institution which is operated for profit, but is not authorized by the State to award baccalaureate or high degrees, which offers classes in various skills, trades, professions, or fields of knowledge.

Commercial Use: Any activity carried out for pecuniary gain.

Community Center: A building which provides a meeting place for local, non-profit community organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a business.

Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Day Care: Homes and Centers licensed as such by the Maine Department of Human Services.

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

Development: Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

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

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

1. Single-Family Dwelling - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. Two-Family Dwelling - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. Multi-Family Dwellings - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
4. Dwelling Unit - A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings.

Extractive Industries: The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation of material incidental to and at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one year period.

Family: One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

Filling: Depositing or dumping any matter on or into the ground or water.

Flood: A temporary rise in stream flow or tidal surge that results in water overflowing its banks and inundating adjacent areas.

1. **Flood Insurance Rate Map:** The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones.
2. **Flood Plain:** The lands adjacent to a body of water which have been or may be covered by the regional flood.
3. **Regional Flood:** The maximum known flood of a body of water; either the 100 year frequency flood, where calculated, or the flood of record.
4. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Forestry: The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Frontage, Road: The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

Gasoline Service Station: Any place of business at which gasoline, other motor fuels or motor oils are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

HARDSHIP: See Undue Hardship

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

Home Occupation: An occupation or profession which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services, within the limits on number of employees established in other sections of this Ordinance.

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

Hotel/Hotel: A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soil: Soil that is saturated, flooded, or ponded long enough during the growing season to develop an aerobic conditions in the upper part.

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

- A. discarded, worn-out or junked plumbing, heating supplies, household appliances, and/or furniture;
- B. discarded, scrap, and junked lumber;
- C. old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material; and
- D. garbage dumps, waste dumps, and sanitary fills.

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

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

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

Lot, Minimum Area: The required lot area within a district for a single use. The lot area shall be determined on the basis of the "Net Residential Acreage Calculation", contained in the Performance Standards section of this Ordinance.

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

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

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

1. **Front Lot Line:** Interior lots: the line separating the lot from a street right-of-way. Corner lot or through lot; the line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined the front lot line shall be the edge of the paved or graveled area of the road.
2. **Rear Lot Line:** The lot line opposite the front lot line.
On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

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

Lot, Shorefront: Any lot abutting a body of water that is regulated by the shoreland zoning ordinance.

Lot, Through: Any interior lot having frontages on two more or less parallel streets or rights of way or between a street and a body of water, or a right of way and a body of water, or between two bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

Lot width: The distance between the side boundaries of the lot measured at the front setback line.

Medical Marijuana Registered Dispensary limit: There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Clinton.

Medical Marijuana Production Facility Limit: There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.

Mobile Home Park: A plot of land laid out to accommodate at least two (2) mobile homes for commercial purposes.

Neighborhood "Convenience" Stores: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

Net Residential Acreage: The area of a lot or lots which is usable for determining allowable densities, as set forth in the Net Residential Acreage Calculations standard contained in the Performance Standards section of this Ordinance.

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

Non-Conforming: A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Nursing Home: A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

Odors: No use shall emit offensive, harmful, or noxious odors beyond the property line.

Outside Appearance: No signs containing the word "Marijuana" or a graphic/image of any portion of a Marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisements, displays or merchandise or signs depicting the activities of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

Permitted Use: Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

Planned Unit Development: (See Cluster Development)

Planning Board: The Planning Board of the Town of Clinton.

Qualified Manufactured Housing: Enacted June 13, 1992.

A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of manufactured housing are included. These 2 types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning, or electrical systems contained in the unit;
 - (a) This term also includes any structure which meets all the requirements of this subprogram, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the Standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and,
2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning, or electric systems contained in the unit.

B. All manufactured housing shall conform to the following criteria:

1. A pitched, shingled roof: a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excluding corrugated metal roofing material.
2. A permanent foundation: means of the following:
 - (a) a full, poured concrete or masonry foundation:

manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the Standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and,

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

B. All manufactured housing shall conform to the following criteria:

1. A pitched, shingled roof: a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excluding corrugated metal roofing material.
2. A permanent foundation: means of the following:
 - (a) a full, poured concrete or masonry foundation:
 - (b) a poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
 - (c) a reinforced, floating concrete pad for which there is an engineer's certification if it is to be placed on soil with high frost susceptibility; and,
 - (d) any foundation which, pursuant to a building code used by the Town of Clinton, is permitted for other types of single-family dwellings.
3. Exterior siding which is residential in appearance.

The above designed criteria may not be used to prevent the relocation of any manufactured housing, regardless of its date of manufacture, that is legally sited within the Town of Clinton, as of August 4, 1988.

C. This Ordinance is intended to prohibit the future installation and use of manufactured housing that is not qualified manufactured housing, including trailers, mobile homes, or similar structures. The present use(s) of such not-qualified manufactured housing is expressly a "grandfathered" use under this Ordinance, and such use(s) are subject to the provisions for "Non-Conformance", under Section 2 of the Ordinance. This Ordinance shall, in the case of ambiguity, be interpreted by the permitting authority in a manner consistent with Title 30-A M.R.S.A. 4358. This definition is applicable to Section 3, Table of Land Uses, "Manufactured Housing (Qualified)".

Recreational Vehicle: A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.

Restaurant: An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

Right-of-way: All public or private roads and streets, state and federal highways, private ways, public easements, and public land reservations for the purpose of public access, including utility rights-of-way.

Road: An existing State, county, or Town way or a street accepted or dedicated for public use by the Town of Clinton or State of Maine. The term "road" shall not include those ways which have been discontinued or abandoned.

Security: Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Clinton Police Department and the Police Department finds the security measures are consistent with the State requirements.

Setback: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 sq. ft. or more of gross floor space.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Swimming Pool: An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

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

Wetland: All coastal and freshwater wetlands. "Coastal Wetlands" are all tidal and sub-tidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or normal storm flowage at any time excepting periods of maximum storm activity. Coastal wetlands may include' portions of coastal sand dunes. Fresh water wetlands are all lands identified by the Department of Inland Fisheries and Wildlife in accordance with Title 38 M.R.S.A. Section 407A, or areas identified by the United States Environmental Protection Agency having jurisdiction under Section 404 of the Clean Water Act.

MRS Title 23, Chapter 21: MAINE TRAVELER INFORMATION SERVICES

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23 §1901. Legislative findings

The Legislature of this State makes the following findings of fact. [1981, c. 318, §1 (RPR) .]

1. Tourist industry. A large and increasing number of tourists has been coming to Maine and, as a result, the tourist industry is one of the important sources of income for Maine citizens, with an increasing number of persons directly or indirectly dependent upon the tourist industry for their livelihood.

[1981, c. 318, §1 (RPR) .]

2. Information discrimination. Very few convenient means exist in the State to provide information on available public accommodations, commercial services for the traveling public and other lawful businesses and points of scenic, historic, cultural, educational and religious interest. Provision of those facilities can be a major factor in encouraging the development of the tourist industry in Maine.

[1981, c. 318, §1 (RPR) .]

3. Scenic resources. Scenic resources of great value are distributed throughout the State, and have contributed greatly to its economic development by attracting tourists, permanent and part-time residents and new industries and cultural facilities.

[1981, c. 318, §1 (RPR) .]

4. Preservation of scenic resources. The scattering of outdoor advertising throughout the State is detrimental to the preservation of those scenic resources, and so to the economic base of the State, and is also not an effective method of providing information to tourists about available facilities.

[1981, c. 318, §1 (RPR) .]

5. Proliferation of outdoor advertising. The proliferation in number, size and manner of outdoor advertising is hazardous to highway users.

[1981, c. 318, §1 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR) .

23 §1902. Policy and purposes

To promote the public health, safety, economic development and other aspects of the general welfare, it is in the public interest to provide tourists and travelers with information and guidance concerning public accommodations, facilities, commercial services and other businesses and points of scenic, cultural, historic, educational, recreational and religious interest. To provide this information and guidance, it is the policy of the State and the purpose of this chapter to: [1981, c. 318, §1 (RPR) .]

1. Official information centers; signs. Establish and maintain official information centers and a system of official business directional signs;

[1981, c. 318, §1 (RPR) .]

2. Information publications. Provide official directories, guidebooks, maps and other tourist and traveler information publications;

[1981, c. 318, §1 (RPR) .]

3. Control outdoor advertising. Prohibit and control the indiscriminate use of outdoor advertising; and

[1981, c. 318, §1 (RPR) .]

4. Protection of scenic beauty. Enhance and protect the natural scenic beauty of the State.

[1981, c. 318, §1 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

23 §1903. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [1981, c. 318, §1 (RPR).]

1. Commissioner. "Commissioner" means the Commissioner of Transportation.

[1981, c. 318, §1 (RPR) .]

1-A. Controlled access highway. "Controlled access highway" means a highway to which, in the interest of safety and efficiency of operation, abutting property owners have no right of direct access and on which the type and location of all access connections are determined and controlled by the department.

[1993, c. 516, §1 (NEW) .]

1-B. Controlled access bypass. "Controlled access bypass" means a highway designed to bypass an existing business district and meeting the definition of a controlled access highway.

[1993, c. 516, §1 (NEW) .]

1-C. Agricultural product. "Agricultural product" means an item under paragraph A, B, C or D if the item is sold in accordance with any applicable state or federal law or rule:

A. Fresh fruit, fresh produce or a fresh horticultural or agronomic commodity and a seasonal product made from that fresh fruit, fresh produce or fresh horticultural or agronomic commodity; [1997, c. 635, §1 (NEW) .]

