**ZONING**

**ORDINANCE**

**FOR THE**

**MUNICIPALITY OF**

**FORT KENT**

**ENACTED: 3/24/14**

**Certified By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated April 10, 2017**

**Town Clerk**

**Amended: 3/23/15, 5/26/15, 2/22/16, 3/28/16, 3/27/17, 4/10/17. 08/26/19**

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**The Zoning Ordinance of the Town of Fort Kent**

**Note:** The Fort Kent Urban Zoning Map and the Fort Kent Comprehensive Plan - Rural Area Zoning Map are available at the Fort Kent Town Office.

# Section 1 Legal Status Provisions.

## 1.1 Purposes.

The purpose of this Ordinance is to:

a. Protect the health, safety, and general welfare of the residents of the Town of Fort Kent;

b. Encourage appropriate use of land throughout the Town;

c. Promote traffic safety;

d. Provide safety from fire and other elements;

e. Provide adequate light and air;

f. Prevent overcrowding of real estate;

g. Prevent housing development in unsuitable areas;

h. Provide an allotment of land area in new developments sufficient for all the requirements of community life;

i. Conserve natural resources and town character;

j. Provide for adequate public services as an integral part of a comprehensive plan for town development;

k. Protect archaeological and historic resources, freshwater wetlands, fish spawning grounds, aquatic life, bird and other wildlife habitat, and buildings and lands from flooding and accelerated erosion;

l. Conserve shore cover, natural beauty and open space, and visual as well as actual points of access to inland waters;

m. Prevent and control water pollution; and

n. Assure new development meets the goals and conforms to the policies of the Fort Kent Comprehensive Plan.

## 1.2 Authority.

This Ordinance has been adopted in accordance with the provisions of Article VIII-A of the Maine Constitution; Article VIII, Part 1, Section 1 (Home Rule); and the State's Growth Management Law MRSA Title 30-A, Section 4351-4361 (Land Use Regulation); as may be amended.

## 1.3 Title.

This Ordinance shall be known and may be cited to as the "Zoning Ordinance for the Municipality of Fort Kent."

## 1.4 Applicability.

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

## 1.5 Repeal of Prior Ordinances.

All prior Zoning Ordinances, Site Design Review Criteria, Road Standards and Acceptance Regulations, and Planning Board By-Laws for the Town, except for the Shoreland Zoning Ordinance of Fort Kent, are repealed as of the effective date of this Ordinance.

## 1.6 Effective Date.

This Ordinance shall take effect and be in force from the date of its adoption.

## 1.7 Conflict with Other Laws.

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or resolutions, the most restrictive, or that imposing the higher standards shall govern.

## 1.8 Separability.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## 1.9 Availability.

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

# Section 2 Official Zoning Map.

## 2.1 Official Zoning Map.

Districts are located and bounded as shown on the Official Zoning Map which is a made a part of this Ordinance. There may for purpose of clarity, necessitate by reasons of scale on the map, be more than one Official Zoning Map. The minimum scale for the Official Zoning Map shall be no less than 1 inch = 2,000 feet.

## 2.2 Certification of the Official Zoning Map.

A. The Official Zoning Map shall be identified by the signature of the Chair of the Town Council, attested by the Town Clerk, and bearing the seal of the Town.

B. The Official Zoning Map shall be located in the office of the Town Clerk.

## 2.3 Changes on the Official Zoning Map.

A. If, in accordance with the provisions of this Ordinance and Title 30A MRSA 4352, changes are made in District boundaries or other matter portrayed on the Official Zoning Map, changes to the map shall be made within fourteen (14) days after the amendment has been approved by the Town Council. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until signed by the Chair of the Town Council and attested by the Town Clerk. In addition, the following wording shall be reflected on the Official Zoning Map:

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

B. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change shall be considered a violation of this Ordinance and punishable as provided under section 22-134.

## 2.4 Replacement of the Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions the Town Council shall adopt a new Official Zoning Map. Fort Kent Zoning Maps.(Available at the Town Office) Section 3 Establishment of Districts.

## 3.1 Zoning Districts.

## A. For the purposes of this Ordinance, Fort Kent is hereby divided into the following Zoning Districts:

## 1. R - Residential District. The Residential District is established as a zoning District in which the principal use of the land will be for detached family dwellings at low density with educational, recreational and religious, fraternal and nonprofit organization of club facilities. The development of attractive neighborhood living will be encouraged. Areas where similar residential future growth appear possible are included in the Residential District.

## 2. RF - Rural Farm District. The Rural Farm District is established as a zoning District whereby the principal use of the land is for agriculture, forestry, rural type residence, and customary associated uses. Included in this District are certain uses unsuited to the more densely developed urbanized portions of Town. Other purposes of this District include conservation of natural resources, reduction of soil erosion, and encouragement of appropriate recreational land use with limited commercial uses. Certain commercial and industrial uses may be allowed in the RF District upon proof by the applicant and approval by the Planning Board that the use is "Natural Resource Based Use", as defined herein.

## 3. C - Commercial District. The Commercial District is established as a general business and commercial District to which the public requires frequent and convenient access. It is intended to promote concentration of commercial development for the mutual advantage of the public and the merchant.

a. On West Main Street between the western boundary line of Tax Map 15, Lot 5 and Lot 82 and Tax Map 18 the western boundary line of Lot 21 and the eastern property line of Lot 34, residential uses are permitted only in levels above the ground floor, provided that all federal, state, and local laws, regulations, and ordinances are met. (Amd. 08/26/19)

b. Plans for proposed construction shall be reviewed by the Planning Board, and when appropriate by the municipal department heads. (Amd. 3/27/17)

## 4. I - Industrial District. The Industrial District is established as a zoning District in which the principal use of the land is for industrial purposes and for commercial and business uses commonly supplemental to or associated with industrial uses. The following use may be permitted in the Industrial District when authorized by the Planning Board by review of Conditional Use: (Amd. 3/27/17)

## a. Storage of hazardous fuels (as defined in Title 38, MRSA, Section 1303-C, as may be amended), including, but not limited to, gasoline, fuel oil, diesel oil, etc., can be stored above or below the ground for future delivery to consumers.

## b. For the purposes of this Ordinance, Fort Kent hereby has two special protection overlay Districts; for the sand and gravel aquifers and for the Fort Kent Utility District's wellhead. The overlay Districts are intended to maintain safe and healthful environmental conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitats; control building sites; provide visual and physical points of access to waters and areas of natural beauty; and to protect and maintain the quality of surface and ground waters. The overlay Districts shall be superimposed over underlying Districts and land uses are subject to both the standards in the underlying and the overlay Districts.

## 5. M- Mixed Residential and Commercial District (Amd. 3/27/17) The mixed residential and commercial district is established as a zoning district in which both family dwellings, general business and commercial establishments to which the public requires frequent and convenient access. It is also intended to promote concentration of development for the mutual advantage of both the public and the merchant.

## a. On East Main Street; Tax Map 18 residential uses are permitted only in levels above the ground floor, provided that all federal, state, and local laws, regulations, and ordinances are met.

**B**. **Sand and Gravel Aquifer Overlay District.**

1. This District includes sand and gravel aquifers as identified on the Maine Geological Survey "Hydrogeologic Data for Significant Sand and Gravel Aquifers" map nos. 84 and 85, as well as, a two hundred fifty foot (250') buffer drawn around the known boundaries of these aquifers (buffers shall be updated as the aquifer mapping is updated).

2. All future agricultural land uses, on the aquifer and within a five hundred foot (500') buffer, for chicken farms, cattle farms, horse farms, egg farms, piggeries, sheep farms, and stables shall be subject to the approval of the Planning Board. Such approval shall be granted upon showing that such uses shall not cause groundwater contamination or contaminate or disturb the normal course of surface water run-off.

3. All construction or activity involving the displacement of soil within the two hundred fifty foot (250') buffer shall follow soil erosion control measures as outlined in the Natural Resource Conservation Service Best Management Practices.

4. Existing unvegetated openings should be documented by the CEO and reviewed by the Planning Board for possible revegetation.

5. No vehicle carrying pesticides, fertilizers, or other potentially toxic or hazardous chemicals shall pump water from the aquifer. Penalties of heavy fines and suspension of licenses shall be imposed for handling potentially toxic or hazardous chemicals within the aquifer or for the contamination of any waters within the aquifer.

**C.** **Wellhead Protection Overlay District.**

1. The Wellhead Protection District is created to protect the public water supply for the Town of Fort Kent by preventing contaminants from reaching the well and realizing that drinking water is essential to the survival of the Town. The Wellhead Protection District includes the land area within two thousand five hundred (2,500) feet of the Fort Kent’s wellhead as delineated on the zoning map for the Town of Fort Kent. All land use activity regulated by this Ordinance within the Wellhead Protection District shall require a brief application be obtained, completed, and returned by the applicant at the Fort Kent Water and Wastewater Dept. (416 West Main Street, Fort Kent, ME, 04743-1040) prior to the issuance of any permit.

2. Wellhead Protection Overlay District. There shall be no new or expansion of underground storage fuels allowed in the Wellhead Protection Overlay District. In addition no new or existing aboveground storage of fuel (except for household heating fuel), chemical tank or toxic or hazardous materials shall be permitted or expanded within the Wellhead Protection District, except for water treatment chemicals or materials of the Fort Kent Water and Wastewater Dept.

3. All construction activity involving the displacement of soil within the Wellhead Protection District shall follow soil erosion control measures as outlined in the Natural Resource Conservation Service Best Management Practices.

4. No vehicle carrying pesticides, fertilizers, or other potentially toxic or hazardous chemicals shall pump water from the Wellhead Protection District. Penalties of heavy fines and suspension of licenses shall be imposed for handling potentially toxic or hazardous chemicals within the District or for the contamination of any waters within the District.

5. Wellhead Protection Overlay District. Performance Standards for a Wellhead Protection District (WPD)

1. **Performance Standards for a Wellhead Protection District (WPD)**

The following are additional performance standards to be considered by the Town for the Wellhead Protection District in order to better protect the Fort Kent drinking water supply from incompatible development and uses. (Reviewed and approved by the Fort Kent Water and Wastewater Department.)

1. The Town and the Water Dept. shall have the right to install groundwater monitoring wells and shall further maintain the right to sample such wells on properties within the WPD when the Town or the Water Dept. can clearly show that groundwater monitoring in the area will serve to protect the public water supply from existing or potential threats.

2. When and where applicable within the WPD, the CEO shall have the right, upon twenty four (24) hour notice, to enter, inspect, and to determine whether all premises which have groundwater pollution control devices or management practices are in good condition and working properly. Such testing shall be at the Town's and Water Dept. expense. If such testing indicates that the groundwater has been contaminated above the State Primary and Secondary Drinking Water Standards, then further testing shall be at the expense of the landowner in question. Additionally, the owner shall reimburse the Town and/or the Water Dept. for expenses incurred in the initial well installation and testing.

3. All development to be located in the WPD shall comply with Best Management Practices (BMPs) for water quality as defined by the State of Maine. The Planning Board may adopt, be reference, additional BMPs which have been published by or in conjunction with the MDEP. In so doing the Planning Board shall hold a public hearing.

4. The collection and disposal of petroleum products, chemicals, and wastes used in construction shall conform to the following:

a. Petroleum products, chemicals, and wastes shall be collected and stored in closed, clearly marked, watertight containers.

b. Containers shall be removed regularly for disposal to prevent spills and leaks which can occur due to corrosion of containers. A schedule for removal shall be included with the application and in any construction specifications for the project.

c. Fertilizers and landscape chemicals such as herbicides and pesticides shall be applied following appropriate BMPs developed by the MDOA in conjunction with the MDEP.

**b. Storm Water Runoff/Snow and Ice Control**

1. Drainage systems, including detention basins, drainage ways, and storm sewer systems, shall be maintained in order to insure they function properly.

2. Chemicals and wastes shall be stored in such a manner as to prevent rainfall from contacting them.

3. Runoff from parking lots should be diverted to storm water drains.

4. Snowmelt from parking lots should be diverted to storm water drains.

5. Parking lots should be maintained on a yearly basis.

6. Sand/salt mixtures with a reduced portion of salt should be used for snow and ice control.

**c**. **Industrial and Maintenance Operations**

1. A plan detailing the reuse, recycling, or proper disposal of waste chemicals shall be kept, maintained, and updated as needed. Provisions shall be provided for implementing the plan.

2. Buildings, rooms, and areas where chemical potential pollutants are used, handled, or stored shall be designed to contain spills and or leaks.

a. Floor drains shall not be used except as required by fire regulations; and

b. A waterproof dike shall be placed around areas to contain accidental spills. The dike shall have an equivalent volume to the amount of material stored or used in the room.

3. Spill/leakage prevention and detection programs shall be maintained and updated.

a. Plans shall insure the regular collection and transport of chemicals; and

b. Plans shall provide for inspection of containers and storage areas on a regular basis.

4. A spill clean-up plan shall be maintained and updated annually. The plan shall:

a. Insure adequate materials and equipment are available;

b. Insure that personnel are trained; and

c. Insure that the local fire department is knowledgeable of clean-up procedures.

5. Wash waters and other diluted wastes shall be adequately treated consistent with State law and the current pre-treatment ordinances.

a. Wastes shall be discharged to sewer systems where possible; and

b. Grease traps and oil separators shall be installed where necessary and shall be maintained on a regular basis.

**d**. **Septic/Sewage Disposal.**

1. Sewer/septic systems shall be designed by competent professionals using sound engineering practices. Onsite sewage disposal shall be according to the State of Maine Subsurface Wastewater Disposal Rules.

2. Construction of sewers and septic systems shall be carefully inspected to insure proper installation.

3. Septic systems and related piping shall be tested for leakage and certified by the LPI that they are water tight prior to use. Sewer systems shall be tested for leakage, according to State standards or municipal ordinance/district regulations.

4. Provisions shall be made to maintain sewer and septic systems.

5. Sewers and drainage systems shall be designed to insure that storm water does not enter sanitary sewers.

6. For cluster systems, one thousand (1,000) gallon septic tank capacity shall be provided for each three hundred (300) gallons of flow. Design flows for leach fields shall be less than two thousand five hundred (2,500) gallons per day.

7. Chemicals, industrial wastes, floor drains and storm water drains (i.e. roof drains) shall not be discharged to septic systems.

**e.** **Waste Disposal Handling**

1. Inert Fill

a. Waste disposal areas shall be setback seventy five (75) feet from wetlands as defined in the Maine Natural Resources Protection Act (NRPA);

b. Wastes shall be placed a minimum of two (2) feet above the seasonal high ground water table; and

c. For wastes other than concrete, stone, and brick, documentation from a laboratory that wastes are inert shall be provided.

2. Transfer Station/Recycling Facilities.

a. All storage areas shall be located a minimum of five (5) feet above the seasonal high ground water table;

b. Sanitary wastes shall be disposed of into public sewer or in accordance with the State of Maine Subsurface Disposal Rules;

c. If water clean-up of facilities is used, it shall be discharged to a public sanitary sewer. If no public sanitary sewer is available, dry clean-up procedures shall be used;

d. Gravel, asphalt, or concrete pads or steel or aluminum containers shall be used for storage facilities for white goods and tires;

e. Facilities shall not be located in one hundred (100) year floodplain;

f. An Operating Manual shall insure that only non-hazardous municipal solid waste is accepted;

g. For recycling facilities, an Operating Manual shall insure that only clean, marketable recyclables are collected; are

h. For recycling facilities, storage of residuals shall be accomplished to prevent spillage and leakage.

3. Municipal, Commercial, Industrial, and Other Special Wastes

a. All handling, storage, and transfer shall comply with Department of Environmental Protection rules;

b. Storage and transfer areas shall comply with the management practices listed in F. Septic/Sewage Disposal #2 above.

4. Junkyards/Metal Processing

a. Fluids shall be removed in a secure area and stored for appropriate disposal;

b. Fluids shall be disposed in accordance with state and federal laws; and

c. Records shall be maintained to indicate the quantities of fluids handled.

**f. Chemical and Petroleum Handling and Storage.**

1. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

2. A detailed inventory shall be maintained.

3. Provisions shall be made to clean up all spills immediately with an absorbent material or other methods and dispose of them properly.

4. Hazardous materials shall be stored in secure, corrosion resistant containers.

5. Storage shall be in aboveground, corrosion resistant tanks. The following provisions shall be complied with.

a. A diked area shall be provided around tanks to contain spills. The volume of diked area shall equal the volume of product stored;

b. A roof shall be provided over commitment areas to prevent collection of rain water; and

c. Drains shall not be installed in containment areas.

6. If underground storage is necessary, corrosion resistant double walled tanks shall be provided. The system, including piping, shall be tested prior to use. Underground piping and transmission lines shall be inspected and tested upon installation and on an annual basis, thereafter.

7. All floors shall be concrete or an impermeable, hardened material. Sub- floor synthetic containment liners shall be inspected to contain spills or leaks which occur inside buildings with earth or gravel floors.

8. Non-bulk storage of chemicals shall be inside. Such storage areas shall comply with the following:

a. Floor drains shall not be used;

b. If floor drains are required by the fire regulations, they shall be discharged to a holding tank. Tanks shall be pumped by a licensed oil or hazardous waste hauler, as appropriate. Tanks shall be equipped with gauges to determine used capacity; and

c. Storage and handling areas shall have waterproof dikes around perimeter so as to contain spills.

9. Tanks shall be equipped with automatic shutoffs and/or high level alarms.

10. Spill and leak detection programs shall be maintained and updated annually.

11. Oil and water separators shall not be used to remove dissolved compounds or oil and greases which had been subjected to detergents.

a. Loading areas shall be covered to prevent the mixing of storm water and spilled chemicals. Concrete or other impermeable pads shall be provided under transfer and handling areas.

12. Exterior transfer and handling areas shall be slope as to prevent runoff from other areas from entering the handling area, but to contain small quantities of spilled product.

13. Procedures shall be established to catch and store chemicals spilled at loading docks and other transfer areas.

14. Provisions shall be made to periodically inspect and test tanks and lines for leaks.

15. The facility and equipment shall be designed to:

a. Prevent tank overflows; and

b. Prevent line breakage due to collision

16. Provisions shall be made to have:

a. Emergency diking materials available; and

b. Emergency spill cleanup materials available.

17. The facility and equipment shall be designed to:

a. Prevent tank overflows; and

b. Prevent line breakage due to collision

18. Exterior transfer and handling sites shall be graded and sloped to prevent runoff for other areas from entering the handling areas.

19. Residential storage tanks for home heating fuel shall be double walled and located on a concrete slab.

**g**. **Sand and Gravel Mining.**

1. Limit Depth of Excavation

a. Excavation shall be limited to five (5) feet above the seasonal high water table;

b. If excavation is proposed such that there will be less than five (5) feet separation between excavation limits and the ground water table, a hydrogeologic investigation must be done to assess the potential adverse impact including potential contamination and reduction in recharge of this proposal; and

c. If water supply wells are present within five hundred (500) feet of the proposed excavation, ground water level monitoring wells shall be installed.

2. Haul roads shall be watered to control dust. Salting and oiling of roads is prohibited.

3. Petroleum Storage

a. Petroleum products shall not be stored in the pit;

b. If petroleum is proposed for storage above ground, a fully contained storage and refueling area shall be provided. Provisions must be made for rain falling in the containment area. A roof is preferable. For large operations, a covered, impermeable refueling/maintenance area shall be provided;

c. A spill prevention plan shall be maintained and updated; and

d. A reclamation plan shall be provided, maintained and used.

**h. Agriculture/Open Space/Power Lines**

1. Soil tests shall be used to determine proper amounts of nutrients and limestone (pH adjustment).

2. Nutrients shall be applied uniformly and only at levels required.

3. Split fertilizer applications should be used for new planting, where possible.

4. A slow release form of fertilizer should be used, where possible.

5. Nutrients shall not be applied to very shallow soils or exposed bedrock.

6. Chemical fertilizer application equipment shall be calibrated.

7. Irrigation shall be scheduled to minimize leaching potential.

8. Limit applications of nitrogen fertilizers to the spring or fall.

9. Nutrients shall not be applied during winter months when ground is frozen or snow covered.

10. Fertilizers and manure shall be stored in properly located and constructed facilities during periods when application is not suitable.

