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**SITE PLAN REVIEW ORDINANCE
TOWN OF DAMARISCOTTA
June 15, 2016**

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- Amended June 13,2018: Effective Date June 13, 2018*
- Amended June 15, 2016: Effective Date June 15, 2016*
- Revised July 1, 2015: Effective Date July 1, 2015
- Revised March 16, 2011: Effective Date March 16, 2011
- Revised January 21, 2009: Effective January 21, 2009
- Revised June 13, 2007: Entire Ordinance; Effective Date June 13, 2007.
- Revised June 13, 2006: Effective Date June 13, 2006
- Amended June 12, 2002; Effective Date June 18, 2002.
- Revised December 30, 1998: Section 10(A)(2)(b),(c), (d), € and Section 13, Downtown Commercial Area.
- Enacted March 26, 1994; Effective Date April 28, 1994.

*Amended Sections 10.H.1 and 2 concerning time period for Board to issue a Notice of Decision for an approved site plan (p. 10); and Section 11 on requiring submittal of a site plan fully conforming to the ordinance before submittal of a second plan that proposes any waivers sought (p. 11).

SITE PLAN REVIEW ORDINANCE
TOWN OF DAMARISCOTTA

Section 1. AUTHORITY

This ordinance is enacted pursuant to the authority given the Town in MRSA Title 30-A, Section 3001.

Section 2. PURPOSE

Substantial development or major changes in the use of land cause a profound impact on the cost and efficiency of municipal services and on the environment of the town. Such development can have adverse impact on schools, sewers, water lines, and other public utilities; recreational facilities; liquid and solid waste disposal; police and fire protection; open space; road systems and circulation; traffic congestion, safety and access; emergency access; placement of buildings and structures; property values; water supply and quality; management of storm water, erosion, and sedimentation; protection of the groundwater; protection of historic and archaeological resources; adverse impacts upon adjacent properties, the visual characteristics of the neighborhood and Town. The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment, wildlife habitat, fisheries, and unique natural areas; and to fit the project harmoniously into the fabric of the community by assuring that the following objectives are accomplished with the least possible regulation:

- A. To minimize impacts caused by nonresidential, multifamily residential, and other developments described in Section 3, in a manner, which assures that adequate provisions are made for all of the concerns, listed above.
- B. To establish a Site Review procedure whereby Town officials may review new proposals to use land and buildings for uses listed in paragraph A. above.
- C. To establish a fair and reasonable set of standards for evaluating each development proposal impartially on its own merits;
- D. To provide a Public Hearing process where required by the Ordinance through which town residents may raise questions and receive answers about how new development proposals would affect them;
- E. To suggest ways in which development proposals may be modified so that potential problems and nuisances can be minimized or eliminated;
- F. To exempt conventional lot by lot residential subdivisions already regulated under the town's Subdivision Ordinance, and other residential uses described in Section 3.
- G. To exempt all existing land uses and development from this review procedure, except where physical expansion or significant changes of use are proposed, or where new materials and processes are proposed;
- H. To balance the right of land owners to use their land for purposes stated in Section 2(G) above, with the corresponding right of abutting and neighboring land owners and other citizens of the Town to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, or storm water runoff, or the pollution of ground or surface water resources.

- I. To provide local protection from those particular nuisances which are not governed by State law or regulations;
- J. To protect property values;

Section 3. APPLICABILITY

A. This Ordinance shall apply to:

- 1. Proposals for new construction of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 2. Proposals for enlargement of or significant change of use of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures.
- 3. Proposals for conversion of existing single and two-family residential structures to non-residential or multifamily dwelling uses including accessory buildings and structures.
- 4. Proposals to pave or create impervious surface of more than 10,000 square feet in the aggregate, for non-residential or multifamily dwelling uses.
- 5. Proposals to strip, grade, remove or fill earth materials of more than 20,000 square feet in area in the aggregate.
- 6. Previously conforming uses which have been discontinued for a period of 12 months or more. Such uses cannot be renewed without review by the Code Enforcement Officer to assure conformance with all applicable ordinances.
- 7. Non-conforming uses which have been discontinued for a period of twelve months or more. Such uses cannot be renewed except as provided for under the Damariscotta Shoreland Zoning Ordinance and other ordinances of the Town as applicable.
- 8. All construction and expansion of wireless telecommunication facilities except as provided in Section 3.B

B. The following are exempt from the provisions of this ordinance:

- 1. Emergency Wireless Telecommunications Facility.
- 2. Temporary wireless communication facilities for emergency communications by public officials.
- 3. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- 4. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- 5. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

6. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
7. An antenna that is an accessory use to a residential dwelling unit.
8. Single-family detached dwellings
9. Home occupations
10. Two-family dwellings
11. Agricultural land management practices and forest management practices, exclusive of associated structures or buildings.
12. Ordinary repair and maintenance.