B. Trees and wreaths used for decorative purposes; [1997, c. 635, §1 (NEW) .]

C. Maple syrup; and [1997, c. 635, §1 (NEW) .]

D. A fresh food product made from an animal raised for the purpose of providing food or from the products of that animal. [1997, c. 635, §1 (NEW) .]

[1997, c. 635, §1 (NEW) .]

2. Erect. "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish.

[1981, c. 318, §1 (RPR) .]

3. Interstate system or interstate highway. "Interstate system" or "interstate highway" means any state highway which is or does become part of the national system of interstate or defense highways, as described in the United States Code, Title 23, section 103(d) and amendments thereto or replacements thereof.

[1981, c. 318, §1 (RPR) .]

4. Logo. "Logo" means a single or multicolored symbol or design used by a business as a means of identifying its products or services.

[1981, c. 318, §1 (RPR) .]

5. Maintain. "Maintain" means to allow to exist.

[1981, c. 318, §1 (RPR) .]

6. Motor vehicle. "Motor vehicle" means a self-propelled vehicle capable of legal operation on the traveled portion of the state highways.

[1981, c. 318, §1 (RPR) .]

7. Official business directional sign. "Official business directional sign" means a sign erected and maintained in accordance with this chapter, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and points of scenic, historical, cultural, recreational, educational and religious interest. Other information may be displayed by means of logos authorized pursuant to section 1910.

[1981, c. 318, §1 (RPR) .]

8. On-premise sign. "On-premise sign" means a sign which is erected and maintained according to the standards set forth in section 1914 upon the same real property that the business, facility or point of interest is located or an approach sign as permitted by section 1914, subsection 10. The signs shall only advertise the business, facility or point of interest conducted thereon or the sale, rent or lease of the property upon which it is located.

[1981, c. 318, §1 (RPR) .]

9. Person. "Person" means an individual, corporation, joint venture, partnership or any other legal entity.

[1981, c. 318, §1 (RPR) .]

10. Primary system or primary highway. "Primary system" or "primary highway" means any state highway which is or does become part of the federal aid primary system, as described in the United States Code, Title 23, section 103(b) and amendments thereto and replacement thereof.

[1981, c. 318, §1 (RPR) .]

10-A. Private way. "Private way" means a private road, driveway or public easement as defined in section 3021.

[1981, c. 318, §1 (RPR) .]

10-B. Producer. "Producer" means a person who produces, cultivates, grows or harvests an agricultural product.

[1997, c. 635, §1 (NEW) .]

11. Public way. "Public way" means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

[1981, c. 318, §1 (RPR) .]

12. Residential directional sign.

[1981, c. 576, §1 (RP) .]

13. Secondary system or secondary highway. "Secondary system" or "secondary highway" means any state highway, but which is not part of the interstate or primary systems.

[1981, c. 318, §1 (RPR) .]

14. Sign. "Sign" means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include frames.

[1981, c. 318, §1 (RPR) .]

15. State highway or highway. "State highway" or "highway" means any public way which is so designated by this Title, including interstate, primary and secondary highways.

[1981, c. 318, §1 (RPR) .]

16. Traffic control sign or device. "Traffic control sign or device" means an official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way and these signs shall be exempt from the requirements of this chapter.

[1981, c. 318, §1 (RPR) .]

17. Visible. "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

[1981, c. 318, §1 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §§2-4 (AMD). 1981, c. 576, §1 (AMD). 1981, c. 318, §1 (RPR). 1993, c. 516, §1 (AMD). 1997, c. 635, §1 (AMD).

23 §1904. Travel Information Advisory Council

1. Creation. The Travel Information Advisory Council, established by Title 5, section 12004-I, subsection 86, shall advise the commissioner with respect to the administration of this chapter. The commissioner shall cooperate with the council by providing necessary assistance.

[1989, c. 503, Pt. B, §99 (AMD) .]

2. Powers and duties. The Travel Information Advisory Council shall advise the commissioner on rules relating to the determination of location, size, color and lettering for official business directional signs and on all other matters necessary and appropriate for the administration of this chapter.

[1981, c. 318, §1 (RPR) .]

3. Membership. The Travel Information Advisory Council is composed as follows.

A. Nine members are appointed by the Governor as follows:

- (1) One representative of the lodging industry;
- (2) One representative of the restaurant industry;
- (3) One representative of garden clubs;
- (4) One representative of agriculture;
- (5) One representative of the recreation industry;
- (6) One representative of environmental organizations;
- (7) One representative of nonprofit historical and cultural institutions;
- (8) One representative of sign designers and fabrication artisans; and
- (9) One representative of the general public.

These members are appointed to 2-year terms of office expiring on January 16th, with the terms of those members appointed under subparagraphs (1), (2), (3) and (4) expiring in odd-numbered years and the terms of those members appointed under subparagraphs (5), (6), (7), (8) and (9) expiring in even-numbered years. [1991, c. 548, Pt. B, §2 (RPR) .]

B. [1999, c. 152, Pt. F, §1 (RP) .]

C. [1991, c. 548, Pt. B, §2 (RP) .]

D. [1991, c. 548, Pt. B, §2 (RP) .]

E. [1991, c. 548, Pt. B, §2 (RP) .]

F. [1991, c. 548, Pt. B, §2 (RP) .]

G. [1991, c. 548, Pt. B, §2 (RP) .]

H. [1991, c. 548, Pt. B, §2 (RP) .]

I. [1991, c. 548, Pt. B, §2 (RP) .]

J. [1991, c. 548, Pt. B, §2 (RP) .]

K. [1991, c. 548, Pt. B, §2 (RP) .]

If a vacancy occurs prior to the expiration of a term of any member, including legislative members, that vacancy must be filled by the appointing authority as provided in this subsection for the remainder of that term.

[1999, c. 152, Pt. F, §1 (AMD) .]

4. Meetings and compensation. Meetings must be held at the call of the chair or at the call of more than 1/2 of the membership. Members of the council, except state employees, are entitled to compensation according to the provisions of Title 5, chapter 379. All council expenses must be paid from the account established by section 1919.

[1989, c. 735, §2 (NEW) .]

5. Chair. The Governor shall appoint the chair of the council.

[1989, c. 735, §2 (NEW) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 576, §2 (AMD). 1981, c. 318, §1 (RPR). 1983, c. 812, §§140,141 (AMD). 1989, c. 503, §B99 (AMD). 1989, c. 735, §S1,2 (AMD). 1991, c. 548, §B2 (AMD). 1999, c. 152, §F1 (AMD).

23 §1905. Official tourist information centers

To the extent funds are available or contracts can be entered into, the commissioner shall establish official tourist information centers near the principal entrance points into the State, as determined by the commissioner, with the advice and recommendation of the Director of the State Development Office, and at such other locations as the commissioner deems appropriate in order to provide information about public accommodations, facilities, commercial services and other businesses for the traveling public, and points of scenic, historic, cultural, recreational, educational and religious interest. [1983, c. 477, Pt. 26, §6 (AMD).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR). 1983, c. 477, §§E,26,6 (AMD).

23 §1906. Official business directional signs

1. Erection and maintenance. The commissioner, with the advice of the Travel Information Advisory Council, shall designate locations for and erect official business directional signs licensed under this chapter. The official business directional signs shall be furnished and preserved by the applicant thereafter and shall conform to regulations issued by the commissioner with the advice of the Travel Information Advisory Council. Such regulations shall be consistent with section 1910.

[1981, c. 318, §1 (RPR) .]

2. Agreements with municipalities. The commissioner may:

A. Enter into contractual or other arrangements with any municipality of this State providing for the erection of official business directional signs distinctive to that municipality upon finding that:

- (1) The municipality has in effect an ordinance or regulation establishing a mandatory program of distinctive official business directional signs;
 - (2) The ordinance or regulation is administrable and enforceable and will be properly administered and enforced; and
 - (3) The ordinance or regulation is consistent with the policy and purposes of this chapter; and
- [1981, c. 576, §3 (NEW).]

B. Contract or arrange with any municipality for administration by that municipality within its boundaries of any appropriate matter under this chapter. Any contract or arrangement made under this paragraph and any action taken pursuant to it shall comply with the policy and purposes of this chapter. [1981, c. 576, §3 (NEW).]

Whenever any of the conditions set forth in this subsection are no longer being met, the commissioner shall promptly resume the administration of the official business directional sign program under this chapter. The commissioner shall provide written notice of his action to the municipality and may require nonconforming signs to be removed immediately.

[1981, c. 576, §3 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 576, §3 (AMD). 1981, c. 318, §1 (RPR).

23 §1907. Published information

(REPEALED)

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR). 1983, c. 477, §§E,26,7 (RP).

23 §1908. Regulation of outdoor advertising

No person may erect or maintain signs visible to the traveling public from a public way except as provided in this chapter. [1981, c. 318, §1 (RPR).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

23 §1909. Eligibility for official business directional signs

Lawful businesses and points of interest and cultural, historic, recreational, educational and religious facilities are eligible for official business directional signs, subject to this chapter and to rules promulgated by the commissioner with the advice of the Travel Information Advisory Council, and to any federal law, rule or regulation affecting the allocation of federal highway funds or other funds to or for the benefit of the State or any agency or subdivision thereof. [1981, c. 318, §1 (RPR).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

23 §1910. Types and arrangements of signs

Subject to this chapter, the commissioner, with the advice of the Travel Information Advisory Council, shall regulate the size, shape, color, lighting, manner of display and lettering of official business directional signs. A symbol may be specified for each type of eligible service of facility for inclusion upon official business directional signs. [1981, c. 576, §4 (AMD).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §5 (AMD). 1981, c. 576, §4 (AMD). 1981, c. 318, §1 (RPR).