11. All federal and state laws regulating pesticides shall be followed.

12. Material safety data sheets shall be kept accessible.

13. Application of fertilizers and pesticides shall be accomplished by certified applicators.

14. Secure, safe storage shall be provided for used pesticide containers and dispose of containers in accordance with federal and state law.

**i. Silvaculture**

1. Silvacultural Chemical Handling and Storage.

a. The spillage or disposal of oils, fuels, coolants or hazardous wastes on the ground during maintenance repair, collection and appropriate disposal of such substances shall take place.

b. The Best Management Practices (BMP) for Chemical Use and Storage shall be followed;

c.The BMPs for Waste Disposal shall be followed; and

d. Salt/sand storage areas shall be covered

## 3.2 Rules Governing District Boundaries.

Where uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map the following rules shall apply.

A. Boundaries indicated as approximately following the centerlines of roads, highways, alleys, railroad rights-of-way, rivers, or streams shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines.

C. Boundaries indicated as approximately following Town limits shall be construed as following such limits.

D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

E. Sources for the delineation of the Special Flood Hazard areas shall be the Fort Kent Flood Insurance Map.

F. Sources for the delineation of the Aquifer Protection District shall be the latest edition of the Maine Geological Survey "Hydrogeologic Data for Significant Sand and Gravel Aquifers", map nos. 84 and 85.

G. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be construed as being parallel to or extensions of such features. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections A through G above, the Board of Appeals shall interpret the District boundaries.

## 3.3 Lots Divided by District Boundaries.

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

A. On lots of two (2) acres or less in area, the lot shall be used as if the entire lot were in the District which comprises the larger portion.

B. On lots larger than two (2) acres, the District regulations shall be followed in each portion.

# Section 4 District Regulations.

## 4.1 Basic Requirement.

Permitted uses and uses requiring site design review in all districts shall conform to all applicable specifications and requirements. A Plumbing Permit, Building Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this Ordinance.

## 4.2 Land Use Requirements.

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

## 4.3 District Regulations.

Land uses in conformance with the provisions of this Ordinance are shown in the following table. Key:

CEO = Requires a permit from the Code Enforcement Officer.

PB = Requires a permit approved by the Planning Board. (Amd. 3/27/17)

BOA = Permitted when a variance is obtained from the Board of Appeals.

NO = Not permitted.

## Fort Kent Land Use District Regulations (Amd. 3/27/17)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Use Structure** | **Commercial** | **Residential** | **Rural Farm4** | **Industrial** | **Mixed Residential & Commercial**  **(Amd. 3/27/17)** |
| Abattoir (Amd. 3/27/17) | PB1 | NO | PB | PB | PB1 |
| Agriculture Product Processing and/or Storage | PB | NO | PB | PB | PB1 |
| Agriculture Related Sales and Service | PB | NO | PB | PB | PB1 |
| Airport | NO | NO | PB | NO | NO |
| Amusement Facility (indoor)(Amd. 3/27/17) | CEO | PB1 | PB | NO | PB1 |
| Auction Barn and/or Antique Sales**(**Amd. 3/27/17) | CEO | PB1 | PB | PB | PB1 |
| Auto Body | CEO | NO | PB | CEO | PB1 |
| Auto Car Wash | CEO | NO | PB2 | CEO | PB1 |
| Automobile Graveyard | NO | NO | PB | PB | NO |
| Bed and Breakfast (Amd 3/23/15) | PB | CEO | CEO | NO | PB |
| Building Materials-Retail | PB | NO | CEO | CEO | PB |
| Bulk Grain Storage | PB | NO | CEO | CEO | NO |
| Bulk Oil and/or Gas Terminal | PB | NO | PB | PB | PB1 |
| Campground | PB | NO | PB | NO | PB |
| Cemetery | NO | NO | PB | NO | PB |
| Clinic | PB | PB | PB | NO | PB |
| Commercial Agriculture (Amd 3/23/15) | PB | NO | CEO | PB | PB |
| Commercial Cluster Development | PB | NO | PB | NO | PB |
| Commercial Recreation | CEO | PB | PB | PB | PB1 |
| Commercial Recycling Operation | PB | NO | PB | CEO | PB |
| Community Center | PB | PB | PB | NO | PB |
| Confined Feeding Operation | NO | NO | PB | NO | NO |
| Day Care (Amd 3/23/15) | PB | PB | CEO | NO | PB |
| Demolition Waste Disposal | NO | NO | PB | PB | NO |
| Domesticated Chickens (Amd 3/28/16) | NO | CEO | CEO | NO | CEO |
| Farm Stand (Amd. 3/27/17) | CEO | CEO | CEO | CEO | CEO |
| Fence | CEO | CEO | CEO | CEO | CEO |
| Firewood Processing (Amd 3/23/15) | PB | NO | CEO | CEO | NO |
| Fire and/or Police Station | PB | PB | PB | PB | PB |
| Funeral Home | CEO | PB | PB | NO | PB1 |
| Gasoline Service Station | PB | NO | PB | PB | PB |
| **Use Structure** | **Commercial** | **Residential** | **Rural Farm4** | **Industrial** | **Mixed Residential & Commercial**  **(Amd. 3/27/17)** |
| Golf Course | NO | NO | PB | NO | NO |
| Government Office (Amd. 3/27/17) | CEO | PB1 | PB | NO | PB1 |
| Gravel, Salt and/or Stone Storage (Amd 3/23/15) | PB | PB | PB | PB | PB |
| Gravel Pit, Quarry, and/or Mineral Extraction | NO | NO | PB | NO | NO |
| Group Home, Hospice, and/or Nursing Home (Amd 3/23/15) | PB | PB | PB | NO | PB |
| Helipad (Amd 3/23/15) | PB | PB | PB | PB | PB |
| Home Occupations (Amd 3/23/15) | CEO | PB | CEO | NO | PB1 |
| Hospital (Amd 3/23/15) | PB | PB | PB | NO | PB |
| Hotel/Motel | PB | PB | PB3 | NO | PB |
| Housing, Congregate | PB | PB | PB | NO | PB |
| Housing, Duplex | NO | CEO | CEO | NO | PB1 |
| Housing, Individual Mobile Home (Amd. 3/27/17) | NO | NO | CEO | NO | NO |
| Housing, Manufactured Home | NO | CEO | CEO | NO | CEO |
| Housing, Mobile Home Park | NO | PB2 | PB2 | NO | PB1 |
| Housing, Multi-Family Dwelling | PB | PB | PB | NO | PB |
| Housing, Residential Cluster Development (Amd 3/23/15) | PB | PB | PB | NO | PB |
| Housing, Single Family Dwelling | NO | CEO | CEO | NO | CEO |
| Industry, Heavy | NO | NO | PB2 | PB | NO |
| Industry, Light | PB | NO | PB2 | PB | PB |
| Industry, Light Cluster Development | PB | NO | PB2 | PB | PB |
| Junkyard | NO | NO | PB | PB | NO |
| Kennel, Stable, and/or Veterinary Hospital | PB | NO | CEO | PB | PB |
| Manufacturing | PB | NO | PB2 | PB | PB |
| Museum/Library | CEO | CEO | CEO | NO | CEO |
| Neighborhood Convenience Store (Amd 3/23/15) | CEO | PB | PB | NO | PB1 |
| Park and/or Recreation | PB | PB | PB | NO | PB |
| Parking Facility (Amd. 3/27/17) | PB | PB | CEO | PB | PB |
| Parish House/Place of Worship | PB | PB | CEO | NO | PB |
| Pre-School (Amd 3/23/15) | PB | PB | CEO | NO | PB |
| Private and/or Public Club (Amd 3/23/15) | PB | PB | CEO | PB | PB |
| Professional Office | CEO | PB | CEO | NO | PB1 |
| School: Public or Private | PB | PB | PB | NO | PB |
| School: Commercial | PB | PB | PB | PB | PB |
| **Use Structure** | **Commercial** | **Residential** | **Rural Farm4** | **Industrial** | **Mixed Residential & Commercial**  **(Amd. 3/27/17)** |
| Public Facility | PB | PB | PB | CEO | PB |
| Public Utility | PB | PB | PB | CEO | PB |
| Publishing/Printing | PB | NO | PB | PB | PB |
| Recycling Center | PB | NO | PB | CEO | PB |
| Recycling Collection Point (Amd 3/23/15) | PB | PB | PB | CEO | PB |
| Restaurant | CEO | PB | PB | PB | PB1 |
| Retail Business | CEO | NO | PB | PB | PB1 |
| Sawmill | NO | NO | PB | PB | NO |
| Septage Disposal Site | NO | NO | PB | NO | NO |
| Service Business | CEO | NO | CEO | CEO | PB1 |
| Sign | CEO | CEO | CEO | CEO | CEO |
| Sludge Spreading | NO | NO | PB | PB | NO |
| Swimming Pool (Amd 3/23/15) | PB | CEO | CEO | NO | CEO |
| Theatre, Indoor | PB | NO | PB | NO | PB1 |
| Trucking and/or Distribution Terminal | PB | NO | PB | PB | PB1 |
| Utility | PB | PB | PB | PB | PB1 |
| Vehicle Repair Garage/Vehicle Sales(Amd. 3/27/17) | CEO | PB1 | PB | CEO | PB1 |
| Warehouse and/or Storage (Amd. 3/27/17) | PB | PB1 | CEO | CEO | PB1 |
| Wholesale Business (Amd. 3/27/17) | PB | PB1 | PB | CEO | PB1 |
| Structure Accessory to Allowed Use | CEO | CEO | CEO | CEO | CEO |
| Use Similar to Not Permitted | NO | NO | NO | NO | NO |
| Use Similar to Use Requiring CEO Permit | CEO | CEO | CEO | CEO | CEO |
| Use Similar to Use Requiring Planning Board Review | PB | PB | PB | PB | PB |

1. Planning Board review as a Conditional Use (Amd. 3/27/17)

2. If within two hundred (200) feet of the municipal sewer system connection to the municipal sewer system shall be required and connection to the municipal water system may be required. The system(s) shall be designed and installed at the owner's expense, be reviewed and approved by the Fort Kent Water and Wastewater Department, and meet the standards and specifications contained within this Ordinance.

3. For purpose of the "Rural Farm" District, a "Commercial Sporting Camp", as defined herein, shall not be construed to be a "Hotel, Motel, Inn.

4. Commercial and industrial uses may be allowed in the RF District upon proof by the applicant and approval by the Planning Board that the use is "Natural Resource Based Use", as defined herein.

# Section 5 Dimensional Requirements.

A. Lots and structures in all Districts shall meet or exceed the dimensional requirements listed below.

B. Height requirements do not apply to barns, barn silos, flagpoles, chimneys, transmission towers, steeples, windmills, cooling towers, elevator bulkheads, sky lights, ventilators, and other necessary appurtenances carried above roofs; nor towers, stacks, spires, if not used for human occupancy; nor to ornamental towers, observatory towers, television and radio broadcasting towers and antennas and similar structures that do no occupy more than twenty-five (25%) percent of the lot area; nor to churches and public institutional buildings; nor similar structures usually erected at a greater height than the principal building, however such accessory structures or appurtenances require a lot line setback distance of no less than its height.

C. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirement, herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements, herein.

D. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building.

**Dimensional Requirements Table:** (Amd. 3/27/17)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Zoning Districts** (Symbols Used on the Official Zoning Map) | **RF** | **R** | **C** | **I** | **M** |
| Principal Use See: Section 4.3 - Land Use Chart | | | | |  |  |
| **Dimensional Requirements1** |  |  |  |  |  |
| Minimum Lot Size | 40,000 SF | With Public Sewer 10,000 SF Without Public Sewer 20,000 SF | None | With Public Sewer 10,000 SF  Without Public Sewer 20,000 SF | With Public Sewer 10,000 SF Without Public Sewer 20,000 SF |
| Minimum Lot Frontage | 150' | 100' | 30' | 100ꞌ | 100' |
| Maximum Lot Coverage | 25% | 25% | N/A | N/A | 25% |
| **Minimum Yard Setback Dimensions2** | |  |  |  |  |
| **Principal Building** |  |  |  |  |  |
| Front, from the legal right-of-way (Amd 3/23/15) | 50'3 | 25' | 43’7 | 25ꞌ4 | 25' |
| Side | 25'3 | 25' | N/A | 25ꞌ4 | 25 |
| Rear | 25'3 | 20' | 25ꞌ | 25'4 | 20' |
| Maximum Height Principal | N/A | 35' | 40' | 40' | 35' |
| **Zoning Districts** (Symbols Used on the Official Zoning Map) | **RF** | **R** | **C** | **I** | **M** |
| Building (feet) |  |  |  |  |  |
| **Accessory Building** |  |  |  |  |  |
| Front | 50'3 | 50'3 | 10ꞌ | 25ꞌ4 | 50'3 |
| Side | 25'3 | 25'3 | N/A | 25ꞌ4 | 25'3 |
| Rear | 25'3 | 20'3 | 25ꞌ | 25ꞌ4 | 20'3 |
| Maximum Height (Feet) (Amd 3/23/15) | N/A | 35ꞌ | 40ꞌ | 40ꞌ | 40ꞌ |
| **Lot with Existing Structure5** |  |  |  |  |  |
| Side | N/A | 10' | N/A | N/A | 10’ |
| Rear | N/A | 10' | N/A | N/A | 10’ |
| Minimum Off-Street Loading Space6 See: Section 10 | | | | |  |  | |  |  |
| Minimum Off-Street Parking Space6 See: Section 10 | | | | |  |  | |  |  |

1. Required dimensions shall serve one principal building.

2. Minimum yard dimensions shall not apply to fences.

3. Structures used to house animals or to store animal waste (excluding chickens for personal consumption) shall be constructed not less than two hundred (200) feet from the legal road right-of-way and not less than one hundred (100) feet from side and rear property lines. (Amd 3/23/15)

4. In an Industrial District leave twenty five (25ꞌ) foot on one (1) side and the rear line of lot for fire lane.

5. On any lot within a Residential District upon which a house existed on March 23, 1981, the minimum side and rear yard dimensions shall be no less than ten (10) feet from the property line.

6. No part of the yard or other open space of off-street parking or loading space required around any building shall be included as part of such space similarly required for any other building.

7. In a Commercial District the front yard setback shall be measured from the centerline of the road. (Amd 3/23/15)

# Section 6 Non-Conformance

## 6.1 General

A. Continuance, Enlargement, Reconstruction: Any non-conforming use, non-conforming lot of record, or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

B. Transfer of Ownership: Non-conforming structures, non-conforming lots of record, and non-conforming 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.

C. Restoration or Replacement: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and the value of which is less than twenty five (25%) percent of the market value of the structure before the repair is started; and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or their agent, may be restored or reconstructed within two (2) years of the date of said damage or destruction, provided that:

1. The non-conforming dimensions of any restored or reconstructed structure shall not exceed the non-conforming dimensions of the structure it replaces;

2. Any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Subsurface Wastewater Disposal Rules; and

3. Any non-conforming use shall not be expanded in area.

Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

D. Essential Service: Nothing within this section shall restrict the extension, reconstruction, enlargement, or structural alteration of essential services. All plans for the extension, reconstruction, enlargement, or structural alteration of essential services shall be reviewed by the Planning Board.

E. Shoreland Areas: In designated shoreland areas, any non-conformance shall be required to meet the standards for that non-conformance contained in the Fort Kent Shoreland Zoning Ordinance.

## 6.2 Non-Conforming Use.

A. Resumption Prohibited: A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the use.

B. A Structure Non-Conforming As To Use: Except for single-family dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated. Except in a Resource Protection District, single-family dwellings, which are non-conforming uses, may be enlarged as long as the dimensional requirements of the District in which they are located are met. A non-conforming use of part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use non-conforming.

C. Change of Use: The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application and holding a public hearing, determines that the new use will have no greater adverse impact on the subject or adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation and testimony from the applicant regarding the probable effects in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. (Amd. 3/27/17)

D. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required setback lines of the specific lot upon which such operations were in progress when such use became non-conforming, as required by the performance standards for extractive industries. Adjacent lots in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these lots before these provisions were enacted.

The provision of required off-street parking for an existing non-conforming use shall not be considered the expansion of the use.

## 6.3 Non-Conforming Structures.

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

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

1. Exclusive of the Shoreland Zoning Ordinance which regulates expansions of structures in Shoreland Districts (see: Town of Fort Kent Shoreland Zoning Ordinance), the addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing deck shall not constitute the expansion of a non-conforming structure. But, the addition of a deck shall constitute the expansion of a non-conforming structure and shall meet all the dimensional requirements of this Ordinance.

2. The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased. In shoreland areas, the foundation cannot cause the structure to be elevated by more than three (3) additional feet.

3. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to the State Plumbing Laws (Title 30-A, MRSA, Section 4211(3)) requiring documentation of wastewater disposal capabilities.

4. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty (30%) percent or more, during the lifetime of the structure.

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

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

## 6.4 Non/Conforming Lots of Record.

A. Vacant Lots: A vacant non-conforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of setback or other requirements not involving area or width shall be obtained only by action of the Board of Appeals.

B. Built Lots: A non-conforming lot that was built upon prior to the enactment or subsequent amendment of this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance shall be obtained from the Board of Appeals.

C. Contiguous Built Lots: If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principle use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and the State of Maine Subsurface Disposal Rules are complied with. If two (2) or more principal uses existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot.

D. Contiguous Lots - Vacant or Partially Built: If two (2) or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of those lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if two (2) or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested, or the lots have frontage on parallel roads and state laws are complied with.

E. Lot Width and Area Requirements: If a non-conforming lot of record or combination of lots and portions of lots with continuous frontage in single ownership are on record as of the effective date of this Ordinance, the lands involved shall be considered to be a single parcel for the purpose of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance. No division of the parcel shall be made which leaves remaining any lot width or area below the requirements stated in this Ordinance.

## 6.5 Vested Rights.

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures and development infrastructure improvements for Town approved subdivisions began prior to or within twelve (12) months of the adoption of this Ordinance, or in the case of pending applications when substantial review of an application has commenced. Such construction must be legal at the time it is commenced and the owner must be in possession of an in compliance with all validly issued permits, both state and local.

# Section 7 Supplementary Regulations.

## 7.1 Bed & Breakfast.

A. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.

B. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.

C. Each rental room shall have not less than ten by twelve (10 X 12) feet horizontal dimensions.

D. Each rental room shall be equipped with an approved smoke detector.

## 7.2 Buffers and Screening.

A. A landscaped buffer strip of no less than fifteen (15) feet in width and six (6) feet in height shall be provided to minimize the visual impact of adverse characteristics such as, but not limited to: storage areas, parking spaces, driveways, loading and unloading areas, waste collection and disposal areas, exposed machinery, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and to protect abutting residential properties from the intrusion of noise, light, and exhaust fumes from such non-residential buildings and uses. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.

B. Where no natural vegetation or barriers can be maintained on a year round basis, or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges, or combinations thereof.

C. Any abutting residential property to a non-residential use should be effectively screened by a continuous landscaped area no less than six (6) feet in height along lot lines adjacent to the residential properties, except that driveways shall be kept open to provide visibility for entering and leaving.

D. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises.

E. The Planning Board may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate.

## 7.3 Elder Cottage Housing Opportunity (ECHO) Units.

1. Purpose. The purpose of these standards is to provide for a temporary dwelling unit for habitation on lots where single family dwellings exist, except in the Shoreland and Resource Protection Districts, so that adult children may care for aging parents or certain persons with a disability as defined by Title 5 MRSA 5, Section 4553-A.
2. The construction or placement of a temporary "ECHO" unit on a lot which a single-family dwelling is located may be allowed by a permit granted by the Code Enforcement Officer if the following are met:

1. The owner of the principal structure must reside in either the principal structure or the "ECHO" unit.

2. The number of occupants of the "ECHO" unit shall not to exceed three (3) persons.

3. Wherever possible, the unit shall be placed to the side or rear of existing structures. All zoning setbacks and lot coverage requirements contained within this Ordinance shall be met.