23 §1911. Number and location of signs

1. Location limited. Official business directional signs shall only be located in those vicinities where the traveler must change direction from one public way to another to reach the business, facility or point of interest.

[1981, c. 318, §1 (RPR) .]

2. Number limited. Notwithstanding section 1918, the commissioner shall not issue more than 6 licenses for official business directional signs for any one place of business, facility or point of interest eligible therefor under section 1909, not more than one such official business sign shall be visible to traffic moving in any one public way leading toward the place of business, facility or point of interest nor shall any license be issued for a sign located more than 10 miles radius from the place of business, facility or point of interest.

[1981, c. 576, §5 (AMD) .]

3. Waiver of requirements. The commissioner may waive the specific requirements of this section if an applicant for a license can show unusual hardship due to conditions of topography, access or other physical characteristics.

[1981, c. 318, §1 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §6 (AMD). 1981, c. 576, §5 (AMD). 1981, c. 318, §1 (RPR).

23 §1912. Permitted locations

In adopting regulations relating to locations for official business directional signs, the commissioner shall take into consideration such factors as the effect upon highway safety, the convenience of the traveling public and the preservation of scenic beauty. [1981, c. 318, §1 (RPR).]

When appropriate, because of the number of signs at one location, the signs shall be displayed in tiers or on panels. Subject to the traffic safety regulations adopted by the commissioner for the purposes of this chapter, the commissioner shall also specify by regulation the general types of locations where such posts, signs or panels may be erected and maintained, and the size, shape, lighting and other characteristics of the panels and posts, including the locations of signs thereon. [1981, c. 318, §1 (RPR).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

23 §1912-A. Official business directional signs on controlled access highways

1. Interstate highway. Official business directional signs are not permitted within the right-of-way of the interstate highway.

[1993, c. 516, §2 (NEW) .]

2. Permitted on certain controlled access bypasses. Official business directional signs are not permitted within the right-of-way of controlled access highways except as provided in this subsection. Official business directional signs are permitted within the right-of-way of a controlled access bypass when the controlled access bypass is part of a route, as designated by its route number, that is not a controlled access highway throughout its length.

[1993, c. 516, §2 (NEW) .]

SECTION HISTORY

1993, c. 516, §2 (NEW).

23 §1912-B. Logo signs on the interstate highway system

Pursuant to rules adopted under this section, the commissioner may authorize the placement of logo signs within the right-of-way of the interstate system. A logo sign may not be larger than existing service information signs permitted on the interstate highway. Logo signs may be installed only on portions of the interstate highway that are rural in character or on certain connector highways where it is necessary to establish continuity for logo signs erected on the Maine Turnpike. A logo sign may include only logos for gas, food, lodging, camping and attractions. Applications from at least 3 qualified businesses must be approved before installation of a logo sign panel at an exit. Logos for 2 or more types of service may be displayed on the same sign panel. More than one logo sign panel may be installed at an exit only when 3 or more qualified businesses are available for each of 2 or more types of service. The number of logo sign panels at an exit may not exceed one for each type of service or a total of 5 for all types of services. Rules adopted under this section must regulate the size, shape, manner and location of logo signs and must describe the procedure for applying to the department for permission to erect a logo sign and the criteria used by the department to select among applicants. The commissioner shall establish fees for the production and placement of a logo sign and annual fees to cover the maintenance costs. [2005, c. 482, §2 (AMD).]

The commissioner, with the advice of the Travel Information Advisory Council, shall adopt rules to implement this section. Those rules may not be adopted until March 15, 1996. The commissioner shall report to the Joint Standing Committee on Transportation in January 1996 on the development of those rules. [1995, c. 416, §1 (NEW).]

SECTION HISTORY

1995, c. 416, §1 (NEW). 1995, c. 663, §1 (AMD). 2005, c. 482, §2 (AMD).

23 §1913. Categorical signs

(REPEALED)

SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §196 (AMD). 1979, c. 477, §7 (RPR). 1981, c. 311, §§1,2 (AMD). 1981, c. 318, §2 (RP). 1981, c. 576, §6 (RP).

23 §1913-A. Categorical signs

1. Types of signs. The following signs may be erected and maintained without license or permit under this chapter as follows:

A. Signs of a duly constituted governmental body, a soil and water conservation district or regional planning district; [1981, c. 318, §3 (NEW).]

B. Signs located on or in the rolling stock of common carriers, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]

C. Signs on registered and inspected motor vehicles, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]

D. Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of motor buses; [1981, c. 318, §3 (NEW).]

E. Signs showing the place and time of service or meetings of religious and civic organizations, in the municipality or township. Each religious or civic organization may erect no more than 4 signs. No sign may exceed in size 24 inches by 30 inches; [1981, c. 318, §3 (NEW).]

F. Memorial signs or tablets; [1981, c. 318, §3 (NEW).]

G. Hand-held or similar signs not affixed to the ground or buildings; [1999, c. 152, Pt. G, §2 (AMD).]

H. Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed within the right-of-way prior to 6 weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter; and [1999, c. 152, Pt. G, §2 (AMD).]

I. Adopt-A-Highway Program signs allowed under section 1117. [1999, c. 152, Pt. G, §3 (NEW).]

[1999, c. 152, Pt. G, §§2, 3 (AMD) .]

2. Types of signs outside the right-of-way.

The following signs may be erected and maintained outside of the public right-of-way without license or permit under this chapter as follows:

A. Signs erected by a public, civic, philanthropic, charitable or religious organization announcing an auction public supper, lawn sale, campaign or drive or other like event or soliciting contributions; [1981, c. 318, §3 (NEW).]

B. Signs erected by fairs and expositions within the county where the activity is located; [1981, c. 318, §3 (NEW).]

C. Signs bearing religious messages and signs showing the time and place of services or meetings of religious and civic organizations; [1981, c. 318, §3 (NEW).]

D. Signs erected by nonprofit historical and cultural institutions. Each institution which has certified its nonprofit status with the commissioner, may erect not more than 2 signs with a surface area not to exceed 50 square feet per sign; [1991, c. 387, §1 (AMD).]

E. Signs bearing political messages; and [1991, c. 387, §1 (AMD).]

F. [1997, c. 635, §2 (RP).]

G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6. [1997, c. 635, §3 (NEW).]

[1997, c. 635, §§2, 3 (AMD) .]

3. Regulations. The commissioner may promulgate regulations and orders, including prohibitions, to protect highway safety and implement the intent of this chapter.

The signs referred to in this section shall be subject to regulation, including prohibition, as set forth in section 1922.

[1981, c. 318, §3 (NEW) .]

4. Zones. The commissioner may promulgate regulations permitting signs, including signs bearing commercial messages, in any zone or area of the State, together with regulations concerning the dimensions, construction, illumination and other characteristics of such signs if the Attorney General certifies to the commissioner that the United States Supreme Court has determined that signs in such zones or areas must be permitted.

[1981, c. 318, §3 (NEW) .]

5. Prohibited practices. None of the signs referred to in this section may be erected or maintained on any traffic control signs or devices, public utility poles or fixtures or upon any trees. None of these signs may be painted or drawn upon rocks or other natural features.

[1981, c. 318, §3 (NEW) .]

6. Interstate system. None of the signs referred to in this section, other than signs conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to section 1912-B, may be located within the right-of-way limits of the interstate system or within 660 feet of the nearest edge of the interstate system and erected in such a fashion that the message may be read from the interstate highway.

[1995, c. 416, §2 (AMD) .]

SECTION HISTORY

1981, c. 318, §3 (NEW). 1991, c. 387, §§1,2 (AMD). RR 1991, c. 2, §89 (COR). 1995, c. 416, §2 (AMD). 1997, c. 635, §§2,3 (AMD). 1999, c. 152, §§2,3 (AMD).

23 §1914. On-premise signs

1. License and permit. No license or permit may be required for an on-premise sign.

[1981, c. 318, §4 (RPR) .]

2. Number. On-premise signs on any one property shall not exceed 10 in number, except in the case of more than one business, facility or point of interest being conducted on one property, signs for each business, facility or point of interest shall not exceed 10 in number.

[1981, c. 318, §4 (RPR) .]

3. Location. On-premise signs shall be located within 1,000 feet of the principal building where the business or facility is carried on or practiced or within 1,000 feet of the point of interest. Storage areas, warehouses and other auxiliary structures and fixtures are not deemed to be buildings where the business, facility or point of interest is carried on or practiced.

[1981, c. 318, §4 (RPR) .]

4. Location, relation to public way. No on-premise signs may be permitted:

A. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;

[1981, c. 318, §4 (RPR) .]

B. Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width; or [1981, c. 318, §4 (RPR) .]

C. Within the full width of the right-of-way of any public way. [1981, c. 318, §4 (RPR) .]

Paragraphs A and B shall not apply to signs erected before September 1, 1957.

[1981, c. 318, §4 (RPR) .]

5. Interstate highways. Not more than one on-premise sign, advertising the sale or lease of the property, may be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas, which is visible therefrom.

Not more than one on-premise sign visible from any portion of the interstate system including ramps and interchange areas, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on.

No on-premise advertisement, located more than 50 feet from the principal building or structure where the business, facility or point of interest advertised is carried on, may exceed 20 feet in length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premise sign located more than 50 feet from the principal structure where the business, facility or point of interest is carried on that displays any trade name which refers to or identifies any service rendered or product sold shall display the name of the advertised business, facility or point of interest as conspicuously as such trade name.

[1981, c. 318, §4 (RPR) .]