4. Wherever possible, there shall be a separation of a minimum of fifteen (15) feet between the principal dwelling and the "ECHO" unit.

5. Newer mobile homes shall be allowed as "ECHO" units.

6. The subsurface sewage disposal system on the property shall be functioning properly and be of sufficient size to accommodate the additional flow. In addition, there shall be sufficient land area for an expansion or replacement system which is in compliance with the State of Maine Subsurface Wastewater Disposal Rules, if needed.

7. The parking requirements of the performance standards contained herein or those of the applicable zoning District apply.

8. Proper ingress and egress shall be provided to an "ECHO" unit.

9. Prior to the issuance of a building permit for the placement or construction of an "ECHO" unit by the Code Enforcement Officer, the owner of the property shall sign a binding agreement limiting the approval of an "ECHO" unit for the purposes set forth in this subsection and that "ECHO" unit must be removed within one hundred eighty (180) days from the date of occupancy cessation or when no qualified person lives within.

## 7.4 Exterior Lighting.

A. Maximum Height: The maximum height of free standing lights shall be the same as the principal building, but not to exceed twenty-five (25) feet.

B. Lighting of Parking Areas: The Planning Board shall determine the necessity for lighting of parking areas. All parking areas to be lighted shall provide a minimum of three (3) foot candles at intersections and a total average illumination of one and one-half (1½) foot candles throughout the parking areas as required. Such lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or the traveling public.

C. Required Light Levels:

1. Parking lots: An average of one and one-half (1½) foot candles throughout.

2. Intersections: Three (3) foot candles.

3. Maximum at property lines: One (1.0) foot candle.

4. In residential areas: Average of six-tenths (0.6) foot candle.

D. Glare: Lighting may be used which serves security, safety, and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed one half (½) foot-candles upon abutting residential properties.

## 7.5 Home Occupations.

A. The use of a dwelling unit or property for a home occupation shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses.

B. There shall be no change in the outside appearance of the building or premise that shall cause the premise to differ from its residential character by use of colors, materials, construction, lighting, sounds, or noises.

C. Exterior storage of materials, such as, but not limited to, trash and any other exterior evidence of home occupation shall be located and screened so as not to detract from the residential character of the principal building.

D. Exterior display shall be limited to no more than two (2) single items representative of products sold or manufactured on premises, regardless of the number of articles which are sold or manufactured.

E. The following requirements shall be satisfactorily demonstrated to the Planning Board and the Code Enforcement Officer before a permit is issued:

1. The home occupation shall employ no more than three (3) persons other than family members.

2. The home occupation shall be carried on wholly within the principal or accessory structure.

3. The home occupation shall not occupy more than thirty five (35%) percent of the total floor area of the structure (excluding basement floor area).

4. Objectionable noise, vibrations, smoke, dust, electrical disturbance, odors, heat, glare, or other nuisance shall not be permitted.

5. In addition to the off-street parking provided to meet the normal requirements of the dwelling, off-street parking shall be provided for each employee and user of the home occupation as provided for within Section 9 of this Ordinance.

6. Traffic generated by such home occupation shall be compatible with surrounding residential uses.

7. The sale of products shall be limited to normal business hours and to those items 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.

8. Signs shall be permitted and must meet the performance standards for "Signs" within this Ordinance.

9. The home occupation shall not use utilities beyond that normal for residential properties.

10. The home occupation shall not involve the use of heavy commercial vehicles for daily delivery to or from the premises.

F. Should all of the above conditions not be maintained on a continual basis once the permit has been issued, the Planning Board, upon the advice of the Code Enforcement Officer, shall schedule a public hearing to determine whether the permit should be rescinded.

G. All other relevant standards of this Ordinance shall also be observed.

## 7.6 Kennels and Veterinary Hospitals.

A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the nearest residence, other than the owners', existing at the time of permit.

B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.

C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times.

D. Temporary storage containers for any kennel, or veterinary wastes containing or including animal excrement, shall be kept tightly covered at all times.

E. If an incineration device is to be installed by the applicant, the applicant shall provide evidence that they have obtained approval from the Maine Department of Environmental Protection for the proposed incinerator.

## 7.7 Landscaping.

A. The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses. All parking lots shall be landscaped along the property boundaries with shrubbery, trees, and other landscape materials. Large parking lots shall provide one (1) two and one half inch (2 ½") caliper shade tree per twenty (20) parking spaces (six (6) trees per acre) located at representative points throughout the lot.

B. Filling/Build-up of lot shall be allowed, however limited to a maximum of one hundred (100) cubic yards. A permit shall be required for amounts in excess of one hundred (100) cubic yards and shall meet requirements, of all Zoning, Shoreland, and Floodplain Management Ordinances.

1. Fill material shall include, but not limited to: stone, gravel, loam, brush, or other combination of suitable materials so approved by the C.E.O. and/or other state agencies where applicable.

2. A vegetative cover by seeding shall be established as soon as possible and within one year to prevent soil erosion and sediment runoff. Site shall be reclaimed in accordance with Section 7.9 (E) of the Fort Kent Zoning Ordinance and/or with a plan approved by the C.E.O.

## 7.8 Manufactured Housing/Mobile Homes.

A. All manufactured housing/mobile home units to be relocated within the Town from outside of the Town shall be placed on an adequate foundation, have residential siding, and a pitched roof covered with shingles or other material approved by the Code Enforcement Officer. These design requirements shall not be applied to prevent relocation of units within the Town constructed prior to June 15, 1976 that were legally sited in Town as of August 4, 1988.

B. Mobile Home Parks: Except as required under Title 38, or an ordinance adopted by the Town pursuant to Title 38, the Town shall require each lot in a mobile home park be provided a minimum lot area, frontage, and setbacks as follows:

1. Lots served by a public wastewater disposal system.

1. Minimum lot area: six thousand five hundred square feet (6,500 SF)
2. Minimum lot width: fifty (50) feet

2. Lots served by individual subsurface wastewater disposal systems.

1. Minimum lot area: twenty thousand square feet (20,000 SF)
2. Minimum lot width: one hundred (100) feet

3. Lots served by a central subsurface wastewater disposal system approved by the Maine Department of Human Resources.

1. Minimum lot area: twelve thousand square feet (12,000 SF)
2. Minimum lot width: seventy five (75) feet
3. The overall density of the mobile home park served by a centralized system shall not exceed one dwelling unit per twenty thousand (20,000) square feet of total park area.

4. Minimum Setbacks.

1. Structures shall not be located less than fifteen (15) feet from any mobile home park individual lot line.
2. Mobile homes in a mobile home park adjacent to a public road shall be set back from the road a distance equal to the setback requirements for other residential development in that District.
3. No mobile home park lot may have direct vehicular access onto a state or Town-maintained road.

5. A fifty (50) foot wide buffer strip shall be provided along all property lines that:

1. abut residential land which has a gross density of less than half of that proposed in the mobile home park; or
2. abut residential land that is zoned at a density of less than half of that proposed in the mobile home park. .
3. In addition, no structures, roads, or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the mobile home park.

6. No mobile home park lot may be sold or conveyed unless such lot sold meets the lot size and dimensional requirements indicated above and the Mobile Home Park requirements contained within the Fort Kent Subdivision Ordinance.

**7.9 Mineral Exploration and Extraction.**

A. Mineral Exploration.

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

B. Mineral Extraction.

1. Any extraction operation that requires a permit from the Maine Department of Environmental Protection (MDEP) under the Site Location of Development Act shall obtain written approval from the MDEP and the Planning Board.

2. Any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than one thousand (1,000) cubic yards of product within twelve (12) successive months shall require a permit from the Planning Board.

C. Submission Requirements.

The following submission requirements shall apply to any mineral extraction activity of less than five (5) acres and/or any mineral extraction activity which will remove more than one thousand (1,000) cubic yards of product within twelve (12) successive months.

1. Existing and proposed limits of the excavation, clearly delineated.

2. Entrance and exit locations.

3. Slopes and vegetation for protecting adjacent structures.

4. Plan(s) and schedule for reclamation. A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of subsection E, Reclamation, below.

5. Location of any significant wildlife habitats as designated by the Maine Department of Inland Fisheries and Wildlife and areas listed under the Maine Department of Economic and Community Development's “Natural Areas Program”.

D. Review Criteria and Standards.

1. The area of a working pit shall not exceed five (5) acres.

2. Existing vegetation within a buffer strip shall not be removed. If vegetation within the buffer strip has been removed or disturbed by activities related to the operation of the extraction operation, that vegetation must be reestablished as soon as practicable. A buffer strip of not less than seventy-five (75) feet shall be maintained between the location of any extraction of materials and all property lines.

3. A three hundred (300) foot separation shall be maintained between any area to store petroleum products and any private drinking water wells.

4. A two hundred (200) foot separation shall be maintained between any excavation and any private drinking water supply in existence prior to that excavation.

5. A one thousand (1,000) foot separation shall be maintained between any excavation and any public drinking water supply.

6. Petroleum products shall not be stored in the pit.

7. There shall be no storage or dumping on the pit of any substances or materials that could produce harmful leachate.

8. No oiling of access and haul roads is permitted.

9. Excavation shall not occur within five (5) feet of the seasonally high water table.

10. Excavation activities shall not occur below road level within twenty five (25) feet of a road right-of-way and shall maintain a two and one half (2.5%) percent slope away from the right-of-way, except that excavation activities may occur below road level within twenty five (25) feet of a private road right-of-way with the written permission of the owner.

11. No part of any extraction operation, including drainage and run-off control features, shall be permitted within one hundred (100) feet of the normal high water line of a Great Pond, and within seventy-five (75) feet of the normal high water line of any other water body, tributary stream, or the upland edge of a wetland.

12. Erosion and sedimentation control for access roads shall be conducted according to best management practices adopted by the Natural Resource Conservation Service.

13. There may not be more than two (2) acres of stockpiles within the working pit at any time.

14. Noise levels shall not exceed applicable noise limits as adopted by the MDEP.

15. The hours of operation at the site shall conform to the time between sunrise and sunset at Fort Kent, ME.

16. In keeping with the purposes of this Ordinance, the Planning Board may impose other conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

E. Reclamation.

Within twelve (12) months of the completion of extraction operations, or the expiration of a CEO permit, or which operations shall be deemed complete when less than one thousand (1,000) cubic yards of materials are removed in any consecutive twelve (12) month period, the site shall be reclaimed in accordance with a plan approved by the CEO. The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Such plan shall include:

1. A vegetative cover by seeding shall be established within one (1) year of the completion of excavation. Vegetative cover shall be declared acceptable after one (1) year if:

a. the planting of trees and shrubs results in a permanent stand or stand capable of regeneration and succession, sufficient to ensure a seventy five (75%) percent survival rate; and

b. the planting of all materials results in permanent ninety (90%) percent ground coverage.

2. All structures and facilities shall be removed and, once no longer in productive use, all access roads, haul roads, and other support roads shall be reclaimed.

3. The final graded slope shall be two and one half to one (2½:1) slope or flatter.

4. Reclamation of the pit shall not be made with any substance or material that could either have a harmful leachate or create an impermeable base.

5. All affected lands shall be reclaimed within one (1) year of cessation of activity.

## 7.10 Rear Lots

Rear lots may be developed for any permitted use if they are or can be provided with a right-of-way, which complies with the following provisions:

A. If a rear lot is accessible only by a legally enforceable right-of-way, it may be used if the following conditions are met:

1. The right-of-way must be conveyed by deed recorded in the Aroostook County Registry of Deeds, Northern Office to the owner of the rear lot and be a minimum of fifty (50) feet in width.

2. A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the rear lot.

3. Except for lots recorded on the effective date of this Ordinance, the right-of-way deed must be recorded in the Aroostook County Registry of Deeds, Northern Office at the time the rear lot is first deeded out as a separate parcel.

4. Creation of the right-of-way to serve the rear lot shall not create a non-conforming front lot by reducing such lot's required road frontage below the minimum, or, if the front lot is already non-conforming, with respect to road frontage, reduce its road frontage at all.

5. The right-of-way may serve only one single-family dwelling unless the following provisions are met:

a. The right-of-way may serve two single-family dwellings if a driveway meeting the standards contained in the Town's road construction standards is built.

b. The right-of-way may serve more than two dwellings provided the applicable provisions of the Town's road construction standards and subdivision ordinance are met.

6. If the right-of-way is brought up to standards as set forth in the Town's road construction standards, further dwellings may be constructed on a rear lot with Planning Board approval, provided all other space and bulk requirements are met for each such dwelling. For purposes of such approval, the sale or lease of additional lots or the construction of an additional dwelling or dwellings served by the right-of-way shall be considered in the same manner and under the same restrictions and requirements as if such division or construction were a subdivision.

7. Each single-family dwelling on a back lot shall be located within an area large enough to hold a circle with a minimum diameter equal to the required road frontage as required for a single family dwelling in the District.

8. A lot of record which could otherwise be legally built upon, but which is served by a right-of-way which does not comply, herein, may nevertheless be used for a single- family dwelling with Planning Board approval. This provision shall not be interpreted to allow lots created after the effective date of this Ordinance, to not have to comply, herein. The Planning Board shall require the following before approval may be granted:

1. A copy of the deed or other legal instrument which grants use of the right-of-way and the description of the right-of-way;
2. An agreement between those who share use of the right-of-way which sets forth adequate maintenance provision for the right-of-way;
3. The names and addresses of all other granted use of the right-of-way;
4. Assurance in such form as the Planning Board may require that all other applicable state laws and regulations and local ordinances will be complied with; and
5. A statement in recordable form signed by the applicant that if conversion of summer camps or the erection of new dwellings accessed by the unaccepted right-of-way occurs, those persons owning property on the unaccepted right-of-way shall continue to assume responsibility for maintaining and plowing the access road and that, because the private access road is not constructed to Town road standards, the travel of personal, service, emergency, and maintenance vehicles over the access road may be hindered. Nothing contained within shall be construed as requiring the Town to provide additional services to properties on unaccepted rights-of-way not already receiving those services or to accept such rights-of-way as public roads.

## 7.11 Signs.

A. General Requirements.

1. A permit for all proposed business, commercial, industrial, and home occupation signs shall be approved by the Code Enforcement Officer and meet the standards contained within this Ordinance.

2. Existing non-conforming signs shall not be replaced by another non-conforming sign.

3. Except for Maine Department of Transportation approved off-premise signs governed by Title 23 MRSA, Section 1901-1925, signs shall be placed on the same lot as the use of the activity they are advertising, relate to the premises on which they are located, and shall only identify the occupant of such premises or advertise the service available within said premises. Product advertising is prohibited except where the product is generic to the business.

4. No sign shall be erected adjacent to any roadway in such a manner as to obstruct clear and free vision, or where, by reason of its position, shape, color, or wording the sign may interfere with or obstruct the view of, or be confused with any authorized traffic sign, signal, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

5. Signs for home occupations may display one non-illuminated sign, not exceeding sixteen (16) square feet in area. Said sign must not detracted from the character of the residence or the neighborhood.

6. Signs facing into Residential Districts within three hundred (300) feet of a Residential District shall be illuminated only by direct white light.

B. In Residential and Rural Farm Districts only the following signs shall be permitted.

1. Signs are permitted and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than two (2) square feet.

2. Rental vacancies may be advertised with a non-illuminated sign no larger than two (2) square feet. Such sign shall be erected only during such times as the rental property is vacant.

3. Educational and religious uses may display one non-illuminated sign for each building. No such sign shall be larger than sixteen (16) square feet in area.

4. Other non-residential uses may display one non-illuminated sign, not exceeding sixteen (16) square feet in area.

5. Illumination of signs in residential districts shall be only by direct white light.

C. In Commercial and Industrial Districts only the following signs shall be permitted.

1. On each premises there is permitted one sign affixed to the exterior of a building for each occupancy therein.

a. If attached to the structure by way of a frame or bracket, which overhangs a pedestrian walkway or public sidewalk, it shall not extend beyond five (5) feet of the structure face to which attached and have a vertical height clearance between the sign bottom and/or sidewalk/pedestrian walkway of ten (10) feet.

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

2. Free-standing signs are limited in number to one (1) per building, except that, where one (1) occupant occupies more than one (1) building per lot or a combination of lots mutually adjoining and in common ownership, only one (1) free-standing sign shall be permitted. The top edge of any such free-standing sign shall not be higher than sixteen (16) feet vertical measure above the grade of the road nearest the sign support(s). For traffic safety, where vision may be obscured entering a public road, the whole of the sign board or display elements of any free-standing sign shall be either below three (3) feet in height or above ten (10) feet in height above the road grade. A free-standing sign may be located within the front yard space, but shall not be closer than ten (10) feet to the road right-of-way, and be no closer than twelve (12) feet to either of the lot side lines. Where an existing principal building is within fifteen (15) feet of the road right-of-way, a freestanding sign may be located within ten (10) feet of the road right-of-way.

3. On each premise, there shall be allowed one (1) wall or roof sign affixed to the exterior of the structure or for each occupancy under common ownership operations or control therein. Such signs shall not occupy more than thirty (30%) percent of the wall which is attached or is above. For the purpose of this Section, wall is defined as the façade of the building up to the roof line including windows, doors and architectural features. (Amd. 3/23/15)

D. Maine Department of Transportation Official Business Directional (O.B.D.) Signs.

1. Official business directional signs are permitted, however limited to "local" business or retail establishments which are regulated and governed by this Ordinance.

2. Placement location, quantity and quality of O.B.D. signs shall meet site design standards set forth:

a. No sign shall be placed closer than one hundred (100) feet from any street intersection.

b. No more than three (3) signs may be on same sign support and wordage shall comply with Title 23 MRSA, Section 1901-1925.

c. Size of sign shall be limited to twelve inches x forty-eight (12″ x 48″) inches, State of Maine dimensional specifications. Only non-reflectorized O.B.D. signs are permitted.

E. Shoreland Areas: See: The Fort Kent Shoreland Zoning Ordinance.

F. Sign Exception: Nothing within this Ordinance shall prohibit the use of the following signs or signs exempted by Title 23 MRSA, Section 1901-1925:

1. Flags and insignia of any government.

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

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

4. Barber poles.

5. Signs painted, stamped, perforated, or stitched or otherwise applied to the valence of an awning.

G. Prohibited Signs. The following permanent signs are prohibited:

1. Billboards.

2. Off-premise signs.

3. Sign(s) erected on utility owned poles.

4. Sign(s) erected on trees.

5. Searchlights.

6. Hot air or gas filled balloons, or umbrellas used for advertising.

7. Sign(s) mounted or painted on a vehicle for advertising purposes, parked, and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in the normal day-to-day operations of that business.

8. Sign(s) designed to be transported by trailer or mounted on wheels.

9. "A" frame signs.

10. Any sign extending or protruding over public property within two (2) feet of the curb line. Signs extending or protruding over public property shall be approved by the Code Enforcement Officer.

11. Signs hung from another sign.

12. Any noise making sign.

13. Any colored sign so located as to attract attention from or obstruct traffic control lights so as to reduce its visibility and effect.

14. Any sign within twenty-five (25) feet of an intersection of two (2) roads so placed in any way as to obstruct clear vision in any direction.

15. Any device illuminating a sign which directs light toward a public way in such a manner as to cast its beam in the eyes of oncoming motorists or pedestrians.

H. Temporary Signs: Temporary signs for special events may be posted upon written permit from the Code Enforcement Officer. The Code Enforcement Officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A temporary sign shall be posted for a period not to exceed twenty (20) days. The applicant shall remove said signs upon termination of the permit.

1. Banners shall be not be larger than two (2) feet in height and fifty (50) square feet in area. Permits for hanging street banners across a public way shall not be issued.

2. The sale of real estate may be advertised by non-illuminated temporary signs, no larger than thirty two (32) square feet in area. Each broker or person advertising the sale shall be permitted only one (1) sign on any premises. All such signs shall be removed upon the transfer of ownership.

3. Rental vacancies may be advertised with a non-illuminated sign on the rental property and be no larger than two (2) square feet in area. Such sign shall be erected only during such time as the rental property is vacant.

4. There shall be no temporary promotion signs, banners, streamers, or placards erected, suspended, posted, or affixed in any manner outdoors or on the exterior of the premises except as provided in this Ordinance.

## 7.12 Soils.

No land use shall be permitted in any area where the soil is rated severe or very severe for the proposed activity according to the Aroostook County Soil Survey of the USDA Soil Conservation Service, unless satisfactory evidence is presented to the Code Enforcement Officer within the application for a permit, that construction methods shall overcome any pertinent soil inadequacies.

## 7.13 Swimming Pools.

1. Swimming pools installed after the effective date of this Ordinance shall require a permit issued by the Code Enforcement Officer.

2. All swimming pools shall meet accessory structure setback requirements for the District they are to be located in.

3. Enclosures of swimming pools shall comply with the provisions of Title 22, MRSA Section 1632.

## 7.14 Temporary Dwellings.

A. Purpose: To provide for the temporary habitation of one (1) dwelling during the construction or renovation of a second dwelling on lots, except within the Shoreland and Resource Protection Districts.

B. The Code Enforcement Officer may issue a Temporary Dwelling permit for the purpose of the owner residing in one (1) dwelling while a new dwelling is constructed or an existing dwelling is renovated, only if all of the following are met:

1. The temporary structure to be resided in during the construction or renovation of the second (primary) structure shall be connected to an approved subsurface sewage disposal system.

2. All zoning setbacks and lot coverage requirements of this Ordinance shall be met.

3. The owner must reside in one of the structures during construction or renovations.

4. The structure which is not to be the principle residence shall be resided in for not more than eighteen (18) months from the date of the issuance of the permit for the construction of the primary residence.

5. Within eighteen (18) months from the date of the issuance of a permit in the case of a mobile home it shall be removed from the lot and other structures shall be converted to an accessory structure or removed.

6. Prior to the issuance of a building permit for the construction and renovation on a lot where a temporary residential structure will be located, the owner shall sign a binding agreement with the Town of Fort Kent that the provisions of this section shall be complied with.

**7.15 Domesticated Chickens in Residential Zone** (Amd. 3/28/16)

A. The following standards shall apply to the keeping of domesticated chicken in a Residential Zone.

1. No more than six (6) chickens shall be allows on any property, regardless of size of the property.
2. The owner or resident of a single family dwelling unit shall be allowed to keep domesticated chickens. In the case of a two-family dwelling unit or a multi-family unit, the only persons who shall be allowed to keep domesticated chickens is the person who both owns and lives on the property.
3. Only female chickens, no roosters are permitted with no restrictions on chicken species.
4. Chickens shall be kept only for personal use.
5. Advertising the sale of eggs, chicken breeding or fertilizer production is prohibited.
6. Outside slaughtering of chickens is prohibited.
7. The keeping of chickens shall be prohibited on any property which is used for non-residential use.
8. A certification of completion of “Backyard Poultry Course1” must be received before a permit will be issued.
9. Enclosure
10. Chickens must be kept in a secure hen-house or chicken area at all times. At no time shall chickens be kept in a residence including attached structures.
11. Chickens shall be secured within the hen-house during non-daylight hours.
12. Enclosures must be clean, dry and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of abutters due to noise, odor, or other adverse impact.
13. An enclosure shall not be located in the front yard, which is the area between the front of the house and the adjacent street. In the case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no case shall the henhouse be closer than twenty-five (25) feet to the side or rear property line.
14. Henhouse
15. Henhouse shall be provided and designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to abutters.
16. The structures shall be fully enclosed with latch able doors and windows. Windows and vents must be covered with predator and bird proof wire of less than one-inch openings.
17. The henhouse shall be maintained. The use of scrap, waste board, sheet metal, or similar materials for the constructions of the structure is prohibited.
18. Henhouses shall only be located in rear yards. In the case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no case shall the henhouse be closer than twenty five (25) feet to the side or rear property line.

D. Chicken pens

1. Chicken pens may be provided. Where provided, the chicken pen shall be attached to the henhouse and the walls shall be attached to the henhouse and the walls shall be constructed of sturdy wire fencing, other than chicken wire, and buried at least twelve (12) inches in the ground. The roof shall be covered with wire, aviary netting, chicken wire or solid roofing in a manner to prevent the escape of chickens.
2. Chicken pens shall only be located in rear yards. In the case of corner lot, a side yards may be used in accordance with applicable zoning district setbacks but in no case shall the henhouse be closer than twenty five (25) feet to the side or rear property line.

E. Odor, noise and lighting.

1. Odors from chickens, chicken manure, or other chicken related substances shall not be perceptible at the property boundaries.
2. Perceptible noise from chickens shall not be a disturbance to abutters.
3. Outdoor lighting of the henhouse shall be prohibited.

F. Waste storage and removal

Provisions must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof line or lid over the entire structure. All other manure not used for composting or fertilizing shall be removed from the property.

G. Licensing/permit requirements

All of the following are required:

1. A person who keeps domesticated chickens shall obtain a permit from the code enforcement officer.
2. The person who obtains the permit shall certify that they understand Town permit requirements and that they will comply with said standards.
3. A person may not commence keeping chickens until either the code enforcement officer or animal control officer has inspected the facilities and determined that such comply with requirements of this section.
4. A person may not commence keeping chickens until a certification of completion of “Backyard Poultry Course[[1]](#endnote-1)1”.

H. Penalty

In addition to any other enforcement action which the town may take pursuant to 30-M.R.S.A. § 4452, violation of any provision of this section shall be a civil violation and a fine not exceeding one hundred dollars per day ($100.00) may be imposed. Each day that a violation continues will be treated as a separate offense. Violator’s also shall pay the Town’s reasonable attorney fees.

I. Removal of chickens

Any violations of provision of this article or of the license shall be grounds for an order from the code enforcement officer and or the animal control officer to remove the chickens and the chicken-related structure and or may also order the removal of the chickens upon a determination that the chickens pose a health risk. If a chicken dies, it must be disposed of promptly in a sanitary manner.

1 Backyard Poultry Course is offered by the University of Maine Cooperative Extension 1-800-287-1469.

# Section 8 Site Design Review.

The following standards shall be utilized by the Planning Board in reviewing applications for a conditional land use permit. The Planning Board may waive standards set forth in this Section upon a determination by the Planning Board that the standards are not applicable to the proposed land use 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 application, unless the plan does not meet one or more of the following standards, or other applicable requirements of this Ordinance. (Amd. 4/10/17)

## 8.1 Purposes for Site Design Review.

The purposes of this section are:

A. To provide for the Town review of projects that could impact the environment and/or the community;

B. To promote and protect the health, welfare, and safety of the residents;

C. To provide local protection from those particular nuisances which are not governed by State law or regulation;

D. To balance the rights of landowners to use their land with the corresponding right of abutting or neighboring landowners to live without undue disturbance from nuisances such as noise, smoke, dust, odor, glare, traffic, storm water runoff, or the pollution of ground or surface waters;

E. To reduce the off-site problems associated with development, thereby decreasing the cost of maintaining or improving Town services;

F. To implement the policies and strategies of the comprehensive plan.

## 8.2 Applicability of Site Design Review*.*

A. Site Design Review by the Planning Board in conformity with the criteria and standards of this section shall be required for the following:

1. Any use considered by the Planning Board, on the written determination of the Code Enforcement Officer, as requiring a Conditional Land Use Permit; or (Amd. 4/10/17)

2. A change in use when the new use is subject to Site Design Review; or (Amd. 4/10/17)

3. The change in on-site vehicle access of any existing parking lot or driveway.

B. Notwithstanding the above:

1. Single-family and two-family (duplex) residential dwelling development, including their basement excavations, are exempt from the requirements of this Ordinance.

2. In addition, the following activities are exempt: repairs, replacement, and/or normal maintenance not requiring structural elements, decorative changes in existing structures or buildings, provided that the activity is in conformance with federal, state, and/or local laws and does not involve any other physical modifications or changes requiring a permit under this Ordinance.

## 8.3 Site Design Approval.

A. All development projects shall require the approval of the Planning Board as provided by this Ordinance.

B. A public hearing may be scheduled for any application if the proposed development poses the potential for significant impacts to Town facilities or natural resources. Said hearing shall be conducted prior to final action by the Planning Board on the application.

C. All site design approvals shall expire within one (1) year of the date of final Planning Board approval, unless work there under is commenced and fifty percent (50%) of the approved plan is completed and an extension is approved by the Planning Board for an additional year. If work is not completed within two (2) years from the date of final Planning Board approval, a new application must be made.

D. In the event that a site design is recorded with the Aroostook County Registry of Deeds without approval of the Planning Board, the design shall be considered null and void, and the Planning Board shall institute proceedings to have the design stricken from the records of the Aroostook County Registry of Deeds. Any site design not recorded in the Aroostook County Registry of Deeds, Northern Office within ninety (90) days of the date of final approval of the Planning Board shall become null and void.

E. The approval by the Planning Board of a site design shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the design shall not constitute an acceptance by the Town of such areas. The Planning Board shall require the design to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Site Design approval is not required for the normal and customary practices and structures associated with agriculture as defined within this Ordinance.

## 8.4 Site Design Notification.

A. The Town Clerk shall notify all abutting property owners of the property involved and such other property owners as the Planning Board may deem necessary. It shall be the responsibility of the applicant to supply the names and mailing addresses of the abutting or other identified property owners. Failure to provide full documentation could delay the application. The notice shall include a description of the nature of the applicant's proposal and the time and place of the Planning Board meeting or the public comment time period required.

B. The Town Clerk shall notify the property owners of the site design review request at least fourteen (14) days before the first workshop meeting and first public hearing, if a public hearing is necessary, where the application will be discussed. The Planning Board shall not make a decision on the application for a period of thirty (30) days after the date the Planning Board has determined that the application is complete to provide an opportunity for public comment.

C. The agenda of Planning Board meetings shall be posted at six (6) prominent locations throughout the Town at least seven (7) days before the date of the meeting. The agenda notice shall include a brief description of the application and the Ordinance(s) by which the proposal is to be reviewed.

## 8.5 Site Design Fees and Guarantees.

A. Expert Consultant: The Planning Board may require that an expert consultant(s) review one or more submissions of an application and report as to compliance or non-compliance with this Ordinance, and advise if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review. The final fee amount shall be approved by the Town Council. 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. If the balance in the escrow account is drawn down by seventy five percent (75%), the Board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application has been rendered shall be returned to the applicant. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant.

B. Performance Guarantee: At the time of approval of the application for site design review, the Planning Board may require the applicant to tender a performance guarantee (see: Fort Kent Subdivision Ordinance, Section 9.6, Performance Guarantees for requirements) adequate to cover the total costs of all required improvements, taking into account the time-span of the bond and the effects of inflation upon costs. The conditions and amount of the guarantee shall be reasonably necessary to ensure the completion of all improvements required as condition of approval of the application, in such form as approved by the Planning Board and the Town. The Town shall have access to the site to review the progress of the work and shall have the authority to review all records and documents related to the project.

C. Defect Bond: The developer shall provide a one-year defect bond upon completion of all public improvements. The amount of the defect bond shall be ten percent (10%) of the amount of those public improvements approved as part of the site design. The bond shall be placed in an account in the Town's name. The bond, including accrued interest, remaining in the account and which has not been spent or appropriated shall be returned to the applicant within three hundred and sixty (360) days from date of final Planning Board approval.

D. Complete Application: Irrespective of any other provision of this Ordinance, the Planning Board shall not consider an application complete if the applicant fails to pay any of the fees, bonds, or guarantees, or appeals any fee, bond, or guarantee determination. If the applicant appeals the payment of any fees, bonds, or guarantees to the Board of Appeals, the Board shall decide whether the fee, bond, or guarantee is reasonable for the purpose found necessary by the Planning Board. The fee, bond, or guarantee shall be placed into an appropriate account in the Town's name. The money, including any accrued interest, remaining in the account and which has not been spent or appropriated, shall be returned to the applicant within thirty (30) days after the Planning Board issues its final decision on the proposal.

## 8.6 Site Design Review Application and Process.

A. A person informed by the Code Enforcement Officer or Planning Board that they require Site Design Review approval shall file a Site Design Review application with the Code Enforcement Officer on forms provided for the purpose. It shall be the responsibility of the applicant to demonstrate that the proposed use meets the Site Design Criteria and Standards of Section 8.8, herein.

B. All applications shall be made by the owner of the property or their agent, as designated in writing by the owner. A site design application must be diligently pursued from the date of submission.

C. The Code Enforcement Officer shall make an initial determination of the completeness of the application, which shall be subject to the final determination of the Planning Board. Any application which the Code Enforcement Officer initially determines to be incomplete shall not be passed on to the Planning Board, but shall be returned to the applicant by the Code Enforcement Officer with a written notice of the additional information required. The written notice shall set forth those items which need to be submitted and that the applicant will have one hundred twenty (120) days to complete the application. If the applicant fails to submit any item specified within the one hundred twenty (120) days of the date of said notice from the Code Enforcement Officer, the application shall expire and shall be deemed null and void. Nothing in this section shall prevent the Code Enforcement Officer from requiring additional information as otherwise permitted or required by the terms of this Ordinance. At such time that the additional information has been supplied, the Code Enforcement Officer shall pass the application on to the Planning Board for review and final determination of completeness.

D. Applications shall *not* be considered as having pending status and shall be subject to changes in local, state, or federal laws until the time they have been determined to be complete final applications by the Planning Board.

E. 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 cost of all such studies shall be borne by the applicant.

F. The following application process shall be followed to facilitate site design review.

1. Site Design Review Application Process.

a. Upon receipt of an application for site design review from the Code Enforcement Officer, the Planning Board shall schedule the development for concept or final plan review at the next available Planning Board meeting. The Planning Board may advise the applicant whether concept plan review is appropriate prior to submission of a final plan; however, the applicant shall determine whether to seek concept or final plan review prior to submitting an application for final plan review. Neither concept nor final plan review shall occur unless there is evidence that the required public notice has been given and the material required by Section 8.7(B) or Section 8.7(C) of this Ordinance is filed with the Planning Board in a timely manner. The application is distributed to the appropriate Town departments. Final determination as to the completeness of applications for concept plan and final plan review shall be made by the Planning Board.

b. Concept Plan Review.

Concept plan review is intended to provide the applicant with an opportunity to discuss the proposed development; obtain the Planning Board's comments prior to expending significant resources in furtherance of specific development plans; and gain an understanding of the review procedures, requirements, and standards. The Planning Board may identify issues that are to be addressed in the final plan application. No decision is made during concept plan review.

c. Final Plan Review.

Within sixty (60) days after determining that an application is a complete, the Planning Board may conduct a public hearing on the proposed development, if the development poses the potential for significant impacts to Town facilities or natural resources, unless either the applicant or the Planning Board determines that additional workshops are necessary. The Planning Board shall issue a written decision approving, approving with conditions, denying, or tabling the final plan. If the Planning Board tables the item, an additional public hearing must be held. If the Planning Board shall vote to approve the site design application, the Code Enforcement Officer shall issue a permit, provided that all other requirements of the Ordinance are met.

d. Statement of Findings.

All findings and decisions by the Planning Board denying or conditionally approving any site design shall be made in writing or reduced to writing within thirty (30) days of the decision and shall state the reason(s) therefore sufficient to appraise the applicant and any interested member of the public of the basis for the decision. The Planning Board's decisions regarding site designs are appealable by the applicant, an abutter, and/or an aggrieved party to the Board of Appeals. Site design decisions of the Board of Appeals are appealed to the Superior Court.

e. Applications Requiring Other Public Agency Review.

1. The Planning Board may approve complete final applications subject to the condition that all necessary permits be received from agencies such as, but not limited to, the Army Corps of Engineers, Maine Department of Environmental Protection, Maine Department of Transportation, or Maine Department of Human Services. However, the Planning Board may require that approvals required by state or federal law be submitted to the Town prior to final approval upon finding that the permits from state or federal agencies may have a significant effect on the site design application.

2. The Planning Board may request copies of the application to be forwarded to other Town committee(s). The comments of the committee(s) are advisory to the Planning Board and shall pertain to the application's conformance with the review criteria of this Ordinance. The Planning Board may postpone final decisions regarding the application until such time as the comment from the Town committee(s) has been submitted.

## 8.7 Site Design Review Application Requirements. (Amd. 4/10/17)

A. Concept Site Design Plan.

1. The Planning Board may review applications as concept site design plans. These are applications that do not meet the final plan requirements. The information may be presented in a sketch plan or non-engineered graphic format.

Note: Should it become evident during this preliminary review that professional prepared submissions are necessary; the applicant should have a consultant or such other necessary individual present so that the parties can gain a mutual understanding of the expected submissions.

2. At a minimum, the concept plan applications should include the following information:

a. Name and address of the owner of record and developer (if different);

b. Name of the proposed development;

c. Names and addresses of all property owners within five hundred (500) feet of the edge of the property line and others indicated by the Planning Board as being impacted;

d. Names and addresses of all consultants working on the project;

e. Graphic scale and north arrow;

f. 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;

g. Location and dimensions of any existing or proposed easements and copies of existing covenants or deed restrictions;

h. Name, registration number, and seal of the land surveyor, architect, engineer, and/or similar professional who prepared the plan;

i. All property boundaries, land area, and zoning designations of the site, regardless of whether all or part is being developed at this time;

j. Size, shape, and location of existing and proposed buildings on the site including dimensions of the buildings and setbacks from property lines;

k. Location and layout design of vehicular parking, circulation areas, loading areas, and walkways including curb cuts, driveways, parking space and vehicle turn around area dimensions;

l. Location and names of roads and rights-of-way within and within two hundred feet (200') adjacent to the proposed development;

m. Proposed finish grades and graphic arrows indicating the direction of storm water runoff;

n. Conceptual treatment of on and off site storm water management facilities;

o. Location and sizes of existing and proposed sewer and water services including connections;

p. Conceptual design and location of landscaping buffers, screens, and plantings;

q. Location of outdoor storage areas, fences, signs (front view and dimensions), advertising features, and solid waste receptacles;

r. Concept map illustrating the area within 500 feet surrounding the site which will be affected by the proposal including all roads, sidewalks, intersections, storm water drainage ways, sanitary sewer lines and pump stations, nearby properties and buildings, Zone Districts, and geographic features such as, but not limited to, wetlands, natural features, historic sites, flood plains, significant scenic areas, and significant wildlife habitats as provided in the Comprehensive Plan; and;

s. Plans for all proposed exterior lighting including the location, type of light, radius of light, manufacturer's specifications sheet, and the ground level intensity in foot-candles.

t. Project Description. The project description is to describe the proposal, its scheme of development, and proposed land uses. The project description shall also include estimates from qualified professionals as to the anticipated gallons per day of wastewater, the number of vehicles entering and leaving the site during the day (and at peak traffic hours), the increased amount of storm water runoff, and the rate of the storm water runoff of the post-development site.

B. Final Site Design Plan.

1. Final application for Site Design Review shall consist of five (5) copies of the required information. The applications are to be submitted to the Code Enforcement Officer no later than twenty-one (21) days prior to the meeting at which the item is to be heard.

2. The final site design plan application shall include all information required in Section 8.7(B), above and in addition shall require the following information:

1. Boundary Survey: Prepared by a licensed Maine surveyor indicating the boundaries, permanent markers, encumbrances, and topography of the site.

2. Storm Water Management Plan: Prepared by a Maine licensed professional engineer analyzing the proposal's impact on existing storm water facilities and watersheds. The storm water management plan shall include a map of all watersheds significantly impacted by the proposal and identify all areas of existing or anticipated flooding, locations of existing and proposed culverts, pipes, detention ponds, and flow restrictions to be affected by the proposal. The storm water management plan shall comply with the review criteria found in this Ordinance.

3. Finish Grading Plan: Prepared by a Maine licensed professional engineer or landscape architect indicating the final grading of the site, the amount of fill to be imported to or exported from the site, and graphic arrows indicating the direction of storm water runoff.