6. On-premise signs prohibited. An on-premise sign is prohibited if it:

A. Attempts or appears to attempt to direct the movement of traffic or interferes with, imitates or resembles any official traffic sign, signal or device; [1995, c. 390, §1 (AMD) .]

B. Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic; [1981, c. 318, §4 (RPR) .]

C. Contains, includes or is illuminated by a flashing, intermittent or moving light or lights, except as provided in subsection 11-A; [2001, c. 268, §1 (AMD) .]

D. Uses lighting in any way unless the light is in the opinion of the commissioner effectively shielded to prevent beams or rays of light from being directed at any portion of the public way or is of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; or [1995, c. 390, §1 (AMD) .]

E. Moves, has any animated or moving parts or has the appearance of movement, except as provided in subsection 11-A. [2001, c. 268, §1 (AMD) .]

[2001, c. 268, §1 (AMD) .]

7. Signs erected on natural features. No on-premise sign may be permitted which is erected or maintained upon trees or painted or drawn upon rocks or other natural features.

[1981, c. 318, §4 (RPR) .]

8. Height. The maximum height of on-premise signs shall be 25 feet above the ground level of land upon which it is located or if the sign is affixed to or is part of a building, the maximum is 10 feet above the roof of the building.

[1981, c. 318, §4 (RPR) .]

9. Jurisdiction by local authority in compact areas. Except as otherwise provided in this chapter, administration of this chapter by the Department of Transportation does not apply to on-premises advertisements located in compact areas of an urban compact municipality, as defined in section 754,

the administration of which is the responsibility of local authority. In compact areas of an urban compact municipality adjacent to the interstate, the Department of Transportation is responsible for the administration of this section.

[1999, c. 473, Pt. D, §7 (AMD) .]

10. Approach signs. Any business or facility whose principal building, or a point of interest, which is located on a private way more than 1,000 feet from the nearest public way, or is not visible to traffic from the nearest public way, may erect no more than 2 approach signs with a total surface area not to exceed 100 square feet per sign. These signs are to be located outside the public right-of-way limits within 300 feet of the junction of the public and private ways.

[1981, c. 318, §4 (RPR) .]

11. Changeable signs.

[2001, c. 268, §2 (RP) .]

11-A. Changeable signs. Notwithstanding subsection 6, paragraphs C and E, changeable signs are not prohibited as long as the sign complies with all the terms of this subsection. The Department of Transportation shall administer the provisions of this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Changeable sign" means an on-premise sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.
- (2) "Display" means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.
- (3) "Lot of record" means a lot for which the deed was legally recorded, or that was created by a plan legally recorded, in the registry of deeds for the county where the lot is located. Contiguous lots of record in the same ownership are considered one lot.
- (4) "Message" means a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.
- (5) "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.
- (6) "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature. [2007, c. 124, §1 (AMD) .]

B. The display on each side of a changeable sign:

- (1) May be changed no more than once every 20 minutes, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance;
- (2) Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. Notwithstanding this subparagraph, a municipality may not adopt an ordinance that allows the sign to flash or display continuous streaming of information or video animation; and

(3) May consist of alphabetic or numeric text on a plain or colored background and may include graphic, pictorial or photographic images unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. [2007, c. 124, §2 (AMD).]

C. The display may comprise no more than 50% of the surface area of a changeable sign. [2001, c. 268, §3 (NEW).]

D. No more than one changeable sign with 2 sides is allowed per lot of record. [2001, c. 268, §3 (NEW).]

E. Changeable signs may not be located so that the message is readable from a controlled-access highway or ramp. [2001, c. 268, §3 (NEW).]

F. The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower. [2001, c. 268, §3 (NEW).]

G. Changeable message board signs existing in accordance with the requirements of former subsection 11 continue to exist if the signs:

(1) Are reasonably incapable of being modified or reprogrammed to comply with this section as amended; and

(2) Are not replaced, substantially rebuilt, reconstructed or repaired beyond routine maintenance. [2001, c. 268, §3 (NEW).]

H. The size, intensity of illumination and acceptable rate of change between the time display and the temperature display of a time and temperature sign must comply with rules, policies or guidelines adopted by the Department of Transportation. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Time and temperature signs erected prior to September 29, 1995 need not comply with those rules, policies or guidelines. [2005, c. 195, §1 (AMD).]

[2007, c. 124, §§1,2 (AMD) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §197 (AMD). 1979, c. 477, §§8-11 (AMD). 1981, c. 318, §4 (RPR). 1995, c. 390, §§1-3 (AMD). 1999, c. 123, §1 (AMD). 1999, c. 473, §D7 (AMD). 2001, c. 268, §§1-3 (AMD). 2005, c. 195, §1 (AMD). 2005, c. 482, §3 (AMD). 2007, c. 124, §§1,2 (AMD).

23 §1915. Compensation

1. Payment of compensation. Compensation shall be paid for the removal of any sign lawfully erected as of January 1, 1978, and which is visible from the interstate or primary systems, except no compensation may be paid if such sign is exempt as provided in section 1913-A and no compensation may be paid for the removal of signs subject to immediate removal pursuant to section 1924, subsection 3.

[1981, c. 318, §4 (RPR) .]

2. Procedures. The purchase, condemnation, negotiation, assessment of damage and appeal procedures must be in accordance with this section and sections 153-A to 159.

[1993, c. 536, §3 (AMD) .]

3. Acceptance of federal funds. The commissioner may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the United States Code, Title 23, section 131 and amendments thereto or replacements thereof. Any such funds will be applied to effectuate this chapter.

[1981, c. 318, §4 (RPR) .]

4. Availability of federal funds. No sign may be required to be compensated if the federal share of the compensation to be paid under this section is not available.

[1981, c. 318, §4 (RPR) .]

5. Removal pursuant to other law. Nothing in this section may provide compensation for the removal of signs which are lawfully removed pursuant to any other statute, regulation, ordinance or resolution of any governmental entity having jurisdiction.

[1981, c. 318, §4 (RPR) .]

6. Maintenance of lawfully erected signs. Any sign lawfully erected as of January 1, 1978, in accordance with section 1924, subsections 1 and 2 may be maintained until removed by the commissioner under subsection 7 or by section 1916.

[1981, c. 698, §101 (RPR) .]

7. Removal of signs for which compensation is paid. The commissioner shall remove a sign for which compensation is to be paid under this section when title to such sign is acquired by the State pursuant to section 154.

[1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §12 (AMD). 1981, c. 470, §A137 (AMD). 1981, c. 698, §101 (AMD). 1981, c. 318, §4 (RPR). 1993, c. 536, §3 (AMD).

23 §1916. Removal of signs by amortization

1. Exclusions. This section shall not apply to:

A. Signs for which compensation is paid under section 1915; [1981, c. 318, §4 (RPR).]

B. On-premise signs as provided in section 1914; [1981, c. 318, §4 (RPR).]

C. Exempt signs under section 1913-A; [1981, c. 318, §4 (RPR).]

D. Signs licensed under this chapter; [1981, c. 318, §4 (RPR).]

E. Signs to be removed under section 1917; and [1981, c. 318, §4 (RPR).]

F. Signs subject to immediate removal pursuant to section 1924, subsection 3. [1981, c. 318, §4 (RPR) .]

[1981, c. 318, §4 (RPR) .]

2. Six years amortization. Any sign lawfully erected as of January 1, 1978, may be maintained in accordance with section 1924 for 6 years after that date in order to amortize the value thereof. The owner of the sign shall remove the sign within 30 days of a receipt of a final order specified in subsection 3.

[1981, c. 318, §4 (RPR) .]

3. Procedure for notice, hearing, appeal. The procedure for notice, hearing and appeal is as follows.

A. The commissioner shall send to the sign owner notice by certified mail, return receipt requested, that a sign is to be removed pursuant to subsection 2.

Such notice shall be a final order if not appealed under paragraph B.

If the identity of such owner is not known or reasonably ascertainable by the commissioner, such notice may instead be sent to the owner of the land on which the sign is placed. [1981, c. 318, §4 (RPR) .]

B. The person owning or controlling the sign may, within 30 days of his receipt of the notice to remove, appeal the order of removal to the commissioner and receive a hearing thereon, with a record made of the hearing. The commissioner shall render a decision within 60 days of the hearing. If no appeal is taken from the commissioner's decision, it shall be a final order. Any person aggrieved by the decision of the commissioner made subsequent to the hearing may, within 30 days of the receipt of notice of such decision, appeal to the Superior Court in the county where the sign is located. The appeal shall not be de novo and shall be subject to the Maine Rules of Civil Procedure, Rule 80b. For the purposes of this section, "person aggrieved" shall include the person owning or controlling the sign and any other person who is a resident of the county where the sign is located. A final judgment of a court shall be a final order for purposes of subsection 2. [1981, c. 318, §4 (RPR) .]

[1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR) .

23 §1917. Removal of unlawful signs

1. Notice to remove. The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this chapter shall be in violation of this chapter until the sign is removed. The owner of the sign shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the commissioner. If the identity of such owner is not known or reasonably ascertainable by the commissioner, such notice may instead be sent to the owner of the land on which the sign is placed.

[1981, c. 318, §4 (RPR) .]

2. Commissioner to remove sign. If the owner fails to remove the sign as required, the commissioner shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

[1981, c. 318, §4 (RPR) .]

3. Interpretation of chapter. Nothing in this chapter may be interpreted to alter, abridge or in any way interfere with any duty or obligation of a sign owner to remove signs which were nonconforming and illegal prior to January 1, 1975, under the United States Code, Title 23, section 131, as enacted by Public Law 89-285, 89 Congress S. 2084, the "Agreement for carrying out National Policy relative to Control of Outdoor Advertising in Areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System" dated December 27, 1967, and as amended on January 3, 1968, executed by and between the United States of America and the State of Maine, under the Maine Revised Statutes, Title 32, sections 2711 to 2723.