4. Site Improvement Details: Including sufficient information to enable the creation of an itemized cost estimate for all required on/or offsite improvements.

5. Building Elevations: Scale plans of exterior building surfaces including materials, doorways, and advertising features.

6. General topography of the site.

7. High intensity soils classifications of the soils located on the site.

8. A copy of any variances granted or deed restrictions on the subject use or property. Such variances and/or restrictions shall be noted on the final (recording) copy of the plan.

9. Additional Information: Additional information as deemed necessary to review the proposal's conformance with the site design review criteria and standards. Additional information may address items such as, but not be limited to, traffic, wetlands, high intensity soils, environmental analyses, or the interpretation of the data by Town consultants. Additional information shall be financed pursuant to the consulting fees of this Ordinance.

C. Waiver of Required Information. (Amd. 4/10/17)

The Planning Board may waive the submittal of required application materials for developments upon finding that the specific information is unnecessary in order to review the application's conformance with this Ordinance. Such waiver(s) shall be noted on the final (recording) copy of the plan.

E. Final Copies of the Plan.

The applicant shall submit three (3) signed copies of the final approved plan to the Code Enforcement Officer. One (1) copy shall be retained by the Planning Board as part of its permanent records. One (1) copy shall be forwarded to the Tax Assessor. One (1) copy shall be forwarded to the Code Enforcement Officer.

## 8.8 Site Design Review Criteria and Standards.

The Planning Board may not approve the site design if in its determination one (1) or more of the following criteria or standards are not met: (Amd. 4/10/17)

A. Conformance with Comprehensive Plan: The proposed development shall be located and designed in such a manner as to be in conformance with the Town's Comprehensive Plan.

B. Traffic: The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public roads or pedestrian walkways existing or proposed. Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. The Planning Board may require mitigation when the proposed development is anticipated to result in a decline in service, below Level of Service "C", of nearby roadways of intersections. Levels of service are defined by the Highway Capacity Manual, Special Report #209, published by the Research Board, National Research Council, Washington DC, 1985. If an existing intersection is functioning at a Level of Service of "D" or lower prior to the development, the project shall not reduce the current level of service. A copy of the application shall be provided to the appropriate Town authority(s), and to the Maine Department of Transportation if on a state maintained road, for timely review and comment. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that

1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of project approval.

C. Site Access: Vehicular access to the development shall provide for safe and convenient access and shall be in conformance with the Road Design, Construction, and Acceptance Standards of this Ordinance. A copy of the application shall be provided to the appropriate Town authority(s), and to the Maine Department of Transportation if on a state maintained road, for timely review and comment.

D. Parking and Vehicle Circulation: The proposed plan provides for adequate parking and vehicle circulation and shall be in conformance with the Road Design, Construction, and Acceptance Standards of this Ordinance. A copy of the application shall be provided to the appropriate Town authority(s) for timely review and comment. The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles throughout the site.

1. Projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.

2. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

3. The layout and design of dedicated parking areas provided on-site or within a reasonable walking distance from the site shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a road.

4. All roads 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, delivery and collection services.

E. 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 road 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, existing sidewalks in the neighborhood, and shall be in conformance with the Road Design, Construction, and Acceptance Standards of this Ordinance. A copy of the application shall be provided to the appropriate Town authority(s) for timely review and comment.

F. 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 request and to the satisfaction of the Code Enforcement Officer.

3. No changes in elevation shall be made of any lot or site by the removal of earth to another lot or site other than as shown on an approved site design plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval has been obtained from the Code Enforcement Officer.

G. Open Space:

1. Common open space shall be contiguous, where possible.

2. Common open space 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.

3. When reviewing the location and type of open space designated in an application, the Planning Board shall require:

a. Individual lots, buildings, roads, and parking areas shall be designed and situated:

1. to minimize alterations of the natural site;

2. to avoid the adverse effects of shadows, noise, and traffic on the residents of the site; and

3. to relate to the surrounding properties, to improve the view from and of buildings.

b. Diversity and originality in lot layout and individual building, road, parking, and lot layout shall be encouraged.

c. Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).

d. Open space intended for recreation or public use shall be determined by the size, shape, topographic, and location requirements of the site.

H. Sanitary Sewage: 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 wastewater disposal systems to be used. The proposed development will not cause an unreasonable adverse effect to the Town sewerage treatment facilities and will not aggravate an existing unhealthy situation. A copy of the application shall be provided to the sewer authority for timely review and comment.

1. 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.

2. When not serviced by a public sewerage system, the approval of an application shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for on-site wastewater disposal. All individual on-site systems shall be designed by a Maine 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.

I. Water: 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. The proposed development will not cause the depletion of local water resources or be inconsistent with the service plan of the Fort Kent Water Department. A copy of the application shall be provided to the Department for timely review and comment.

J. Emergency Vehicle Access: All site design applications shall be reviewed by the Fire Chief or their designee and shall receive the approval for conformance with applicable standards. The proposed development shall be located and designed in such a way as to provide and maintain convenient and safe access and response time for emergency vehicles or mitigates inadequate access or response time by providing adequate safety features as part of the proposed development.

K. Waste Disposal: The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes. A copy of the application shall be provided to the solid waste coordinator for timely review and comment.

1. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

2. All hazardous waste shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

3. All commercial and industrial developments shall devote floor space suitable to accommodate two (2) recycling containers designed to hold at least one (1) cubic yard of recyclable materials such as, but not limited to, office paper and corrugated cardboard. The floor space requirement shall be met for every two thousand five hundred (2,500) square feet of floor area.

L. Buffering: The proposal provides for adequate on site buffering in the vicinity of property boundaries, when required. On site buffering is required:

1. wherever commercial, industrial, or other non-residential development is proposed adjacent to or across a road from residential or agricultural uses or Districts; and

2. as required by the standards of this Ordinance.

M. Natural Areas: The proposal does not cause significant adverse impacts to natural resources or areas such as wetlands, significant geographic features, significant wildlife and marine habitats, and natural fisheries. A copy of the application shall be provided to the Maine Department of Inland Fisheries and Wildlife, the Maine Department of Economic and Community Development's, Natural Areas Program, and to the local office of the Maine Department of Environmental Protection for timely review and comment. The proposal shall be consistent with the recommendations of the Departments.

N. Exterior Lighting: All exterior lighting shall be designed to encourage energy conservation and efficiency, to ensure the safe movement of people and vehicles, 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 and shall be in conformance with the Supplementary Regulations of this Ordinance.

O. Storm Water Management: The plan provides for adequate storm water management facilities so that the post development runoff rate will be no greater than the predevelopment rate, the removal of storm water will not adversely affect neighboring properties, and that there is no adverse downstream impact. Proposed storm water detention facilities and calculations shall provide for the control of twenty-five (25) year storm frequency rates. On-site absorption shall be utilized to minimize discharges whenever possible. The design, construction, and maintenance of private facilities are not anticipated to cause the expenditure of additional Town resources for maintenance of private storm water management facilities. Maintenance responsibilities shall be reviewed to determine their adequacy. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way; and the adequacy of the existing system; and the need for improvements, both on and off site, to adequately control the rate, volume, and velocity of storm drainage.

P. Erosion and Sedimentation Control: The proposed development includes adequate measures to control erosion and sedimentation and will not contribute to the degradation of nearby streams, watercourses, or lowlands by virtue of soil erosion or sedimentation. The erosion control measures are to be in conformance with the most current standards of the Maine Soil and Water Conservation Commission. The following measures shall be included where applicable as part of any site design review and approval.

1. Stripping of vegetation, regarding 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 amount of erosion potential, and so as to adequately handle surface water run-off.

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 practical.

5. Temporary vegetation, mulching, or other acceptable measures 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 run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable measures.

8. Whenever sedimentation is caused by stripping vegetation, regarding 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 their 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 local shoreland zoning ordinance and the State Natural Resources Protection Act, Title 38 MRSA, Sections 480-A to 480 HH. Any such activity shall 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.

Q. Buildings: The bulk, location, and height of proposed buildings or structures will not cause health or safety problems to existing uses in the neighborhood, including without limitation those resulting from any substantial reduction in light and air or any significant wind impact.

R. Existing Landscaping: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing to the greatest extent feasible any disturbance or destruction of significant existing vegetation, including mature trees over four (4) inches in diameter measured at four and one half (4.5) feet from ground level, soils, and significant vegetation buffers. If a site includes a ridge or ridges above the surrounding areas and provides for 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 scenic vistas.

S. Infrastructure: The proposed development shall be designed so as to be consistent with off premises infrastructure, such as but not limited to, sanitary and storm sewers, wastewater treatment facilities, roadways, sidewalks, trail systems, and street lights, existing or planned by the Town.

T. Advertising Features: The size, location, design, color, texture, material, and lighting of all permanent signs and outdoor lighting fixtures shall not detract from the design of proposed buildings or neighboring properties and shall be in conformance with the Supplementary Regulations for Signs of this Ordinance.

U. Design Relationship to Site and Surrounding Properties: The proposed development provides a reasonably unified response to the design constraints of the site and is sensitive to nearby developments by virtue of the location, size, design, and landscaping of buildings, driveways, parking areas, storm water management facilities, utilities storage areas, and advertising features.

V. Scenic Vistas and Areas: The proposed development shall not result in the loss of scenic vistas or visual connection identified in the Town's comprehensive plan.

W. Utilities: Utilities such as natural gas, propane, electric, telephone, and cable TV services located 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. The underground placement of utilities is encouraged.

X. Mineral Exploration: Mineral exploration to determine the nature and extent of mineral resources shall be sampling, test boring, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations.

Y. Phosphorus Export: Proposed development within the watershed of a lake or pond shall be designed to limit phosphorous runoff. The Planning Board shall keep an accurate record of permits issued by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments at five (5) year intervals, subject to a reasonable appropriation by the Town to conduct such an assessment, or the availability of adequate state or regional grant programs or technical assistance programs. Phosphorus export from a proposed development shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds A Technical Guide for Evaluating New Development", (Maine DEP et. al., 1989, as amended). Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds A Technical Guide for Evaluating New Development", (Maine DEP et. al., 1989, as amended). The Planning Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing road lengths, and shall encourage the use of nonstructural measures prior to allowing the use of high maintenance structural measures such as infiltration systems and wet ponds.

## 8.9 Conditional Approvals for Site Design.

A. The Planning Board may impose any condition upon approval of any Conditional Land Use Permit or site design for the following reasons: (Amd. 4/10/17)

1. To minimize or abate, to the extent feasible, any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities; or

2. To bring the development into compliance with the requirements of the Site Design Review Criteria and Standards of this Ordinance; or

3. To mitigate any other adverse effects of the proposed development.

B. Such conditions may include, but are not limited to, the imposition of a time limit for the conditional use; the employment of specific engineering, construction, or design technologies, modes of operation, or traffic patterns; and may also include the construction of on or off site improvements including, without limitation, roads, intersection improvements, sidewalks, sewers, and drainage courses. All such conditions shall be consistent with the purposes set forth in this Ordinance.

## 8.10 Revisions to Approved Site Designs.

The site shall be developed and maintained as depicted in the approved Conditional Land Use Permit or site design and the written submission of the applicant. Modification of any approved Conditional Land Use Permit or site design shall require the prior approval of a revised site design by the Planning Board pursuant to the terms of this Ordinance. Any such parcel lawfully altered prior to the effective date of this Ordinance shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site design, including but not limited to, topography, vegetation, and impervious surfaces shown on the site design. Field changes for Conditional Land Use Permits or site designs may be made by the CEO and are limited to minor variations necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Planning Board. (Amd. 4/10/17)

## 8.11 Post Approval Submissions.

Following Conditional Land Use Permit or site design approval and prior to issuance of any permit, the developer shall submit copies of the contract plans and specifications, in reproducible form, showing the design of all infrastructure improvements, including without limitation all roads, sewers, drainage structures, and landscaping, to the Code Enforcement Officer for review and approval for compliance with the Town's construction standards. Thereafter, all departures from such plans may be approved by the CEO as "field changes", subject to Section 8.10, above. Nothing herein shall diminish the obligation of the developer to supply plans or specifications as provided in this Ordinance. (Amd. 4/10/17)

# Section 9 Appeals and Conditional Land Use Permits (Amd. 3/27/17)

A. Procedure

1. All applications for Conditional Land Use Permits or appeals to the Board of Appeals shall be based upon a written determination of the Code Enforcement Officer. The Code Enforcement Officer will screen applications for completeness and offer comments for the respective Board’s consideration. If the Code Enforcement Officer should determine that an application is incomplete the incomplete application will be forwarded back to the applicant. The Code Enforcement Officer’s determination and referral of applications to the Planning Board and Board of Appeals must take place within ten (10) days of receipt of completed applications. The Code Enforcement Officer does not have the authority to decide that person or entity has no standing to apply for a Conditional Land Use Permit or an administrative or variance appeal.

2. Administrative appeals and variance appeals shall be heard and decided by the Board of Appeals in accordance with the provisions of this Ordinance.

3. Applications for Conditional Land Use Permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.

# Section 10 Off-Street Parking and Loading (Amd. 4/10/17)

A. General

1. A permitted use in any District shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the requirements of this Ordinance.

2. All parking spaces shall be nine by eighteen feet (9ꞌ x 18ꞌ).

3. All parking areas shall be arranged so that it is not necessary for vehicles to back into the road.

4. Required off-street parking for all land uses should be located on the same lot as the principal building or facility. The Planning Board may permit off-street parking to be located at a distance not greater than three hundred (300) feet from the principal building or use measured along lines of public access if the premises to be used for parking is held by the same ownership or lease.

5. The joint use of a parking facility by two (2) of more principal buildings or uses may be approved as an administrative appeal by the Board of Appeals where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees on such establishment.

6. Parking spaces shall be provided as required and made available for use prior to the issuance of the Certificate of Occupancy.

B. Additional Requirements for Commercial and Industrial Establishments.

1. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and to avoid generating traffic on local access roads of a primary residential character.

2. All parking areas, driveways, and other areas serving ten (10) or more vehicles shall be paved with bituminous concrete or an equivalent surfacing over a gravel sub- base at least twelve inches (12″’) in thickness, and shall have appropriate bumper or wheel guards where needed.

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

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

5. The following minimum off-street loading bays or berths should be provided, if required, and maintained in the case of new construction, alterations, and changes of use:

a. Retail, office, consumer services, wholesale, warehouse, and industrial operations with a gross floor area of more than five thousand (5,000) square feet may require the following:

5,001 to 20,000 SF 1 bay

20,001 to 50,000 SF 2 bays

50,001 to 100,000 SF 3 bays

100,001 to 150,000 SF 4 bays

150,001 to 300,000 SF 5 bays

b. Each one hundred fifty thousand (150,000) square feet over three hundred thousand (300,000) square feet may require one (1) additional bay. No loading docks should be located to face any road frontage. Provision for handling all freight shall be on those sides of any building which do not face on any road or proposed roads.

6. Off-street parking and loading spaces, where not enclosed within building, shall effectively screened from view by a continuous landscaped area no less than six (6ꞌ) feet in height along the contiguous exterior lot lines adjacent to residential properties, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted from within the setback or any setback adjoining a public road, except as specifically authorized in this Ordinance.

C. Parking Lot Design Criteria (except for single-family and duplex residential use).

1. Vehicular Entrance and Exit

a. Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

b. Entrance/Exit design shall be in conformance with the standards contained within this Ordinance.

2. Interior Vehicular Circulation

a. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.

b. Access to parking stall should not be from major interior travel lanes and shall not be immediately accessible from any public way.

c. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

d. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.

e. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

f. Entrances/exists shall be designed to allow adequate stacking of vehicles without blocking interior vehicles circulation lanes.

g. All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, except for additional requirement in buffer yards.

h. Aisle Width and Parking Angle: The width of all aisles and parking angles providing direct access to individual parking stalls shall be in accordance with the requirements below. Only one-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90°) degrees.

**Parking Angle (degrees) Aisle Width (feet)**

0 (parallel parking) 12

30 12

**Parking Angle (degrees) Aisle Width (feet)**

45 13

60 18

90 (perpendicular parking) 25

i. Parking areas shall meet the shoreline setback requirements for structures for the District in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, in Districts other than General Business and Industrial Districts, may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

j. Parking areas in the Shoreland Areas shall be adequately sized for the proposed use and shall be designed to prevent storm water run-off from flowing into a water body, and where feasible, to retain all runoff onsite.

k. In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of four (4ꞌꞌ) inches in width. Where double lines are used, they should be separated a minimum of twelve (12″) inches on center.

l. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate traffic flow.

m. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damaged landscape materials.

D. Required Parking Spaces

1. Parking spaces shall be provided to conform with the number required in the following schedule:

| **Activity** | **Minimum Required Parking** |
| --- | --- |
| **Residential** With two (2) or more bedrooms | Two (2) spaces per dwelling unit |
| With one (1) bedroom | One (1) space per dwelling unit |
| Elderly Housing | One (1) space per dwelling unit |
| Tourist home, Boarding, Lodging | One (1) space per room/unit rental and or each employee on the largest shift |
| Church | One (1) space per three (3) seats based upon max. seating capacity |
| **Schools**  Primary | Two (2) spaces per classroom |
| Secondary | Eight (8) spaces per classroom |
| Post-Secondary | One (1) space for each student and one (1) space for each faculty and staff member |
| **Activity** | **Minimum Required Parking** |
| Medical Care Facilities | One (1) space for every three (3) beds and each employee on the maximum working shift |
| Office, Banks | One (1) space for every one hundred fifty square feet (150 SF) of floor space |
| Medical Offices (MD’s, OD’s) | Ten (10) spaces for each doctor, dentist, or other medical practitioner |
| Veterinarian Clinic, Kennel | Five (5) spaces per veterinarian |
| Retail and Service Businesses | One (1) space for every four hundred square feet (400 SF) of floor space (amended5/26/15) |
| Barber/Beauty Shop | Four (4) spaces per chair |
| Restaurant | One (1) space per three (3) seats based upon max. seating capacity |
| Industrial Businesses | One (1) space/employee on the maximum working shift |
| Warehouse, Wholesale | One (1) space per five hundred square feet (500 SF) floor space |
| Flea Market | Three (3) spaces/table |
| Mixed Use | Total of individual uses |
| Automotive Repair Garage and Repair Gasoline Filling Stations | Five (5) spaces for each bay or area used for work |
| Library, Museum, Art Gallery | One (1) space for each one hundred fifty square feet (150 SF) of floor space |
| Commercial Recreation Facility, Fitness Area | One (1) space for each one hundred square feet (100 SF) of floor space |
| Motor Vehicle Sales | One (1) space reserved for customers per thirty (30) vehicles displayed on the lot |
| Child Care Facility | One (1) space for every four (4) children facility is licensed to care for |
| Private Clubs or Lodges | One (1) space per every seventy-five square feet (75 SF) of floor space |
| Theater, Auditorium, Public Assembly Areas | One (1) space per (3) three seats based upon max. seating capacity |
| Funeral Homes | One (1) space per every one hundred square feet (100 SF) of floor space |

Notes:

1. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.

2. The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.

3. Where floor space is to be used in calculating the number of required parking stalls, gross floor area shall be used unless otherwise noted.

4. Parking areas will meet the ADA (American Disability Act) standards where applicable. (Amd. 4/10/17)

# Section 11 Administration and Enforcement.

## 11.1 General. (Amd. 3/27/17)

A. The Code Enforcement Officer shall administer and enforce this Ordinance. No applications for land use permits shall be accepted unless accompanied by any necessary fees, a copy of the deed to the property in question, a scaled site plan, and a general narrative of intended work to be submitted by the owner, authorized agent, and/or contractor.

B. No land use permit or certificate of occupancy shall be issued for the construction, alteration, enlargement, moving, use, or change of use of any land or building unless the Code Enforcement Officer determines that all of the above requirements have been met and that the land and/or building shall conform in all respects to the provisions of this ordinance and all other applicable federal, state, and local laws, regulations, and ordinances.