The intent of this subsection is to preclude any presumption that this chapter is intended to extend the period of use of any sign which became nonconforming and illegal before January 1, 1975, under the state agreement of December 27, 1967, as amended January 3, 1968, and Title 32, sections 2711 to 2723.

[1981, c. 318, §4 (RPR) .]

4. Compensation subject to litigation. Whenever the compensation to be paid for removal of any sign is the subject of litigation, pending the litigation such sign shall be removed as provided in subsections 1 and 2.

[1981, c. 318, §4 (RPR) .]

5. Summary removal of illegal signs within the public right-of-way. Signs which are erected in nonconformance with this chapter and which are within the limits of any public right-of-way shall be subject to immediate removal by the commissioner.

[1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §§13-15 (AMD). 1981, c. 318, §4 (RPR).

23 §1917-A. Unlawful removal of political signs

1. Taking, defacing or disturbing political sign; civil violation. A person who takes, defaces or disturbs a lawfully placed sign bearing political messages relating to a general election, primary election or referendum commits a civil violation for which a forfeiture of up to \$250 may be adjudged.

[1989, c. 315, (NEW) .]

2. Application. This section does not apply to:

A. A person authorized by a candidate or political committee to remove signs placed by or at the direction of that candidate or political committee; and [1989, c. 315, (NEW) .]

B. The landowner, or agent of the landowner, on whose property a sign has been placed. [1989, c. 315, (NEW) .]

[1989, c. 315, (NEW) .]

SECTION HISTORY

1989, c. 315, (NEW) .

23 §1918. Applications licensing of official business directional signs

1. Submitting applications. Any person who is eligible under section 1909 for an official business directional sign may submit to the commissioner a written application therefor, on a form prescribed by the commissioner. The application shall set forth the name and address of the applicant, the name, nature and location of the business, the location where an official business directional sign is desired and such other information as the department may require. The applicant shall tender with the application the standard license fee stated in section 1919 for each sign requested.

[1981, c. 318, §4 (RPR) .]

2. Granting licenses. Following receipt of an application for an official business directional sign, the commissioner shall approve or disapprove the application. The commissioner shall not approve an application unless the requested location conforms to the regulations of the commissioner adopted pursuant to this chapter. The granting of licenses for official business directional signs on the interstate systems by the commissioner is contingent upon any requirement precedent to such approval, such as the concurrence of federal officials.

If the application is approved, the commissioner shall issue the license. If it is not approved, the commissioner shall return the application and fee, stating the reasons for refusal and giving the applicant an opportunity to correct any defects or to be heard, within 30 days, by the commissioner. Upon written request by the applicant, the commissioner shall hear the matter and notify the applicant of his findings and decision. Any person aggrieved by the decision of the commissioner may, within 30 days of receipt of the notice thereof, appeal to the Superior Court in the county where the sign is proposed to be located. The appeal shall not be de novo and shall be pursuant to the Maine Rules of Civil Procedure, Rule 80b.

[1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

23 §1919. Fees

An applicant for an official business directional sign shall pay to the commissioner an initial license fee not to exceed \$30 for each sign, and an annual renewal fee not to exceed \$30. The amount of each fee shall be determined for each year by the commissioner in advance of such year and shall approximate to the extent practicable the amount computed by dividing the cost of the administration of the official business directional sign program by the number of signs in existence in the prior licensing year. [1981, c. 318, §4 (RPR) .]

The fees so collected by the commissioner shall be deposited with the Treasurer of State and appropriated to carry out this chapter. Such funds shall not lapse but shall remain a continuing carrying account. [1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

23 §1920. Penalty

Any person, firm, corporation or other legal entity who shall erect, maintain or display a sign contrary to and in violation of this chapter, or the rules and regulations promulgated by the commissioner, shall be punished by a fine of not more than \$100 together with the cost of removal of the signs. The unlawful maintenance or display of each sign or advertising structure for any one day shall constitute a separate offense. [1981, c. 318, §4 (RPR) .]

In addition to other penalties, the commissioner may, in the name of the state, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this chapter, or any orders or the rules and regulations issued or promulgated hereunder. [1981, c. 318, §4 (RPR) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

23 §1921. Start of enforcement

To provide for the orderly implementation of this chapter, the State shall be divided by the commissioner into traveler information service areas which shall correspond to the Maine highway districts. The commissioner may implement the removal of signs for which compensation is paid on an area by area basis, provided all signs from which compensation is paid shall be removed by January 1, 1982 if federal funds are sufficient under section 1915. [1981, c. 576, §7 (AMD).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 576, §7 (AMD). 1981, c. 318, §4 (RPR).

23 §1922. Local ordinance

This chapter shall not supersede the provisions of any other statute, regulation, ordinance or resolution, the requirements of which are more strict than those of this chapter and not inconsistent therewith, whether such ordinance, bylaw, regulation, resolution or statute was enacted before or after the effective date of this chapter. It shall not be inconsistent with this chapter if such statute, regulation, ordinance or resolution prohibits official business directional signs. [1981, c. 318, §4 (RPR).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

23 §1923. Agreements with United States

The commissioner is authorized, empowered and directed to enter into agreements with the United States or its agencies and subdivisions to control signs in accordance with national standards, this chapter and the best interests of the State. Nothing in this chapter may abridge any agreements with the United States in force on the effective date of this chapter. [1981, c. 318, §4 (RPR).]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

23 §1924. License or permits under repealed Title 32, chapter 38

1. License. Any license issued pursuant to repealed Title 32, section 2713, shall remain in effect for 6 years from January 1, 1978, provided a licensee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section 2713. This subsection shall not allow the erection of any sign, pursuant to that license, after January 1, 1978, nor shall this subsection allow the maintenance of any sign removed pursuant to sections 1915 and 1916.

[1981, c. 318, §4 (RPR) .]

2. Fee permit. Any permit for which a fee is paid and which is issued pursuant to repealed Title 32, section 2714, shall remain in effect until the sign for which it is issued is removed pursuant to this chapter, provided a permittee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section 2714.

[1981, c. 318, §4 (RPR) .]

3. Existing directional signs. Upon implementation of this chapter, the commissioner may remove, or require to be removed, any existing directional sign erected and maintained pursuant to section 1153, Title 32, section 2722 prior to its repeal, and any sign erected and maintained pursuant to Title 32, section 2715 prior to its repeal, which does not qualify as an on-premise sign as defined by section 1914, or as an official business directional sign as defined by this chapter, no later than 6 years after January 1, 1978.

[1981, c. 576, §8 (AMD) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §§198-200 (AMD). 1979, c. 477, §16 (AMD). 1981, c. 576, §8 (AMD). 1981, c. 318, §4 (RPR).

23 §1925. Administration of chapter

The commissioner shall administer this chapter with the advice of the Travel Information Advisory Council. The commissioner may employ, subject to the Civil Service Law, clerical and other assistants required for the administration of this chapter. The commissioner may delegate to personnel of the Department of Transportation the authority to administer this chapter. The commissioner may promulgate rules to administer the various provisions of this chapter that are consistent with the provisions thereof. The commissioner may execute contracts and other agreements to carry out the purposes of this chapter. [1985, c. 785, Pt. B, §104 (AMD).]

1.

[1981, c. 318, §4 (RP) .]

2.

[1981, c. 318, §4 (RP) .]

SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR). 1985, c. 785, §B104 (AMD).

SUBDIVISION ORDINANCE TOWN OF CLINTON

PREPARED BY: COMPREHENSIVE PLAN
IMPLEMENTATION COMMITTEE

ASSISTED BY MAINE TOMORROW
JUNE 1992

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SUBDIVISION REGULATIONS FOR THE TOWN OF CLINTON

ARTICLE 1 - PURPOSES

To implement the State Subdivision Law, Title 30-A M.R.S.A., Sections 4401 – 4406

ARTICLE 2 - AUTHORITY AND ADMINISTRATION

2.1 Authority

This Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., Section 4403

2.2 Administrator

The Planning Board of the Town of Clinton, hereafter called the Board, shall administer this Ordinance.

2.3 Amendments

- A. This ordinance may be amended at an Annual or Special Town Meeting of the Town of Clinton.
- B. A public shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

ARTICLE 3 - DEFINITIONS

In general words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Clinton Land Use Ordinance shall have the definition contained in that Ordinance, unless defined differently below, other words and terms used herein are defined as follows:

Applicant: The person applying for subdivision approval under this Ordinance.

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

Cluster Subdivision: A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a *tract of 5 or more lots* which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission or required information. The Board shall issue a written statement to the Applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multi-family development, or if the Applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Conservation Easement: a non-fiduciary interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

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

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

Driveway: A vehicular access-way serving two dwelling units or less.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities; includes single family houses, and the units in a duplex apartment house, multi-family dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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

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

100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

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

Multi-family Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.14 C. 2.

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

On-Site Inspection: An On-Site Inspection is a visit to the proposed subdivision by the Planning Board Code Enforcement Officer and the Applicant or an authorized representative or agent.

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

Planning Board: The Planning Board of the Town of Clinton

Pre-application Sketch Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

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

Public Water System: A water supply system that provides water to at least fifteen service connections or services water to at least 25 individuals daily for at least thirty days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this Ordinance as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the Applicant for initial review prior to submitting as application for subdivision approval. May be used by the Applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

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

Subdivision: The division of a tract or parcel of land as defined by the State Division Law Title 30-A, M.R. S.A. Sections 4401-4407.

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

The Board shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who are not on the Board's agenda may be heard but only after all agenda items have been completed. However, the Board shall take no action on any application not appearing on the Board's written agenda.

ARTICLE 5 - INTRODUCTORY MEETING, PREAPPLICATION MEETING, AND SITE INSPECTION

1 PURPOSE

The purpose of the introductory meeting, pre-application meeting and on-site inspection is for the Applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soil identification, and engineering by the Applicant.

2 PROCEDURE

A. Introductory Meeting

1. At a regularly scheduled Planning Board meeting, the Applicant gives a basic idea of the proposed subdivision with or without a sketch.
2. The Board asks questions and makes suggestions.
3. The Applicant is given a copy of the Ordinance and an application.
4. The Applicant will be asked to provide to the Planning Board Secretary, the name and addresses of all abutting landowners at least ten days prior to the scheduled Pre-application meeting.
5. The Applicant's name is put on the agenda for the next Board meeting for a Pre-application meeting.
6. Any expenses incurred by the Planning Board for notification of abutting landowners will be the responsibility of the Applicant.

B. Pre-application Meeting

1. The Applicant presents the more detailed Pre-application Sketch Plan(s) and makes a presentation regarding the proposed subdivision.
2. The Board asks questions and makes suggestions to be incorporated into the application.
3. The date of the On-Site Inspection is selected.

C. On-Site Inspection

1. Within 30 days of the Pre-application meeting, the Board Code Enforcement Officer shall hold an On-Site Inspection of the property.
2. The Board Code Enforcement Officer shall inform the Applicant in writing of the required contour interval to be used on the Final Plan.
3. The Applicant may be required to place "flagging" at the center line of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the On-Site Inspection.

5.3 Submission

- A. The Pre-application Sketch Plan shall show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be free-hand penciled sketch, should be supplemented with general information to describe the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map (s). The Sketch Plan shall also be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.
- B. On a subdivision of five or more lots, the applicant shall submit two Pre-application sketch plans; a conventional subdivision plan with lots designed to meet the requirements of the Land Use Ordinance, and a clustered/open space plan showing how open space is to be preserved. The Board shall select the plan that best meets the goals of the Comprehensive Plan. The Planning Board may require that significant agricultural land and stream corridors be preserved as open space.

5.4 Rights Not Vested

The Introductory meeting, pre-application meeting, the submittal or review of the pre-application sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., Section 302.

ARTICLE 6 - PLAN APPLICATION

- A. Within six months after the on-site inspection by the Board Code Enforcement Officer submit a Complete Application for approval of a Final Plan at least ten days prior to a scheduled meeting of the Board. If the Applicant fails to submit Complete Application within the six month' period (s) he shall be required to resubmit the Sketch Plan. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. Final Plan

Within thirty days from the public hearing or within sixty days of determining a Complete Application has been submitted, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to by the Board and the Applicant, the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A M.R.S.A., Section 4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, the Board shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.

6.2 Final Approval and filing

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the Town of Clinton.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., Section 4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the Code Enforcement Officer. Any subdivision not recorded in the Kennebec County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance, by the Town of Clinton of any street, easement, recreation area or other open space shown on such plan. The Plan shall contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title dedication, and provision for the cost of grading development, equipment, and maintenance of any such dedicated area.

- E. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Kennebec County Registry of Deeds to that effect.

6.3 FEES

- A.
 - 1) A fee is payable with an application for a Subdivision. See the current fee structures in paragraph 3 below.
 - 2) All land use permit fees shall be amended by the municipal officer (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers (Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land-use fees at any properly warned public hearing.
 - 3) All applications for Subdivision approval shall be accompanied by a non-refundable application fee of \$25.00 per lot or dwelling unit, payable by check to the Town of Clinton. In addition, the Board may require that the Applicant pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for the application, to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75%, the Board shall notify the Applicant, and require that an additional \$15.00 per lot or dwelling unit be deposited by the Applicant. The Board shall continue to notify the Applicant and require an additional \$15.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the Applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- B. The Applicant, or their duly authorized representative, shall attend the meeting of the Board to present all plans. Failure to attend the meeting to present the plans shall result in delay of the Board's receipt of the plan until the next meeting which the Applicant attends.
- C. Upon receipt of an application for Subdivision approval the Board shall issue a dated receipt to the Applicant, notify in writing all owners of abutting property that an application for subdivision approval has been submitted, and notify the review authority of the neighboring municipalities if any portion of the subdivision includes or crossed the Town boundary.
- D. Within thirty days of the receipt of the application, the Board shall determine whether the application is complete and notify the Applicant in writing of its determination. If the application is not complete, the Board shall notify the Applicant of the specific additional material needed to complete the application.

- E. Upon a determination that a Complete Application has been submitted for review, the Board shall determine whether to hold a public hearing on the Application. The Board shall also notify the Road Commissioner, Fire Chief, Selectmen and other public officials, as appropriate.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a Complete Application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in Clinton at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the Applicant.

ARTICLE 7 FINAL PLANS SUBMISSION

7.1 Submissions: the Final plan application shall consist of the following items.

- A. Application form (See Appendix).
- B. Location Map. The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality.

The Location Map shall show:

- 1. Locations and names of existing and proposed streets.
 - 2. An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holding.
- C. The application for approval of a Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A, M.R.S.A., Section 4404 are met.
 - 1. Proposed name of the subdivision, plus the Assessor's Map and Lot numbers.
 - 2. Verification of right, title or interest in the property.
 - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. The date the Plan was prepared, north point, and graphic map scale.
7. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners.
8. The location of all rivers, streams, and brooks within or adjacent (within 300 feet), to the proposed subdivision.
9. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
10. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
12. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
13. Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Clinton Water District, a written statement from the District shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the District IS supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
14. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.

15. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetation cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.

16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision.

17. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100 year flood elevation, as depicted on the Town's Flood Insurance Rate Map, shall be delineated on the plan.

18. An erosion and sedimentation control plan, if required by the Board, prepared in accordance with the erosion and sedimentation control standards of the Department of Environmental Protection.

19. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife.

20. A hydro-geologic assessment, if required by the Board, prepared in accordance with the standards of the DEP.

21. A storm-water control plan, if required by the Board, prepared in accordance with the standards of the DEP.

22. In residential subdivisions of 10 or more lots, an analysis of the impact of the proposed subdivision on public facilities including roads, schools, police and fire protection, outdoor recreation, water supply, sewage disposal, and storm drainage.

D. Final Plan. The Final Subdivision Plan shall consist of two reproducible, stable based transparencies, one to be recorded at the Kennebec County Registry of Deeds, the other to be filed at the Clinton Town Office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the

plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

ARTICLE 8 - REVISIONS TO APPROVED PLANS

8.1 Procedures

An applicant for revision to a previously approved plan shall, at least ten days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedure for final plan approval shall be followed.

8.2 Submissions

The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the Kennebec County Registry of Deeds.

8.3 Scope of Review

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

9.1 Inspection of Required Improvements

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the Selectmen can cause inspection to be made to assure that all Town specification, requirements, and conditions of approval shall be met during construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Upon completion of street construction and prior to a vote by the Selectmen to submit a proposed public way to a Town Meeting, a written certification signed by a professional engineer shall be submitted to the Selectmen at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance.

9.3 Violations and Enforcement

- A. No plan of a division of land within the Town of Clinton which would constitute a subdivision shall be recorded in the Kennebec County Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- B. A person, shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Kennebec County Registry of Deeds.
- C. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- D. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot.
- E. Violation of the above provisions of this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A., Section 4452

ARTICLE 10 - GENERAL PERFORMANCE AND DESIGN STANDARDS

In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

10.1 Sufficient Water

- A. The subdivider must demonstrate either that: the proposed public water system has the capacity to serve the proposed subdivision, or there is sufficient ground water available to provide individual wells with an adequate supply of potable water.
- B. The Board shall require either that: the applicant shall, where soil type and topography are appropriate, construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes; or the applicant shall demonstrate that an adequate supply of naturally occurring water exists for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants or naturally occurring water supply when necessary.
- C. In cases where ponds or dry hydrants cannot be installed, and where there is no naturally occurring water source, the Board may require the subdivider to present additional options for rapid water supply after discussion with the Fire Chief.

- D. The subdivider must demonstrate that the proposed subdivision will not contaminate or otherwise harm wells on adjacent property.

10.2 Soil Erosion

- A. The proposed subdivision shall not increase soil erosion that may enter water bodies, freshwater wetlands, or adjacent properties.
- B. A soil erosion control plan shall be required by the Board when slopes are between 8 and 20 percent.
- C. Slopes in excess of 20 percent shall be maintained as open space.
- D. A soil erosion plan shall be required for residential development of 10 or more lots and for commercial and industrial projects.

10.3 Sewage Disposal

- A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules.
- B. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
- C. Where a proposed subsurface sewage disposal system is to serve more than 5 dwelling units, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

10.4 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

- A. Preservation of Natural Beauty and Aesthetics.
 - 1. The Board may require that new developments blend in with the existing landscape and that existing land cover be maintained to the maximum extent possible.
 - 2. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.

3. Unless located in areas designated as a growth area in the Comprehensive Plan, a residential subdivision of 10 or more lots in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifteen feet (15') in width along all existing public roads. All residential subdivisions shall maintain an open space buffer strip of 100 feet between the residences and active farming operations. The buffer may be broken only for driveways and streets.

4. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

5. Unless located in areas designated as a growth area in the Comprehensive Plan, an open space buffer strip of at least 50 feet in width shall be maintained adjacent to moderate to high value waterfowl area as identified in the Comprehensive Plan.