C. If application is made for a land use permit only, the application shall be accompanied by the appropriate fee as per Section 16 Schedule of Fees.

D. After the fact permits will be determined by Section 16 Schedule of Fees.

## 11.2 Land Use Permit. (Amd. 3/27/17)

A. No building or structure shall be erected, altered, enlarged, or moved until a land use permit has been issued by the Code Enforcement Officer. Permits shall expire annually on March 31 and may be renewed once. There shall be no additional fee if the original permit was issued within six (6) months prior to the March 31 expiration date. All intended construction and land use as stated in the original permit shall begin within the term of the permit issuance date. All applications for permits shall be in accordance with the provisions of this Ordinance.

B. Application for a land use permit shall be in writing and contain all information pertinent to the requirements of this Ordinance, including a statement setting forth the intended use of the proposed new, altered, or relocated building. The Code Enforcement Officer shall issue the permit if they find, after proper examination of the application, that the building or structure and its intended use will comply with the provisions of this Ordinance.

C. There shall be submitted with all applications for a land use permit, two (2) copies of a site plan drawn to scale showing; the exact dimensions of the lot to be built upon, all buildings, yards, required off-street parking and loading spaces, existing, proposed, and such additional information as may be necessary to determine and provide for enforcement of this Ordinance.

D. One (1) copy of the site plan shall be returned to the applicant when approved by the Code Enforcement Officer together with the permit.

## 11.3 Certificate of Occupancy. (Amd. 3/27/17)

A. No land use shall be changed in use, nor building or structure hereafter completed, altered, enlarged, or relocated, or changed in use until a certificate of occupancy has been issued by the Code Enforcement Officer, stating that the proposed use complies with the provisions of this Ordinance.

B. A certificate of occupancy shall be required for the following uses:

1. The increase in the number of dwelling units in building.

2. The establishment of any home occupation.

3. A change in a nonconforming use of land or building.

4. The occupancy and use or change of use of vacant land except for the raising of crops.

5. A change in use of an existing building, whether or not alteration is involved, from any use in the following list to any use immediately following it on the list:

Residential use - Retail use or service;

Wholesale use - Storage warehouse use manufacturing or processing.

C. Any person desiring to change the use, but not the structure of the building or structure erected, or the use of the premises, shall file an application to the Code Enforcement Officer for a certificate of occupancy setting forth the new use under the application. The Code Enforcement Officer, under finding after examination that such new use complies with the provisions of this Ordinance, shall issue the certificate of occupancy applied for.

## 11.4 Code Enforcement Officer Shall Act. (Amd. 3/27/17)

The Code Enforcement Officer shall act within fifteen (15) days after receipt of an application for a land use permit or certificate of occupancy for change in use required by this Ordinance. Notice of refusal to issue the land use permit or certificate of occupancy shall be given to the applicant or their authorized agent in writing within fifteen (15) days of such application stating the reason for refusal. The Code Enforcement Officer shall also act promptly upon all requests for certificate of occupancy required by this Ordinance within seven (7) days after requested.

## 11.5 Inspection. (Amd. 3/27/17)

A. At least ten (10) days prior to commencing construction or improvements, the developer shall notify the Code Enforcement Officer in writing of the time when the developer proposes to commence construction of such improvements. Town Officers can cause inspection to be made to assure that all Town specifications, requirements, and conditions of approval, if applicable, shall be met.

B. If the Code Enforcement Officer finds upon inspection of the construction or improvements that have not been constructed in accordance with the plans and specifications filed by the developer, the Code Enforcement Officer shall so report in writing to the Town Officers, Planning Board, developer, and builder. The Town Officers shall take any steps necessary to preserve the Town's rights.

C. If at any time before or during the construction or improvements it appears to be necessary or desirable to modify the improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances, such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one percent (1%), etc., the developer shall obtain permission to modify the plans from the Planning Board.

## 11.6 Code Enforcement Officer. (Amd. 3/27/17)

A. It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, the CEO shall notify the applicant in writing indicating the nature of the violations and ordering the action necessary to correct it. The CEO shall send a copy of such notice to the Town Officers and said notice shall be maintained as part of the permanent record. The failure of the CEO to follow the notice procedure set forth within this subsection shall not prevent the Town Officers from taking any legal action to enforce this Ordinance and to pursue all available legal remedies, including without limitation, injunctive relief, fines, and attorney fees. The CEO shall have the authority to issue a Stop Work Order upon a finding that work has been commenced or completed prior to receipt of all approvals required by this Ordinance or contrary to the terms of an approved site design. The CEO shall order the removal of illegal buildings, structures, additions, materials, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions. Any construction or site work not in conformity with an approved plan and/or permit shall constitute a violation of this Ordinance. Work shall recommence only after such Order has been lifted.

B. The CEO shall maintain the current addresses and phone numbers of federal and state agencies with which an applicant may want to check to determine what other laws apply to a proposed development. In addition, the CEO shall maintain a current file of all pertinent local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans. The CEO 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.

C. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The CEO may enter any property or structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section. If consent is denied they should obtain an administrative warrant before entering the property. The CEO may revoke a permit after proper notification and an opportunity for a hearing if it was issued in error or if based on erroneous information.

## 11.7  Violations. (Amd. 3/27/17)

When any violation of any provision of this Ordinance shall be found to exist, the Town Officers, upon notice from the CEO, are hereby authorized 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 Town. The Town Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

## 11.8 Fines(Amd. 3/27/17)

Any person, firm, or corporation being the owner, authorized agent, contractor, or having control or use of any structure of premises who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with provisions of Title 30-A MRSA 4452-3. Each day such a violation is permitted to exist after notification shall constitute a separate offense. (Amd. 3/28/16)

# Section 12 Planning Board. (Amd. 3/27/17)

## 12.1 Appointment. (Amd. 3/27/17)

A. Planning Board members shall be appointed by the Town Council and sworn in by the Town Clerk or other person authorized to administer oaths.

B. The Board shall consist of five (5) members and two (2) alternate members.

C. The term of each member shall be three (3) years, except the initial appointments which shall be: one (1) for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years, respectively. The term of office of an alternate member shall be one (1) year.

D. When there is a permanent vacancy declared, the Town Council may within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the voting members of the Board upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or when a member fails to attend three (3) consecutive meetings, or fails to attend at least seventy five percent (75%) of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chairperson of the Board shall immediately so advise the Council in writing. The Board may recommend to the Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Council disapproves the recommendation.

E. Any member can be removed by the Town Council in accordance with the Fort Kent Town Charter and/or Title 30A M.R.S.A. Chapter 123 § 2601.

F. Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

## 12.2 Organization and Rules. (Amd. 3/27/17)

A. The voting members of the Board shall elect a Chairperson, a Secretary, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the annual organizational meeting which shall be held on the first regular Planning Board meeting in September, and the election shall follow immediately thereafter. The term of all offices shall be one (1) year(s) with eligibility for reelection.

1. The Chairperson shall preside at all meetings and hearings of the Planning Board. The Chairperson has the authority to appoint all committees, to call all work sessions, designate which alternate member shall serve in place of a regular member, and to preside over executive sessions.

2. The Recording Secretary shall be responsible for the minutes and records of the Board, shall keep a record of all resolutions, votes, transactions, correspondences, findings and conclusions of the Board and other duties as may be normally carried out by the secretary. All records shall be deemed public and may be inspected during normal business hours. Any member of the public may obtain a copy of the record from the Board upon payment of the cost of reproduction, and postage.

3. The Corresponding Secretary shall be responsible for the agendas of regular meetings and special meetings with the Chairperson, distribution of the notice of the meetings and hearings, correspondence of the Board, and other duties as may be normally carried out by the secretary.

B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate an alternate member to sit in their chair.

C. An alternate member may attend all meetings of the Board and participate in its proceedings, but may vote only when they have been designated by the Chairperson to sit for a member.

D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members, except the member who is being challenged.

E. The Board shall hold at least one regular meeting of the Board each month.

F. No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote.

G. Planning Board business shall be conducted in accordance with the Maine Revised Statutes Annotated and/or local ordinances.

H. The Board shall adopt rules for transaction of business.

I. The Chairperson may call a special meeting of the Board.

## 12.3 Duties and Powers. (Amd. 3/27/17)

A. The Board shall:

1. Perform such duties and exercise such powers as are provided by ordinance/regulations and charter and the laws of the State of Maine, to include:

a. the responsibility for the directing and overseeing the activity of the comprehensive planning program;

b. reviewing subdivision proposals;

c. facilitating the interpretation of land use ordinances;

d. administering and issuing permits pursuant to land use ordinances;

e. projecting a course, through community planning, for the Town's future;

f. undertaking duties to conduct community planning activity;

g. conducting a municipal planning program;

i. seeing that all Planning Board members have an obligation to act reasonably and promptly; and

j. facilitating in obtaining public participation, public relations, and citizen involvement.

B. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

## 12.4 Meeting Organization. (Amd. 3/27/17)

A. Regular Meetings.

1. Regular meetings of the Planning Board shall be held on the first (1st) Wednesday of the month at 7:00 p.m. unless changed for just cause. The meeting shall be at the Fort Kent Municipal Building or other suitable meeting place. The Chairperson may schedule special meetings on twenty four (24) hour notice to the members, Town Manager, Town Council Chair, and the media.

2. All meetings shall be open to the public.

3. No official business may be conducted without a quorum present. A quorum shall consist of three (3) members. It shall not include anyone who cannot participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family, their employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member, by reason of their interest, is placed in a situation of temptation to serve their own personal interest, instead of the public's interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present, except the member challenged.

4. In the event a quorum is not present, the Board members are authorized to request that the Chairperson reschedule the meeting to another date and adjourn the meeting. If the date is other than a regular meeting date the Corresponding Secretary shall have the responsibility of providing adequate notice to the Board members, Town officials, and the general public.

5. All comments addressed to the Board shall be made through the Chairperson.

6. A majority of the entire Board's voting members three (3) is needed to pass a motion. When a motion results in a tie vote the motion fails.

7. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.

B. Agendas.

1. Regular meeting agendas shall follow the following format:

a. Call to order and determine the presence of a quorum.

b. Public Hearing (if any is scheduled)

c. Minutes of the previous meeting and correspondence.

d. Old business.

e. New business.

f. Other.

g. Adjournment.

2. Agendas shall be posted in the Town Office and provided to the Board members at least seven (7) days before the meeting.

3. New applications shall be received at the Fort Kent Office of Planning and Economic Development no later than ten (10) days prior to the meeting and shall be placed on the next available slot for new applications on the Board's Agenda, and the applicant so notified of the date and time. At that initial meeting the Board shall make written findings whether the application is complete, and take all necessary steps to notify the applicant of the Board's decision.

C. Work Sessions.

1. The Chairperson may, with the approval of the majority of the Board, call work sessions for the purpose of updating the Comprehensive Plan, Subdivision Ordinance, Zoning Ordinances, Planning Board by-laws, and other information work items relating to the Board's Activities, providing that the public is notified. A quorum shall be present to conduct any business.

2. Informal work session meetings shall be held regularly immediately prior to regular meeting and may be called as special meetings from time to time. Such meetings shall be held at the same location at which the Planning Board meeting is held. The purpose of this type of meeting is to discuss business which may appear on the agenda of an immediate or future regular meeting of the Planning Board or to discuss matter of the Planning Board administration or procedure. (Amd. 3/27/17)

3. Work sessions are open to the public. The general public shall be barred from addressing the Board, unless a majority of the Board permits the public to speak. (Amd. 3/27/17)

D. Executive Sessions.

1. Upon the vote of at least three fifths (3/5) of the Board members, present and voting, the Board may call for an Executive Session to meet with the Town Attorney about pending or potential litigation.

2. Within the Executive Session it shall be the Chairperson's responsibility to ensure that only that business for which the session was called will be discussed, and no official action will be taken.

## 12.5 Hearings. (Amd. 3/27/17)

A. The Board, by majority vote at a regular or special meeting, may schedule a Public Hearing on an application within the time limits established by state law or local ordinance.

B. The Board shall cause notice of the date, time, and place of such hearing, the location of the proposed building or lot, and the general nature of the question involved, to be given to the person making application and to be posted in six (6) prominent locations throughout the Town at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to the Town Council. The owners of the property abutting that property, or impacted upon, for which the application is taken shall be notified by mail at least seven (7) days prior to the date of the hearing.

C. The Board shall provide, as a matter of policy for exclusion, irrelevant, immaterial, or unduly repetitious evidence.

D. Order of Business at a Public Hearing.

1. The Chairperson calls the hearing to order and determines whether there is a quorum.

2. The Chairperson then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.

3. The Board decides whether the applicant has sufficient right, title, or interest to appear before the Board.

4. The Board determines whether it has jurisdiction over the application.

5. The Board determines which individuals attending the hearing are "interested parties". "Interested Parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners, property owners directly impacted by the application, and those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. The Town Council and the Code Enforcement Officer shall automatically be made parties to the proceeding. Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing, and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency, or other legal entity for the purpose of the hearing.

6. The Chairperson gives a statement of the case and incorporates into the record correspondences and reports filed with the Board prior to the hearing. This material shall be available for public inspection.

7. The applicant is given the opportunity to present their case without interruption.

8. The Board and the interested parties may ask questions of the applicant through the Chairperson.

9. The interested parties are given the opportunity to present their testimony, starting with proponents followed by opponents. The Board may call its own witnesses, such as the Code Enforcement Officer.

10. The applicant may ask questions of the interested parties and Board witnesses directly.

11. All parties are given the opportunity to refute or rebut statements made throughout the hearing thru the Chairperson.

12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views thru the Chairperson.

13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All interested parties shall be notified of the date, time, and place of the continued hearing, and the reasons for the continuance.

14. Upon such request made prior to or during the course of the hearing, the Chairperson may permit persons participating in any hearing pursuant to these by-laws to file written statements with the Board for inclusion in the record after the conclusion of the hearing, within such time and upon such notification to the other participants as the Chairperson may require.

15. Board members and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized. The Board may waive any of the above rules upon good cause shown. Any participant or other member of the public may obtain a copy of the approved minutes from the Board upon payment of the cost of reproduction and postage.

## 12.6 Decisions. (Amd. 3/27/17)

A. Decisions by the Board shall be made within the time limits established by state law and local ordinances and regulations.

B. The final decision on any matter before the Board shall be issued as a written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record. All decisions shall become a part of the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented and the appropriate order, relief or denial therefore. At a minimum, the record should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable Town ordinances, and all applicable Town regulations, and those legal documents shall be specifically referenced.

C. The Board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a comprehensive plan, if any, and by the findings of the Board in each case.

D. Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, their representative or agent within fourteen (14) days of being rendered.

E. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

## 12.7 Appeals. (Amd. 3/27/17)

Appeal of the decision of the Planning Board and Code Enforcement Officer shall be heard by the Board of Appeals.

# Section 13 Board of Appeals. (Amd. 3/27/17)

## 13.1 Establishment and Administration. (Amd. 3/27/17)

A. Zoning Board of Appeals members shall be appointed by the Town Council and sworn in by the Town Clerk or other person authorized to administer oaths.

B. The Board shall consist of five (5) members and two (2) alternate members.

C. The term of each member shall be three (3) years, except the initial appointments which shall be: one (1) for one year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years, and one (1) for five (5) years, respectively. The term of office of an alternate member shall be one (1) year.

D. When there is a permanent vacancy declared, the Town Council may within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the voting members of the Board upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or when a member fails to attend three (3) consecutive meetings, or fails to attend at least seventy five percent (75%) of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chairperson of the Board shall immediately so advise the Council in writing. The Board may recommend to the Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Council disapproves the recommendation.

E. Any member can be removed by the Town Council in accordance with the Fort Kent Town Charter and/or Title 30A M.R.S.A. Chapter 123 § 2601.

F. Zoning Board of Appeals members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

## 13.2 Alternate Members. (Amd. 3/27/17)

A. The voting members of the Board shall elect a Chairperson, a Secretary, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the annual organizational meeting which shall be held on the first regular Zoning Board of Appeals meeting in January, and the election shall follow immediately thereafter. The term of all offices shall be one (1) year(s) with eligibility for reelection.

1. The Chairperson shall preside at all meetings and hearings of the Zoning Board of Appeals. The Chairperson has the authority to appoint all committees, to call all work sessions, designate which alternate member shall serve in place of a regular member, and to preside over executive sessions.

2. The Recording Secretary shall be responsible for the minutes and records of the Board, shall keep a record of all resolutions, votes, transactions, correspondences, findings and conclusions of the Board and other duties as may be normally carried out by the secretary. All records shall be deemed public and may be inspected during normal business hours. Any member of the public may obtain a copy of the record from the Board upon payment of the cost of reproduction, and postage.

3. The Corresponding Secretary shall be responsible for the agendas of regular meetings and special meetings with the Chairperson, distribution of the notice of the meetings and hearings, correspondence of the Board, and other duties as may be normally carried out by the secretary.

B. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate an alternate member to sit in their chair.

C. An alternate member may attend all meetings of the Board and participate in its proceedings, but may vote only when they have been designated by the Chairperson to sit for a member.

D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members, except the member who is being challenged.

E. The Board shall hold at least one (1) regular meeting of the Board each month.

F. No meeting of the Board shall be held without a quorum consisting of three (3) members or alternate members authorized to vote.

G. Zoning Board of Appeals business shall be conducted in accordance with the Maine Revised Statutes Annotated and/or local ordinances.

H. The Board shall adopt rules for transaction of business.

I. The Chairperson may call a special meeting of the Board.

## 13.3 Board of Appeals Organization. (Amd. 3/27/17)

A. The members of the Board shall elect a Chair annually from the membership. The Board shall appoint a Secretary and prescribe such rules and regulations as it may deem necessary to perform the provisions of this article.

B. The Chair of the Board of Appeals, ex-officio, shall be Deputy Code Enforcement Officer, and shall, in the absence of the Code Enforcement Officer, have all the powers and authority of the Code Enforcement Officer. In the event any person files an appeal to the Board of Appeals from any decision of the Chair of the Board of Appeals acting in said capacity as Deputy Code Enforcement Officer, the Chair shall be disqualified from sitting on the Board when it hears said appeal.

## 13.4 Appeal Procedure. (Amd. 3/27/17)

A. Making an Appeal.

1. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer or Planning Board. Such appeal shall be taken within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

a. Anyone wishing to appeal from a planning board decision to the board of appeals or a board of appeals decision to Superior Court under Rule 80B must also be able to show actual participation for the record in the applicable local hearing process. It is not enough for a person to express his/her concerns to board members or other officials outside the setting of the public hearing or to speak at a preliminary meeting of the board regarding the appeal. Participation must be at the official hearing in person or through someone there acting as the person’s official agent or by submitting written comments for the official hearing record.

2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal the applicant shall submit:

a. A sketch drawn to scale showing lot lines, location of existing buildings, and other physical features pertinent to the variance request.

b. A concise written statement stating what variance is requested and why it should be granted.

3. Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board copies of all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee (see Section 15 Schedule of Fees) to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee (see Section 15 Schedule of Fees) paid, the applicant shall pay the balance. The Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days.

B. Procedure on Appeal.

1. At least seven (7) days prior to the date of the hearing on such appeal, the Board shall cause to be posted in six (6) prominent locations throughout the Town a notice which includes: (Amd 3/23/15)

a. The name of the person appealing.

b. A brief description of the property involved.

c. A brief description of the decision appealed from, or the nature of a variance appeal.

d. The time and place of the Board's hearing.

2. At least seven (7) days prior to the date set for hearing, the Board shall also cause the Town Clerk to give similar written notice to:

a. All property owners of record whose properties abut the affected property.

b. The person making the appeal, and

c. The Planning Board, the Code Enforcement Officer, and any other parties of record.

C. Hearings.

1. The Board may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.

2. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

3. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing shall continue.

4. The Code Enforcement Officer or their designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material deemed appropriate for an understanding of the appeal.

5. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

6. The record may be keep open after the hearing by order of the Chair until a date established by the order.

## 13.5 Decisions of the Board of Appeals. (Amd. 3/27/17)

A. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer and or Planning Board, or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance.

B. The Board shall decide all appeals in an open session of the Board within thirty (30) days after the hearing, and shall issue a written decision on all appeals.

C. All decisions shall become a part of the record and shall include a statement of findings and conclusions signed by the Chairperson or acting Chairperson, as well as the reasons or basis therefore, upon all the material issues of fact, law, or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, agency or office, the Code Enforcement Officer, and the Town Officers within thirty (30) days of the decision date. (Amd. 3/27/17)

D. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Permit in accordance with the conditions of the approval, unless the applicant's proposal requires Site Design Review.

E. Appeals may be taken within forty-five (45) days from any decision of the Board of Appeals to Superior Court.

F. Any Board of Appeals reconsideration of an original decision must be reconsidered and the proceedings completed within thirty (30) days of the vote on the original decision.

## 13.6 Variances. (Amd. 3/27/17)

The Board of Appeals shall have the power to hear and decide upon appeal a variation from the requirements of this Ordinance not in contradiction to the public interest in respect to a parcel of land or to an existing building thereon, where a literal enforcement of this Ordinance would result in unnecessary hardship. The Board of Appeals shall consider conditions and safeguards in conformity with this Ordinance in granting any variance by majority vote. The Board of Appeals shall not grant variances for "Uses Forbidden" in any District of this Ordinance. The Board shall not have the authority to permit any industrial use in a Commercial District, any commercial or business use in a Residential District or Rural Farm District, or any residential use in a Commercial or Industrial District, except as may be otherwise authorized within this Ordinance. Variances may be permitted only under the following conditions:

A. Variances are obtainable only for height, minimum lot size, frontage, structure size, setbacks and open space requirements.

B. Variances cannot, under any circumstances, be obtainable for establishment of any uses otherwise prohibited by the Board of Appeals. (Amd. 3/27/17)

C. The Board shall not grant a variance unless it finds that all of the following criteria are met:

1. That the land in question cannot yield a reasonable return unless a variance is granted. Such hardship may be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put; and

2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

3. That the granting of a variance shall not alter the essential character of the locality; and

4. That the hardship is not the result of action taken by the applicant or a prior owner. Mere inconvenience to the property owner shall not satisfy this requirement.

D. A disability variance may be granted by the Board of Appeals to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability shall have the same meaning as a physical or mental handicap under Title 5 MRSA 4553.

E. The Board of Appeals shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary.

F. A copy of all variances granted in Shoreland Areas by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the Board's decision.

G. If the Board of Appeals grants a variance 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 granting, shall be prepared in a recordable form by the Board of Appeals. This certificate will be recorded in the Aroostook County Registry of Deeds, Northern Office by the Town of Fort Kent within thirty (30) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.

## 13.7 Notification of Variances and Special Permits to Town Council and Planning Board. (Amd. 3/27/17)

The Board of Appeals shall notify the Chair of the Town Council and the Planning Board of any special permit and variance granted under the provisions of this Ordinance.

# Section 14 Amendments. (Amd. 3/27/17)

## 14.1 Initiation. (Amd. 3/27/17)

A proposal for an amendment to this Ordinance may be initiated by:

A. The Planning Board, by majority vote of the Board;

B. The Town Officers, through a request to the Planning Board;

C. An individual, through a request to the Planning Board; or

D. A written petition of a number of voters equal to at least ten percent (10%) of the voters in the last gubernatorial election.

## 14.2 Procedure. (Amd. 3/27/17)

A. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by other than the Town Officers or the Planning Board, a fee shall accompany the proposal to cover the costs of hearings and advertisements.

B. Within thirty (30) days of receiving an amendment, the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by the Town Officers or by a petition the Board, shall vote whether to forward the amendment to the Town Officers. The Board shall make a written recommendation regarding passage to the Town Officers prior to any action on the amendment by the Town Officers.

C. The Town Officers shall hold a public hearing on the proposed amendment. Notice of the hearing shall be posted at three (3) prominent locations throughout the Town at least seven (7) days prior to the hearing. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.

D. Copies of amendments applicable to shoreland areas, attested, and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the appropriate municipal body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of the receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town of Fort Kent within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

## 14.3 Adoption. (Amd. 3/27/17)

Any amendment to this Ordinance; except for Section 8 (Site Design Review), Section10 (Off Street Parking and Loading), Section 15 (Definitions) and Section 16 (Schedule of Fees) which shall be amended by act of the Town Council; shall be adopted by the Town's legislative body at a Town Meeting. (Amd. 3/28/16)

# Section 15 Definitions. (Amd. 4/10/17)

## 15.1 Construction of Language. (Amd. 4/10/17)

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, their ordinarily accepted meaning, or as may be defined within this section. In the case of any difference of meaning or implication between the text of this Ordinance, illustration, or table, the text shall control.

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

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

The word "shall" is mandatory, the word "may" is permissive.

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

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

The word "Town" shall mean the Town of Fort Kent, Maine.

The term "Zoning Ordinance" shall mean the Zoning Ordinance for the Town of Fort Kent.

The term "Subdivision Ordinance" shall mean the Subdivision Ordinance for the Town of Fort Kent.

The term "these Ordinances" shall refer to the Zoning Ordinance for the Town of Fort Kent and the Subdivision Ordinance for the Town of Fort Kent.

## 15.2 Definitions. (Amd. 4/10/17)

Abandonment: The stopping of an activity, use, business, in addition to: actions taken by a property owner or agent that removes the major portion of materials, goods, equipment, facilities, or parts thereof necessary for the operation of the activity, use, or business. Also, contains the element of abandoned and/or change to a less intensive use of the property/structure.

Abattoir: a slaughterhouse where animals are processed for consumption as food products.

Abutter: An abutter is a person (or entity) whose property is adjacent to and/or across the street from the property of another as depicted on tax map.

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Adequate Foundation: An adequate foundation means all of the following:

1. A full, poured concrete or masonry foundation;

2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;

3. A reinforced, floating concrete pad for which the Town may require an engineer's certification if it is to be placed on soil with high frost susceptibility;

4. At least twelve (12) inches of compacted gravel;

5. At least twelve (12) inches of crushed stones no larger than one inch in diameter;

6. Any foundation which may use advanced technologies and is approved by the Code Enforcement Officer; and

7. Any foundation which is permitted for other types of single-family dwellings.

Administrative Warrant: A warrant (as for an administrative search) issued by a judge upon application of an administrative agency.

Agent: Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

Aggrieved Party: An owner of land whose property is directly affected by the granting or denial of a permit, waiver, or variance under these Ordinances; a person whose land abuts land for which a permit, waiver, or variance has been granted; or any other person or group of persons who have suffered particularized injury (see definition) as a result of the granting or denial of such permit, waiver, or variance.

Agricultural Products, Processing, and Storage: Establishments engaged in the manufacturing, wholesaling, processing, and/or packaging of plants, foods, dairy products, commercial composting, and storage of such products.

Agricultural Sales and Service: The use of buildings or land for the sale of equipment or products or services to those engaged in agriculture.

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

Airport: Including but not limited to having landing fields, aircraft parking and service facilities, passenger and baggage terminals, and related facilities for operation, service, fueling, repair, storage, charter, sales and rental of aircraft, operated by an airport authority or governmental entity.

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

Amusement 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, collectively, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Husbandry: The keeping of any domesticated animals other than customary household pets.

Apartment: A room or group of rooms designed and equipped exclusively for rental use by one family as a habitation and which contains independent living, cooking, sleeping, bathing, and sanitary facilities. The term does not include recreational vehicles or hotel/motel units.

Apartment House: A residential building containing three (3) or more apartments.

Applicant: The person applying for approval.

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

Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

Aquifer Recharge Area: An area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

Area of Special Flood Hazard: The land in the floodplain having a one (1%) percent or greater change of flooding in any given year.

Automobile Graveyard: A yard, field, or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose for making repairs to render a motor vehicle serviceable, for three (3) or more unserviceable, discarded, worn out or junked motor vehicles, bodies, or engines thereof are gathered together including, but not limited to automobiles, trucks, and/or tractors. Must comply with Title 30A M.R.S.A. Chapter 183 § 3751-3760.

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

Auto (Vehicle) Sales: Any activity which involves a parking or display area for the sale of three (3) or more cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, watercrafts, motor homes, or similar products.

Automobile (Gasoline) Service Station: A place where gasoline, or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

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

Babysitting: Taking care of a child or children for a short period of time while the parents are away, usually for compensation.

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

Basement: The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three (3) feet or greater.

Bathroom: A room with a bathtub and/or shower, toilet, and washstand.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for compensation. The dwelling shall also be occupied by a permanent resident. There shall be no provision for cooking in any of the individual guest rooms.

Billboard: A sign, structure, or surface which is available for advertising purposes for goods or services rendered off the premises.

BMP: Best Management Practices: Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Department of Agriculture, Food and Rural Resources pursuant to 38 MRSA Section 410-J.

Boarding (Lodging) House: Any residential structure where lodging and with or without meals are provided for compensation for a period of at least one (1) week, and where a family residing in the building acts as proprietor or owner. There shall be no provision for cooking in any individual guest room.

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

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

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

Building Height: The vertical distance measured between the average finished grade of the ground at the front of a building and the highest point of the roof, not including chimneys, spires, towers, or similar accessory structures.

Bulk Grain Storage: Establishments primarily engaged in the warehousing and storage of grain for resale or own use other than normal storage associated with on-site consumption.

Bulk Oil: storage of oil products for the purpose of wholesale distribution.

Campground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles, or other shelters for which a fee is charged.

Cemetery: Property used for the interring of the dead.

Certificate of Occupancy: A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of the Zoning Ordinance.

Change of Use: A change from one (1) category in the land use table to another or the addition of a new category of use to an existing use.

Chicken Pen: An enclosure connected to a hen-house for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment. (Amd. 02/22/16)

Clinic: An establishment where patients are accepted for treatment by a group of licensed providers practicing medicine together, but shall not offer domiciliary arrangements; medical or dental.

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

Club, Private: Any building or rooms, which serves as a meeting place for an incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational, or like activities, operated for the benefit of its members and not for the general public.

Club, Recreational: Any building or land which serves as a meeting place or recreation area for an incorporated or unincorporated association or group operated for the benefit of its members and guests and not open to the general public, and not engaged in activities customarily carried on by a business for pecuniary gain.

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

Code Enforcement Officer (CEO): A person appointed by the Town Officers to administer and enforce Ordinances.

Commercial Composting: The processing and sale of more than one thousand (1,000) cubic yards of compost per year.

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

Commercial Sporting Camp: A building or group of buildings devoted primarily to the offering of lodging facilities, with or without the serving of meals, without municipal sewer and water, for a fee to persons primarily in pursuit of primitive recreational pursuits. It is further defined as primarily a destination facility for recreation activities rather than a transient lodging facility (hotel, motel, or inn) or a base of operations for primitive recreational activities such as: fishing, hiking, hunting, wildlife study, photography, wild crop harvesting, trapping, horseback riding, snowmobiling, cross-country skiing, tent and shelter camping, canoe portaging, and snow shoeing.

Commercial Use: Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods and services, exclusive of rental of residential buildings and dwelling units.

Common Driveway: A vehicle access way serving two (2) dwelling units.

Common Open Space: Land within or related to a development, 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 usable open space, such as for outdoor recreation.

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.

Complete Application: An application shall be considered complete upon submission of any required fee, a signed application, and all information required by the appropriate application, except as validly waived by the vote of the Planning Board to waive the submission of required information. The Planning Board shall issue a written statement to the applicant upon its determination that the application is complete.

Comprehensive Plan: A document or interrelated documents adopted by the Town's legislative body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conditional Use: A use permitted only after review and approval by the Planning Board. A Conditional Use is one that is suitable to a zoning district, but not necessarily to every location within that district. Such uses may be permitted if specific provisions of such Conditional Use is made in this Ordinance. (Amd. 4/10/17)

Conditional Land Use Permit: A permit authorized by the Planning Board for a Conditional Use. A Conditional Land Use Permit may be issued only after the applicant has followed the procedures of this Ordinance. (Amd. 4/10/17)

Confined Feeding Operations: Specialized livestock production enterprises with confined beef cattle and hog feeding and poultry and egg farms and accessory structures. These operations have large animal populations restricted to small areas.

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

Congregate Housing: A multi-family development with central dining facilities serving functionally impaired persons.

Conservation Easement: A non-possessory 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 and water quality.

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

Crawl Space: A space, usually about two (2) feet high, provided in a building in order to enable access to plumbing, wiring, and/or equipment.

Crematorium: a building where corpses are incinerated.

Day Care: Any dwelling, building, or portion thereof licensed as such by the Maine Department of Human Services.

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

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

Deer Wintering Areas: Areas used by deer during the winter for protection from deep snows, cold winds, and low temperatures, as identified by the Maine Department of Inland Fisheries and Wildlife.

Demolition Waste Disposal: the collection, transporting, processing, recycling of the complete destruction of a building or other structure or parts thereof.

Density: The number of units per acre of land.

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

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.

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

Direct Watershed: That portion of the watershed which does not first drain through an upstream lake.

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

District: A specified portion of the Town, delineated on the Official Fort Kent Zoning Map, within which certain regulations and requirements or various combinations thereof apply.

Domesticated Chickens: A term which applies to the provisions which allow certain property owners to keep chickens in certain zoning districts in which agricultural uses and the keeping of farm animals is otherwise prohibited. (Amd. 02/22/16)

Drive-Up Facility: An establishment that, by design of physical facilities or by service, encourages customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises while remaining in the vehicle. Such as, but not limited to, Automated Teller Machines (ATMs).

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

Duplex: (See: Two (2) Family Dwelling) A building containing two (2) dwelling units for occupation by not more than two (2) families.

Dwelling: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

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

Two (2) Family Dwelling: A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

Multi-Family Dwelling: A building containing three (3) or more dwelling units, such buildings being designed 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.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one (1) family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing, but not recreational vehicles or hotel/motel units.

Easement: A right, such as a right-of-way, afforded a person to make limited use of another's real property.

"ECHO" (Elderly Cottage Housing Opportunity) Unit: A small detached temporary residential structure.

Elderly Housing Complex: A dwelling complex that is occupied by a minimum of ten (10) persons, sixty two (62) years of age or older, and/or handicapped persons, as a residential living environment with other persons sixty two (62) years of age or older and/or handicapped persons.

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

Enclosure: The combined area of a henhouse and chicken pen. (Amd. 02/22/16)

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

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

Expansion of Use: The addition of weeks or months to a business operating season; the addition of hours to a business day; the use of more floor area or ground area; or the provision of additional seats or seating capacity.

Exterior Walls: Siding materials such as clapboards, shingles, and shakes, including synthetic or metal siding manufactured to closely resemble clapboards, shingles, and shakes. This term shall also include masonry, wood board-and-batten, and "Texture 1-11" exterior plywood.

Family: One(1) or more persons occupying a premises and living as a single housekeeping unit.

Farm Stand: A structure designed, arranged, or used for the display and sale of agricultural products primarily grown or produced on the premises upon which the stand is located. A farm stand may be located on premises that the products are not grown upon, provided such premise is owned by the operator or written authorization from the property owner.

Fence: Any artificially constructed barrier of any material, or combination thereof, erected to enclose or screen areas of land. To further distinguish types of fences:

1. a boundary fence encloses a parcel of property; and

2. a privacy fence blocks part or all of the property from the view of the neighbors. Privacy fences may be solid and taller than other types of fences.

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

Final Plan: The final drawings on which the applicant's plan of development is presented to the Planning Board for approval and which, if approved, shall be recorded at the Aroostook County Registry of Deeds, Northern Office.

Fire Station: a building where firefighter vehicles and equipment are stationed and where firefighters on duty wait.

Flag: Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

Flag Lot: Lots with less frontage on the road that is normally required in the Zoning Ordinance. The "panhandle" is an access corridor to a lot(s) located behind lots with normally required road frontage.

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

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

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

Floodplain Soils: The following soil series as described and identified by the SCS in the Soil Survey for Aroostook County, Maine:

Alluvial Hadley Medomak Winooski

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

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

Floor Area Ratio: A ratio derived by dividing the gross floor area of a building by the area of the lot.

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

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

Forested Wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller. (6 meters = 19.865 feet)

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

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts, or frost walls.

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

Frontage, Road: The horizontal distance, measured in a straight line, extending between the side lot lines and the road right-of-way.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at the normal high water line.

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

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, retail and wholesale fish marketing facilities, waterfront dock and facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.

Funeral Home: an establishment where the dead are prepared for burial or cremation, where the body may be viewed, and where funeral services are sometimes held.

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

Gas Terminal: storage of gas products for the purpose of wholesale distribution.

Gasoline Service Station: See: Automobile Service Station

Golf Course: the ground or course over which golf is played. A standard full-scale golf course has one hundred twenty five (125) to one hundred seventy five (175) acres, typically with nine (9) or eighteen (18) holes varying from one hundred (100) to six hundred fifty (650) yards in length from tee to cup.

Government Office: 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 government agency.

Gravel Pit: (See: Mineral Extraction)

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 a surface area in excess of thirty (30) acres, and where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Group Home: A housing facility for mentally handicapped or developmentally disabled persons which is approved, authorized, certified, or licensed by the State. A group home may include a community living facility, foster home, or intermediate care facility.

Guest House: See: Inn.

Hazardous Waste: A waste substance or material, in any physical state, designated as hazardous by the MDEP Board under Title 38 MRSA, Section 1319-O. It does not include waste resulting from normal household or agricultural activities. The fact that a hazardous waste or part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Height of a Structure: See: Building Height

Helipad: Any landing area used for the taking off and landing of private helicopters for the purposes of picking up or discharging passengers or cargo. This facility does not include: passenger and cargo facilities, maintenance or service facilities, fueling, storage, tie down areas, hangars, or other necessary buildings or open spaces. Use of the landing area is by permission only.

Henhouse: A structure for the sheltering of female chickens. A legally existing non-conforming detached shed, garage or barn that may be located within the required district setback can be used for this purpose if it meets all other standards contained in 7.15 Domesticated Chickens in Residential Zone. (Amd. 02/22/16)

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the national Cooperative Soil Survey, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to the development plan submitted. The mapping units shall be the soil series, Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

Historic Site/Structure: Means any site or structure that is:

1. Listed individually in the national Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the national Register;

2. Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. by an approved state program as determined by the Secretary of the Interior; or

b. directly by the Secretary of the Interior in states without approved programs.

Holding Tank: a closed, watertight structure designed and used to receive and store wastewater or septic effluent. A holding tank does not discharge wastewater or septic effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of wastewater at another site.

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses.

Homeowners Association: A community association which is organized in a residential development in which individual owners share common interests in open space and/or facilities.

Hospice: a health-care facility for the terminally ill that emphasizes pain control and emotional support for the patient and family, typically refraining from taking extraordinary measure to prolong life.

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

Household Pet: Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds, domestic rabbits, domestic tropical fish, and rodents.

Impervious Surface Ratio: A measure of the intensity of the land use that is determined by dividing the total area of all impervious surfaces on the site by the area of the lot. Impervious surfaces include buildings, structures, paved and gravel surfaces.

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

Indoor Theatre: place where plays, operas, motion pictures, etc. are presented.

Industrial Park: A development exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Industrial Use, Heavy: The use of real estate, building, or structure, or any portion thereof, for assembling, fabricating, manufacturing, packaging, or processing operations.

Industrial Use, Light: The use of real estate, building, or structure, or any portion thereof, which main processes involve the assembly of pre-fabricated parts and which will not create a nuisance by noise, smoke, vibration, odor, or appearance.

Inland Wetlands: Land, including submerged land, which consists of any of the soil types designated as poorly drained, very poorly drained, and alluvial soils by the Natural Resource Conservation Service in the Soil Survey for Aroostook County, Maine.

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

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

1. Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture;

2. Discarded, scrap, and junked lumber;

3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or non-ferrous material, and

4. Garbage dumps, waste dumps, and sanitary landfills.

5. Must comply with Title 30A M.R.S.A. Chapter 183 § 3751-3760.

Kennel: Any place, building, tract of land, abode, enclosure, or vehicle where three (3) or more dogs or three (3) or more cats, owned singly or jointly are kept for any purpose.