B. Retention of Open Spaces

1. To the maximum extent possible, the following areas shall be retained as open space corridors: snowmobile trails, walkways, logging roads, abandoned and/or discontinued roads, deer wintering areas, historic and archaeological areas, and scenic views as seen from public roads.

2. Open space or outdoor recreational facilities shall be provided in all development of ten (10) or more lots regardless of whether or not such developments are cluster/open space developments. Depending on the size and location of the Subdivision, the Board may require the developer to provide up to ten percent (10%) of the total area for recreation. Land reserved for park and/or recreational purposes shall be of a character, configuration, and location suitable for the particular use intended. A site to be used for active recreational purposes, such as a playground or playfield, should be relatively level and dry. Sites selected for recreational purposes shall have such access as the board may deem suitable and shall be served by a right-of-way of at least thirty feet (30') in width.

C. Preservation of Significant Wildlife Habitat

1. Within 100 feet of any stream or river designated as a high or moderate value fishery by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan, no alteration shall be permitted.

2. Within 100 feet of the upland edge of a wetland designated as high or moderate value for waterfowl habitat by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan no alteration shall be permitted. Existing vegetative cover shall be maintained.

10.5 Conformance with Land Use Ordinance and Other Ordinances

All lots shall meet the minimum dimensional requirements of the Land Use Ordinance for the land use district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria of the Land Use Ordinance.

10.6 Financial and Technical Capacity

A. Financial Capacity

The applicant shall have adequate financial resources to construct the proposed improvements, including buildings, if a part of the project, and meet the criteria of the statute and the standards of this Ordinance. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability

In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

10.7 Ground Water Quality

A. The Clinton Water District shall be notified of any subdivisions that are within 1000 feet of their well.

B. When the Planning Board determines that a hydro-geologic assessment is necessary, the assessment shall comply with the Department of Environmental Protection's guidelines for hydro-geologic assessments as set forth under the Site Location of Development Act.

10.8 Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall include a statement that structures shall be located outside the flood hazard area.

10.9 Storm Water Management

- A. Adequate provisions shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under-drains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.
- B. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

10.10 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services

- A. All open space common land • facilities and property shall be owned by: the owners of the lots or dwelling units by means of lot-, owners association; an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or the Town of Clinton.
- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement deeded to the municipality prohibiting future development.
- C. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate that it shall not be used for future building lots and which portions of the open space, if any, may be dedicated for acceptance by the Town of Clinton.
- D. The final plan application shall include the following:
 - 1. Covenants for mandatory membership in the lot owners association setting forth the owner's rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - 2. Draft article of incorporation of the proposed lot owners association as a not-for-profit corporation.
 - 3. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

In combination, the documents referenced in paragraph D above shall provide for the following. The homeowners association shall have the responsibility of maintaining the common property or facilities. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair, replacement of common property and facilities and tax assessments. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

10.11 Traffic Conditions

a. Access Control

1. Subdivisions of 10 or more lots located within the Rural District must front on interior roads.
2. Access to backland shall be retained as land is developed.

b. Street Design and Construction Standards

1. General Requirements

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specification contained in this Ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.
- b. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
 1. Date, scale, and north point, indicating, magnetic or true.
 2. Intersections of the proposed street with existing streets.
 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.

4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

5. Complete curve data shall be indicated for all horizontal and vertical curves.

6. Turning radii at all intersections.

7. Center line gradients.

8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, electricity; telephone, lighting, and cable television.

c. Upon receipt of plans for a proposed street the Board shall forward one copy to the Selectmen, the Road Commissioner (s), and the Town Engineer for review and comment.

d. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner (s) or the Maine Department of Transportation, as appropriate.

e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owner and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards."

f. The Planning Board may require that land be reserved for a future connector road or street.

2. Street Design Standards

a. These design guidelines shall control the roadway, shoulders, curbs, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the Applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice.

- b. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), or when there are plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Land Use Ordinance.
- c. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- d. The following design standards apply according to street classification:

TYPE OF STREET

Description	TYPE OF STREET		
	Collector	Minor	Private Right of Way
Minimum Width right-of-Way	50'	50'	30' *
Minimum Traveled Way Width	24'	20'	18'
Minimum Width of shoulders (each side)	3'	3'	3'
Minimum Center Line radius			
- Without banking	280'	280'	175'
- With banking	175'	175'	110'
Roadway Crown **	¼ " ft	¼ " ft	***
Minimum angle of street intersections****	90 °	90 °	75 °
Maximum grade within 75 ft. of intersection	3%	3%	N/A
Minimum curb radii at intersection	25'	20'	N/A
Minimum r/o/w radii at intersections	10'	10'	10'

*Serving only one or two dwelling units.

**Roadway crown is per foot of lane width.

***Gravel surface shall have a minimum crown of 3/4 inch per foot of lane width.

****Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

3. Dead End Streets

In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 60 ft.; outer edge of pavement: 50 ft.; inner edge of pavement: 30 ft. The Board may require the reservation of a 20 ft easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street The Board may also require the reservation of a 50 ft. easement in line with the street to provide continuation of the road where future subdivision is possible.

4. Intersections and Sight Distances

a. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

b. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based. on the street design speed.

Design Speed (mph)	20	25	30	35
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distances shall be calculated with a height of eye at 3 1/2 feet and the height of object at 1/2 feet.

c. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance (ft)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions to achieve the required visibility.

- d. Cross (four-cornered) street intersections shall be avoided insofar as possible. A minimum distance of 125 feet shall be maintained between the center lines of streets.
5. Street Construction Standards
- a. The minimum thickness of material shall meet the specifications in the table below, after compaction.

MINIMUM REQUIREMENTS

Street Material	Public Street	Private Right of Way
Aggregate Sub-base Course (max. sized stone 6") -		
Without base gravel	18"	15"
With base gravel	15"	12"
Crushed Aggregate Base Course (if necessary)	3"	3"
Hot Bituminous Pavement		
Total Thickness	3"	N/A
Surface Course	1 ¼ "	N/A
Base course	1 ¾ "	N/A
Surface Gravel	N/A	3"

b. Preparation

1. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way shall be cleared of all stumps, roots, brush, shallow ledge, large boulders and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of 2 feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the road. On soils which have been identified by a Licensed Professional Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or an HDOT approved stabilization geo-textile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of 3 feet horizontal to 1 foot vertical, and shall be graded and properly seeded according to the specifications of an erosion and sedimentation control plan. Where a cut results in exposed ledge, a side slope no steeper than 4 feet vertical to 1 foot horizontal is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

10.12 LOTS

- A. All lots shall meet the minimum lot size and dimensional requirements of the Land Use Ordinance.
- B. Wherever possible, side lot lines shall be perpendicular to the street.
- C. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of this Ordinance and conditions placed on the original approval.

- D. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
- E. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

10.13 Monuments

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

10.14 Cluster Developments/Two Plan Requirement

A. General

1. In accordance with the requirements of Article 5.3(B), the applicant shall submit a cluster plan designed to meet the requirements of the Land Use Ordinance, showing how open space is to be preserved. The purpose of the cluster plan is to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the Land Use Ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements (i. e. lot size, frontage including zero lot line development) to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances. The Planning Board may allow conventional subdivision development if clustered development is determined not to be feasible or not to offer open space advantages.

B. Application Procedure

The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this Ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features (i. e. significant agricultural and forest land and stream corridors) without increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of this Ordinance, and have an area sui table for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats, important agricultural and forest land, moderate-to-high yield aquifers, and important natural or historic sites identified by the Comprehensive Plan as worthy of preservation.

Within ten days of receiving the application, the Board shall invite comments on the application from Selectmen, other appropriate town officials and abutters. Within thirty days of receiving the application, the Board shall determine whether to require that the subdivision be developed in accordance with the cluster standards of this section.

C. Basic Requirements for Cluster Developments

1. Cluster Developments shall meet all requirements of this Ordinance.
2. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:

- a. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
 - b. Portions of the lot shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - i. slopes greater than 20%
 - ii. organic soils
 - iii. wetlands soils
 - d. Portions of the lot subject to rights of way.
 - e. Portions of the lot located in the resource protection zone.
 - f. Portions of the lot covered by surface water.
3. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the Land Use Ordinance. No building shall be sited on slopes steeper than 20%, or within 75 feet of any water body or wetland.
 4. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the Land Use Ordinance. No less than 30% of the reserved open space shall be usable open space.
 5. Every building lot that is reduced in area below the amount normally required shall be within 1000 feet of the common land.
 6. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
 7. Shore frontage shall not be reduced below the minimum normally required by the Land Use Ordinance.
 8. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

ARTICLE 11 - PERFORMANCE GUARANTEE S

With submittal of the application for Final Plan approval, the Board may require the subdivider to provide a performance guarantee for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.

ARTICLE 12 - WAIVERS

- 12.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance.
- 12.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance, and further provided the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.
- 12.3 In granting waivers to any of this Ordinance in accordance with Sections 12.1 and 12.2, the Board shall require such conditions as will assure the purposes of this Ordinance are met.
- 12.4 Waivers to be shown on Final Plan

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan. to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - APPEALS

13.1 An aggrieved party may appeal any decision of the Board under this Ordinance to the Board of Appeals, within thirty days of the date of the decision.

Derivation: Town Meeting June 9, 2009

Subdivision Ordinance Town of Clinton Article 13 – Appeals Section 13.1

Replaced the words "Kennebec County Superior Court" with "Board of Appeals".