Laundry, Self-Serve: A business that provides home type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular road or highway calculated in accordance with the provisions of the Highway Capacity manual, latest edition, published by the National Academy of Sciences, Transportation Research Board. There are six (6) levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Library: a room or building where a collection of books or other research materials such as newspapers, records, tapes, or other materials are kept.

Livestock: Domestic animals kept or raised for use or profit, such as, but not limited to, cattle, horses, sheep, or pigs, that are typically kept outside of the home.

Lot: A parcel of land occupied or capable of being occupied by one (1) building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required, and having frontage upon a public road, right-of-way or private way.

Lot Area: The land area enclosed within the boundary lines of the lot; usually rendered in square feet or meters.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a road or right of way.

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

Lot, Industrial: shall have twenty five (25’) foot side and rear setback for fire lane.

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

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

Front Lot Line: On an interior lot, the lot line abutting the road or right-of-way; or, on a corner lot each lot line abutting the road or right-of-way; or, on a through lot, the lot line abutting the road providing primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the road from which access is obtained.

Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

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

Lot, Minimum Area: The required area within a District for a single lot or use.

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 in the Aroostook County Registry of Deeds, Northern Office.

Lot, Shorefront: Any lot abutting a body of water.

Lot, Through: Any interior lot having frontages on two (2) or more parallel roads or rights of way, or lying between a road and a body of water, or a right of way and a body of water, or between two (2) bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to roads, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

Lot Width, Minimum: The closest distance between the side lot lines of a lot.

Manufactured Housing Unit: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported by the use of its own chassis, or an independent chassis, to a building site. The term includes any type of building which 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 definition, two (2) types of manufactured housing are included. They are:

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

a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files 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, US Code, Title 42, Section 5401, et seq.

2. Modular Homes: Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10,M.R.S.A. Chapter 951, 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 permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

Manufacturing: A business where all processing, fabricating, assembly, or disassembly of items takes place wholly within an enclosed building. Typical items for processing, fabricating, assembly, or disassembly include but not limited to apparel, home accessories, food, drapes, clothing accessories, bedspreads, decorations, artificial plants, jewelry, instruments, computers and electronic devices.

Light Industry: is usually less capital intensive than heavy industry, and is more consumer-oriented than business-oriented (i.e. most light industry products are produced for end users rather than as intermediates for use by other industries). Light industry facilities typically have less environmental impact than those associated with heavy industry, and zoning laws are more likely to permit light industry near residential areas. It is the production of small consumer goods. Examples of light industries to include but not limited to the manufacture of clothes, shoes, furniture, consumer electronics and home appliances.

Heavy Industry: production of products which are either heavy in weight or in the processes leading to their production. In general, it is a term used meaning ‘construction’ for big products. Example projects include the construction of large buildings, chemical plants, and also includes the production of construction equipment such as cranes and bulldozers. Heavy industry projects can be generalized as more capital intensive or as requiring greater or more advanced resources, facilities or management.

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

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

Mechanized Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

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

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

Mobile Home, Newer: See: Manufactured Housing Unit

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

Mobile Home Park Lot: The area of land on which an individual manufactured housing unit is situated on within a mobile home park and which is reserved for use by the occupants of that unit. The Town requires all lots to be indicated on the mobile home park plan.

Mobile Home Subdivision: A parcel of land approved by the Planning Board for the placement of a manufactured housing unit on individually owned lots.

Modular Home: See: Manufactured Housing Unit

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

Multi-Family Development: See: Dwelling, Multi-Family.

Museum: a building or institution where objects of artistic, historical, or scientific importance and value are kept, studied, and/or put on display.

Natural Resource Based Use: The use of land and/or structures for the initial manufacturing, processing, fabricating, assembly, and/or packing of goods or products of raw natural resource materials (land, water, plant, and animal life) indigenous to the municipality or immediate area. With respect to this definition, "Initial" refers to the first phase of manufacturing, processing, fabricating, assembly, and/or packing, beginning with raw materials, rather than secondary manufacture or handling. Such uses include, but are not limited to: raw material storage, agricultural product packing, sawmills, blacksmithing, farm implement repair, or roadside sale of agricultural products.

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

Net Residential Acreage: The total acreage available for a development, and shown on the proposed plan, minus the area for roads or access and the areas which are unsuitable for development.

Net Density: The number of units per net area.

New Construction: Structures for which the "start of construction" commenced on or after the effective date of these Ordinances.

Non-Conforming Lot of Record: A lot or pre-recorded lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which, does not meet the area, frontage, width or depth requirements of the District in which it is located.

Non-Conforming Structure: A structure which does not meet any one (1) or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time these Ordinances or subsequent amendments took effect.

Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by these Ordinances, but which is allowed to remain solely because it was in lawful existence at the time these Ordinances or subsequent amendments took effect.

Normal High-Water Line of Waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms and maples). In the case of wetlands adjacent to rivers and Great Ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. In places where the shore or bank is of such character that the high water line cannot be easily determined (rock slides, ledges, rapidly eroding, or slumping banks) the normal high water line shall be estimated from places where it can be determined by the above method.

Nursing Home: Any facility which provides meals, lodging and nursing care for compensation.

Off-Street, Loading: Accommodations off the street for loading and unloading of vehicles.

Off-Street, Parking: Accommodations for the parking of motor vehicles off the street.

One Hundred (100) Year Flood: The flood having a one (1%) percent chance of being equaled or exceeded in any given year.

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

Ordinance: Any legislative action of the Town's legislative body which has the force of law, including but not limited to, any amendment or repeal of any ordinance.

Parcel or Tract, of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract, or parcel, of land unless such road was established by the owner of land on both sides thereof.

Park and/or Recreation Area: a commercially or publically owned area of land, usually with grass, trees, paths, sports fields, playgrounds, picnic areas, and other features for leisure time activities.

Parking Facility: an enclosed area that provides spaces in which vehicles may be parked.

Parking Lot: An area not within a building or enclosure where vehicles may be stored for the purposes of temporary, daily, or over-night off-street parking.

Parking Space: An area on a lot intended for the use of temporary parking of a personal vehicle. Each parking space shall be nine feet by eighteen feet (9' X 18'), exclusive of drives or aisles for the parking of vehicles, and have a means of access to a public road.

Particularized Injury: To meet the “particularized injury” test, a person must show how his or her actual use or enjoyment of their property will be adversely affected by the proposed project or must be able to show some other personal interest which will be directly affected which is different from that suffered by the general public.

Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc.

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

Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string usually in series, designed to move in the wind.

Permanent Markers: The term "permanent marker" includes the following:

  1. A granite monument;

  2. A concrete monument;

  3. A drill hole in ledge;

  4. An iron pin; or

   5. A steel bar no less than one half inch (l/2") in diameter and three feet (3') in length.

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

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

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

Personal Services: A business which provides services but not goods such as, hairdressers, shoe repair, real estate, and insurance etc.

Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-water Line or Within a Wetland:

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

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

Pitched Roof: A roof with a pitch of two (2) or more vertical units for every twelve (12) horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other approved materials.

Place of Worship: A building or structure, or group of buildings or structures, designed, primarily intended, and used for the conduct of religious services, excluding Sunday School.

Planning Board: The Planning Board for the Town of Fort Kent.

Police Station:police headquarters for a particular district, from which police officers are dispatched and to which person under arrest are brought.

Pond: See: Body of Water less than ten (10) acres in size.

Preschool:a building used to provide education for children below the age at which compulsory schooling begins.

Preliminary Plan: The preliminary drawings indicating the proposed layout to be submitted to the Planning Board for its consideration.

Prime Agricultural Land: Land that has been identified in the comprehensive plan that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oil-seed crops, or meets all of the criteria established by the US Department of Agriculture.

Principal Building/Structure: The building occupied by the principal use on the premises. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building in computing yard requirements.

Principal Use: The primary use other than one (1) which is wholly incidental or accessory to another use on the same premises.

Printing: a copy or reproduction of literature, information, musical scores, recordings, art, etc.

Private Road: A private way meeting Fort Kent's road design and construction standards for preparation, sub-base, and base.

Professional Offices: The place of business for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, telemarketing facilities, but not including financial institutions or personal services.

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

Public Improvements: The furnishing, installing, connecting, and completing all of the road grading, paving, storm drainage, and utilities or other improvements specified by the Planning Board.

Public or Private Club:a room, building, or facilities used by a group of people associated for a common purpose or mutual advantage usually an organization that meets regularly.

Public Utility: Any person, firm, corporation, municipal department, board, or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation, sanitary sewage disposal, or water to the public.

Public Utility Facility:a business organization performing a public service and subject to special governmental regulations.

Public Water System: A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty five (25) individuals daily for at least thirty (30) days a year.

Publishing: to produce or release for distribution; the business of commercial production, issuance of literature, information, musical scores, recordings, art and etc.

Quarry: A place where stone is excavated from rock.

Recent Flood Plain Soils: See: Floodplain Soils

Reconstructed Road: The rebuilding of a road or section of a road to improve its serviceability.

Recording Plan: A copy of the Final Plan which is recorded at the Aroostook County Registry of Deeds, Northern Office.

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

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one (1) or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be currently registered with the State Division of Motor Vehicles.

Recycling Center: A building that is not a junkyard in which used materials, such as, but not limited to, newspaper, cardboard, magazines, glass, and metal cans, are separated and processed prior to shipment to others who will use these materials to manufacture new products.

Recycling Collection Point: a centrally located area where recyclable materials are temporarily stored for further processing.

Repair: To take necessary action to fix normal damage or storm damage.

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

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

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

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

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

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the sub divider not indicated on the approved plan.

Retail: An 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: A strip of land occupied or intended to be occupied by a road, crosswalk, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary sewer main, storm water main, shade trees, or other auxiliary uses, either public or private, on which an irrevocable right-of-passage has been recorded for the use.

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

River: A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Riverine: Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles, consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material.

Sawmill: a factory or place where logs are sawed into boards.

Schools:

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

Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfied wither of the following requirements:

a. The school is not operated for a profit or a gainful business; or

b. The school teaches courses of study which are sufficient to qualify attendance there as in compliance with State compulsory education requirements.

Seasonal Dwelling: A dwelling unit lived in for periods aggregating less than seven (7) months of the year and is not the principal residence of the owner.

Self-Service Storage Facility: A building or group of buildings in a controlled access or fenced compound that consists of individual, small, self-contained units that are leased or owned for the storage of customer's goods or wares.

Septage Disposal Site: a properly prepared Maine Department of Environmental Protection approved site for septage disposal.

Service Business: Establishments engaged in providing services for individuals or businesses such as sundries, beauty shops, barbershops, advertising and equipment leasing.

Setback: The horizontal distance from a lot line to the nearest part of a structure, road, parking space, or other regulated object or area.

Setback from Water: The horizontal distance from the normal high water line to the nearest part of a structure.

Shopping Center: Any concentration of two (2) or more retail stores or service establishments under one ownership or management containing fifteen thousand (15,000) square feet or more of gross floor area.

Shore Frontage: The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water line.

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

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

Sign: A display surface, fabric or device containing organized and related elements (letters, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to the public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.

Business, Commercial, or Industrial Sign: An attached or freestanding structure which directs attention to a business or profession conducted on that premises.

Business Directional Sign: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, Title 23 MRSA Section 1901- 1925, et. seq. which points the way to public accommodations and facilities or other commercial facilities.

Canopy Sign: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

Flashing Sign: Any sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying degrees of light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

Freestanding Sign: Any sign supported by structures or supports that are placed on, or anchored in, the ground and are independent from any building or other structure.

Non-Conforming Sign: Any sign that does not conform to the requirements of these Ordinances.

Projecting Sign: Any sign affixed to a building or a wall in such a manner that its leading edge extends more than six (6) inches beyond the surface of the building of such building or wall.

Residential Sign: Any sign located in a District zoned for residential uses that contains no commercial message except advertising goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements.

Roof Sign: Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest point of the roof.

Suspended Sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Temporary Movable Sign: Any sign not permanently attached to the ground, a building, or other permanent structure by direct attachment to a rigid well, frame, or structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; and balloons used as signs.

Wall Sign: Any sign attached parallel to, but within six (6) inches of, a wall, painted on the wall surface of, or erected and confined within limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Window Sign: Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the windowpanes, or glass and is visible from the exterior of the window.

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

Sludge:a relatively dense accumulation of wastewater solids that settle to the bottom of a septic tank. These solids are relatively resistant to biological decomposition and collect in the septic tank over a period of time.

Sludge Spreading: a Maine Department of Environmental Protection approved method of mechanically dispersing sludge (see definition) on a septic disposal site.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing.

Special Waste: Any non-hazardous waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety, or the environment and requires special handling, transportation, and disposal procedures.

Stable, Commercial: An accessory building in which sheltered animals are kept for the use of the occupants for remuneration, hire, sale, boarding, riding, or show.

Stable, Private: An accessory building in which sheltered animals are kept for the use of the occupants of the premises and not for remuneration, hire, or sale.

Story: That portion of a building included between the surface of any floor and the surface of the floor or roof next above, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over six (6) feet above the average level of the finished ground surface adjoining the exterior walls of such story, or if it is used for business or dwelling purposes.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey seven and one half (7.5) minute series topographic map, or if not available, a fifteen (15) minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within a shoreland zone, or as depicted on the Official Fort Kent Zoning Map, or as further described in the applicable overlay District standards, whichever is applicable.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks, but in land areas outside of Shoreland Areas, including signs, sidewalks, fences, patios, driveways, and parking lots are not defined as structures.

Subdivision: The division of a tract or parcel of land into three (3) or more lots within any five (5) year period that begins on or after September 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" shall also include the division of any structure or structures on a tract or parcel of land into three (3) or more commercial, industrial, or dwelling units or combination thereof within a five (5) year period;

1. In determining whether a tract or parcel of land is divided into three (3) or more lots within a five (5) year period, the first dividing of the tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of these first two (2) lots, by whomever accomplished, unless otherwise exempted herein is considered to create a third lot, unless:

a. Both dividings are accomplished by a subdivider who has retained one (1) of the lots for the subdivider's own use as a single family residence or for usable open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least five (5) years before the second dividing occurs; or

b. The division of the tract or parcel is otherwise exempt under this definition.

2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to the Subdivision Ordinance, do not become subject to the Subdivision Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

3. A lot of forty (40) or more acres shall not be counted as a lot, except:

a. When the lot or parcel from which it was divided is located entirely or partly within any shoreland area as defined in Title 38 MRSA, Section 435, or the town's shoreland zoning ordinance; or

b. When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of forty (40) or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in MRSA, Title 38, 435, or a town's shoreland zoning ordinance.

4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage, or adoption or a gift to the Town of Fort Kent or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of that transferor in any transfer or gift within this paragraph is to avoid the objectives of this section. If the real estate exempt under this paragraph by gift to a person related to the donor by blood, marriage, or adoption is transferred within five (5) years to another person not related to the donor of the exempt real estate by blood, marriage, or adoption, then that exempt division creates a lot or lots for the purpose of this definition.

5. The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

6. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

7. Nothing in the Subdivision Ordinance may be construed to prevent the Town of Fort Kent from enacting an ordinance under its home rule authority which expands the definition of subdivision or which otherwise regulates land use activities.

8. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph 4, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of the Subdivision Ordinance.

9. For the purposes of this definition, a new structure or structures includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of the Subdivision Ordinance.

10. For the purposes of this definition, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Substantial Damage: Means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

Substantial Expansion: Floor space increase of twenty five (25%) or new materials or processes not normally associated with the existing use. In shoreland areas, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty (30%) or more, during the lifetime of the structure.

Substantial Start/Construction: Following the issuance of a permit, completion of thirty (30%) percent of a permitted structure or use measured as a percentage of estimated total cost within one (1) year of the date of the permit.

Subsurface Wastewater Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat two thousand (2,000) gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. The term shall not include any wastewater discharge system licensed under Title 38 MRSA 414, any surface wastewater disposal system licensed under Title 38 MRSA 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in Title 38 MRSA Chapter 13, subchapter 1.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

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.

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

Tourist Home: A building in which more than one but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.

Trail: A route or path, other than a roadway, and related facilities, developed and used primarily for recreational or transportation activities, including but not limited to, hiking, walking, cross-country skiing, snowmobiling, horseback riding, bicycling, and dog sledding.

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" and only applies to that portion of the tributary stream located within the Shoreland Zone of the receiving water body or wetland.

Trucking/ Distribution Terminal: facility designed to move product to multiple locations.

Undue Hardship: As used in this Ordinance the words "undue hardship" shall take its statutory definition and include all of the following:

1. That the land in question cannot yield a reasonable return unless a variance is granted. Such hardship may be found by the Board of Appeals where this Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put; and

2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

3. That the granting of a variance shall not alter the essential character of the locality; and

4. That the hardship is not the result of action taken by the applicant or a prior owner. Such hardship may be found by the Board of Appeals as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this requirement. A variance is not justified unless all elements are present in the case.

Upland Edge: The boundary between upland and wetland.

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

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 ten percent (10%).

Used Merchandise Sale: The outdoor sale of used articles, conducted for more than five (5) consecutive days or for more than two (2) weekends per year, and shall require a permit from the Code Enforcement Officer. Used Merchandise Sales includes flea market.

Variance: A variance is a relaxation of the terms of the Zoning Ordinance. Variances permissible are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, not shall a variance be granted because of the presence of nonconformities in the immediate or adjacent areas.

Vegetation: All live trees, shrubs, ground cover, and other plants.

Vehicle: cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, watercraft, motor homes, or similar products.

Vehicle Sales: Any activity which involves a parking or display area for the sale of 3 (three) or more cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, watercraft, motor homes, or similar products.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a kennel.

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

Waiver: A waiver is a relaxation of the submission requirements of the Subdivision Ordinance.

Warehousing/Storage: The storage of goods, wares, and merchandise in a warehouse.

Waste Disposal: is the collection, transport, processing, recycling or disposal and monitoring of waste materials. The term usually relates to materials produced by human activity, and is generally undertaken to reduce their effect on health, the environment or aesthetics.

Water Body: Any great pond, river, stream, or brook.

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

Wetlands Associated with Great Ponds and Rivers: Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Wetland: See: Freshwater Wetland or Forested Wetland or Inland Wetlands.

Wholesale Business: The use of land and/or buildings engaged in the selling of merchandise to retailers to industry, commercial, institutional, farm, or professional business users or other wholesalers as distinguished from the sale to the general public.

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

Yard Sale: All general sales, open to the public, conducted from or on a residential premise for the purpose of disposing of personal property. Yard sale includes garage sales, porch sales, tag sales, and the like.

# Section 16 Schedule of Fees. (Amd. 4/10/17)

A schedule of fees, charges and expenses shall be established. Fees in effect prior to the adoption of this Ordinance shall remain in effect until amended by the process described in Section 14.3. The schedule of fees shall be posted at the Town Office. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

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| --- | --- | --- | --- | --- | --- | --- |
| **Land Use/Building Permit Fees:** | | |  |  |  |  |
|  |  |  | **Estimated Project Costs:** |  | **Permit Fee:** |  |
|  |  |  | $0.00 - $100,000 |  | $50.00 |  |
|  |  |  | $100,001 -$300,000 |  | $100.00 |  |
|  |  |  | $300,001 - up |  | $150.00 |  |
|  |  |  |  |  |  |  |
|  |  |  | After the fact permits |  | Double the permit fee | |
|  |  |  |  |  |  |  |
| Site Design Review | |  |  |  | $75.00 |  |
| Appeals/Variance/Special Exception: | | | |  | $65.00 |  |
| Certificate of Occupancy | |  |  |  | $20.00 |  |
| Amendments to Section 14.2A \*\* | | | Fee + cost of hearings, mailings, advertising, cost of new maps, etc. | | | $300.00 |
| \*\* collected up front & non-refundable | | |  |  |  |  |

1. [↑](#endnote-ref-1)