STATE OF MAINE
MUNICIPALITY OF CLINTON PLANNING BOARD

DATE: _____
FEE: _____
BY: _____
APPLICATION
NUMBER: _____

APPLICATION FOR SUBDIVISION APPROVAL

Applicant:

Name: _____ Tel: _____

Address: _____

Interest in Property: _____

Interest in abutting property, if any: _____

Owner

Name: _____ Tel: _____

Address:

Name of Project:

Type of Proposed Activity:

- Minor Subdivision Review
- Major Subdivision Review – Preliminary Plan Review
- Site Plan Review
- Other _____

Project Type:

- Single Family
- Multi-Family
- Condominium
- Other

Location:

Street Address: _____

Registry of Deeds: Book _____ Page _____

Assessor's Office: Map _____ Lot _____

Other Project Information

Size of Parcel (acres) _____ Zoning District(s) _____

Proposed # of Lots: _____ Proposed # of Buildings: _____

Proposed # of Dwelling Units: _____

Does the applicant intend to request any waivers of Subdivision or Zoning Ordinance Provisions?

No Yes

If yes, list the reasons why _____

Name and Address of Applicant's Engineer, Land Surveyor or Planner:

The undersigned, being the applicant, owner or legally authorized representative, states that all information contained in this application is true and correct to the best of his/her knowledge and submits the information for review by the town and in accordance with applicable ordinances, statutes and regulations of the Town, State and Federal governments.

Date

Signature of Applicant/Owner/Representative

**TOWN OF CLINTON
ADULT-ONLY BUSINESSES ORDINANCE**

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TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE

Section I. Findings

The Citizens of the Town of Clinton believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. They have observed that in many communities throughout this country the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. An ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

Section II. Purpose

The regulations of this Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses, and to prevent their location in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas of the Town at large. The purpose of this Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

Section III. Definitions

The following terms as used in this Ordinance and for the purpose of the Ordinance have the meanings to them below:

- A. "Adult amusement store" means an establishment having as a substantial or significant portion of its sales or stock in trade, erotic material, or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's purpose is to purvey such material.
- B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons therein.
- C. "Adult entertainment cabaret," means a public or private establishment which features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

**TOWN OF CLINTON
ADULT-ONLY BUSINESSES ORDINANCE**

D. "Adult spa," means an establishment or place primarily in the business of providing services of an erotic nature.

E. "Sexually oriented business," means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where erotic materials and activities are displayed, depicted, described or simulated as a regular and substantial part of its operation. This includes any business which incorporates full or partial nudity, such as topless bars and topless coffee shops.

F. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.

G. "Specified criminal activity," means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:

(1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;

(2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;

(3) less than (5) years have elapsed since the date of the last conviction or the date of release from confinement or probation imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

**TOWN OF CLINTON
ADULT-ONLY BUSINESSES ORDINANCE**

Section IV. License Required

A person or persons wishing to operate a sexually oriented business shall obtain an annual license (a) prior to opening the person's establishment, and (b) prior to expiration of the current annual license. A license issued under this Ordinance does not eliminate the requirements of any other Ordinance in Clinton including the Site Review Ordinance.

Section V. Application; Investigation and Issuance of License

1. Application. An applicant for sexually oriented business license shall:

- A. Complete and file an application prescribed by the Planning Board;
- B. Deposit a license fee of \$1,000 and a processing fee of \$250 in advance with the Town Clerk or the Code Officer. The amount of these fees may be amended by the Board of Selectmen from time to time.
- C. Submit the completed application to the Planning Board through the Code Enforcement Officer, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
- D. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
- E. File the release authorized by 16 M.R.S.A, Section 620(6) (Criminal History Record, Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
- F. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;
- G. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.
- H. Submit evidence of compliance with Section X of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section VI of this Ordinance.

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2. **Investigation of applicant, officers.** Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:
- A. The Code Officer, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town Manager, and the Planning Board. The Code Officer shall also immediately consult with the Chairman of the Planning Board and arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least 10 days prior to the public hearing before the Planning Board. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from the Town officials, the Code Officer shall forward the application and other documents to the Planning Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Code Officer and a decision shall be made within fifteen (15) business days thereafter.
 - B. The Code Enforcement Officer; within fifteen days of receipt of the application, shall inspect the location or proposed location and construction drawings to determine whether the applicant's proposed plan satisfies the setback and construction requirements of this ordinance and then report findings in writing to the Planning Board. The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and State Laws as indicated in accordance with 30-A M.R.S.A. 4452.
 - C. The Code Enforcement Officer with the help of the Town Police Chief, shall investigate the applicant, including the criminal history record information required under Section V (1) (E), and then report findings in writing to the Planning Board, and
 - D. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with Section X and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board. The Code Officer will also verify whether or not other permitting under local Ordinances and state laws is required in addition to verification for compliance.
3. **Issuance of license.** The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance. The license may not be transferred or assigned.

Section VI. Standards of Denial

An application for a sexually oriented business license shall be denied in the following circumstances:

- A. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
- B. The applicant is an individual who is less than 18 years of age;

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- C. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the license can be issued;
- D. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- E. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- F. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
- G. The site on which the sexually oriented business is proposed is a prohibited site under Section X, or
- H. The application in any other way fails to meet the requirements of this Ordinance.

Section VII. Standards for Suspension; Revocation

A sexually oriented business license may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance. Providing false or erroneous information in an application shall be a reason for revoking or suspending a permit.

Section VIII. Age Restriction

No sexually oriented business may permit any person under the age of 18 years into the premises in which the sexually oriented business is located.

Section IX. Prominent Display of License; Price Charges and Names of Owners or Officers

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licenses must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business unless the price is conspicuously displayed on the individual product.

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Section X. Prohibited Sites; Site Requirements

1. A sexually oriented business may only be located within a Commercial or Industrial Commercial zone.
2. A sexually oriented business may not be sited within 1,000 feet of the closest part of the structure of a business which caters to the general public or 1,500 feet of the closest part of the structure of any of the following:
 - A. A church, synagogue or other house of religious worship;
 - B. A public or private elementary or secondary school;
 - C. A day care facility;
 - D. A public park or public recreational facility;
 - E. Any residence on adjacent property, excepting the owner or proprietor; the distance cited in this section shall be measured between the closest edge of the structure of the sexually oriented business and the closest edge of the structure of the use listed (A) through (E) above.
3. A sexually oriented business will be required to construct a visual barrier around the sides of the business as required by the Planning Board.
4. It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand five hundred (1,500) feet of another sexually oriented business.
5. It shall be unlawful for any person to cause or permit the operation or establishment of more than one sexually oriented business in the same building, structure, or portion thereof.

Section XI. Signs and Exterior Layout of Sexually Oriented Businesses

1. Sexually Oriented Businesses shall have an 8.5 inch by 11 inch sign at each entrance stating "Under 18 not admitted" or similar wording accepted by the Planning Board.
2. Sexually Oriented Businesses may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3 inches high, stating "Entrance", "Parking", "No Loitering" or other wording approved by the Planning Board.
3. Sexually Oriented Businesses shall have only one exterior identification sign.
 - A. The sign shall contain only the name of the establishment and "XXX" or the type of business as defined in Section III above.
 - B. The sign may not contain any other symbols or illustrations.

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- C. The sign must meet the approval of the Planning Board, who may require changes if they believe the proposed sign would be offensive to a significant number of Clinton residents.
 - D. The exterior dimension of the sign shall not exceed 30 square feet.
 - E. The sign may be two sided.
 - F. The sign may be unlit, internally lit, or lit with spotlights.
 - G. The lights may not blink.
 - H. The bottom of the sign may not be more than 10 feet above grade.
 - I. The top of the sign may not be more than 15 feet above grade.
4. No signs or symbols, except as permitted in Section XI, paragraphs 1 through 3 above, shall be visible from the exterior of the establishment.
5. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board.

Section XII. Prohibited Activities

- A. All acts of public indecency, as defined in 17-A M.R.S.A., Section 854, are prohibited in sexually oriented businesses.
- B. All other acts prohibited by applicable ordinances or laws.
- C. No alcoholic beverages allowed on the premises.
- D. The sexually oriented business hours of operation will be allowed anytime during the hours of 8:00 am – 8:00 pm - Monday - Saturday.

Section XIII. Enforcement

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section XV shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections X to XIII. The Ordinance shall be enforced by the Code Enforcement Officer, the Planning Board, and any law enforcement officials having jurisdiction within the Town of Clinton. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

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Section XIV. Penalties

Violation of this Ordinance shall result in a penalty of \$100.00 per day, beginning on the date a notice of violation from the Code Enforcement Officer is mailed to the Applicant at the address contained in Town records. If the violation is not remedied within ten days of notice being sent, the Code Enforcement Officer may send a second notice. Violation of this Ordinance, after sending of the second notice, shall result in a penalty of \$500.00 per day. Remedying a violation does not prohibit the Planning Board from suspending the license as provided in Section VII, "Standards for Suspension, Revocation".

The amount of these penalty fees may be amended by the Board of Selectmen from time to time.

Section XV. Severability

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section XVI. Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Ordinance, regulation or statute, the more restrictive provision shall apply.

Section XVII. Appeals

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board may be taken by an aggrieved party to the Clinton Appeals Board within 30 days of the decision. The decision of the Clinton Appeals Board may be taken to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Service of Process shall be served on the Town Clerk. The Town shall file its responsive pleadings and record of proceedings with the Court not later than ten (10) business days after service of the summons and complaint. Additionally, the Town shall submit its responsive brief within fourteen (14) days after receipt of the plaintiff's brief, and shall move for an expedited hearing. All enforcement action, if any, shall be stayed during the pendency of the Rule 80B appeal.

Section XVIII. Effective Date

This Ordinance shall become effective immediately after approval by the voters of the Town of Clinton.