Section 4. EFFECTIVE DATE

The effective date of this ordinance is June 13, 2007.

Section 5. 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 6. SEVERABILITY

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

Section 7. CONFLICTS WITH OTHER ORDINANCES

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

Section 8. AMENDMENTS

This Ordinance may be amended by majority vote at any regular or special town meeting of Damariscotta.

Section 9. ADMINISTRATION

The Planning Board (Board) is authorized to review and act on all site plans for development requiring site plan review as defined above. In considering site plans under this provision, the Board may act to approve, disapprove, or approve with conditions as authorized by these provisions. No municipal permits shall be issued, nor construction work begun on any use or development covered by this Ordinance, as specified in Section 3, until the site plan of development has been approved by the Board. All work shall be carried out in accord with the documentation submitted and approved by the Board.

Section 10. PRE-APPLICATION AND APPLICATION PROCEDURES:

- A. General Pre-Application: The applicant shall obtain a Site Plan Application, fill it out to the maximum feasible extent and set a possible meeting date at the Town to review the Site Plan Review application. The project should be reviewed informally with Code Enforcement officer and Board Chairman (or Planner) to determine if it generally conforms to applicable ordinance requirements. If the project appears to conform to applicable ordinance requirements, the applicant shall complete a building permit application, provide supporting documents and pay only the Site Plan Application fee and submit it with the Site Plan Review Ordinance application.

To be placed on the agenda for Pre-Application Sketch plan review, the applicant shall contact the Town Office at least 10 days prior to meeting. If the agenda for said meeting is full, the Chair of the Planning Board may place the project on the agenda of the next available meeting. Refer to Pre-application Procedures below for required documents.

To submit an application for review, 10 copies of a completed application and supporting documents and plans (each in a bound, stapled or otherwise attached report) along with the Site Plan Review fee, must be submitted to the town office no later than 15 business days prior to the next regularly scheduled Planning Board meeting. If the agenda for said meeting is full, the project shall be placed on the agenda of the next available meeting.

- B. Pre-Application Procedures: The following procedures and requirements shall apply to all applications for Site Plan Review:
1. Prior to submitting an application for approval of the proposed use or construction the applicant may meet informally with the Board at a regular meeting to present a sketch plan and generally discuss the proposal and to obtain guidance in development of the plan. The sketch plan may be a freehand drawing and show:
 - a. The outline of the tract or parcel with estimated dimensions, road rights of way and existing easements;
 - b. North Arrow
 - c. The proposed layout of the building(s), driveways, and parking areas; identification of general areas of steep slopes, wetlands, streams, and flood plains;
 - d. Other information pertinent to the project;
 2. Upon written request by the applicant, the Board, at its discretion, may waive certain Submission Requirements specified in Section 10.E or 10.F due to the nature or size of the project.
 3. The Board shall indicate any additional studies and other approvals from local and regional and State agencies that may be required. Letters from these agencies shall be included as a part of the application and/or review.
 4. The Board may, at its discretion make an inspection of the site prior to submission of the application.
 5. Within 30 days from submission of a pre-application and sketch plan and following an on-site inspection, if applicable, the Board shall submit in writing to the applicant a

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checklist of the specific information which shall be included in the formal application to the Board.

- C. Application Procedures: All applications for site plan review shall be made in writing to the Board on the forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner; and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application. The Code Enforcement Officer and Planner (or Board Chairman) shall review all applications for completeness and other permitting requirements prior to giving them to the Board.
- D. Independent Consultants: A review escrow account may be established by the applicant for all projects that include a building greater than 1,000 sq.ft. or more than 2,500 sq.ft. of impervious surface or such other projects that the Planning Board determines will require review by a consultant. The review escrow fee shall be established by the Board of Selectmen. The review escrow fee shall be used by the Planning Board to pay for professional reviews and advice related to the proposed project as it deems necessary. The Planning Board shall provide the applicant with notice of its intent to spend any portion of this account, which notice shall specify the purpose for the proposed expenditures. Once the review escrow account decreases to 25% of its original amount, further review of the project shall cease until the applicant replenishes the review escrow account to an appropriate amount. Those monies deposited by the applicant and not spent by the Board shall be returned to the applicant within 30 days after the Board renders its final decision on the application or when all invoices for consultant services have been paid, whichever occurs later.
- E. Submission Requirements (except Wireless Telecommunications facilities): The application shall include 10 copies of all of the following:
 - 1. A fully executed and signed copy of the application for site plan review.
 - 2. Evidence of right, title, or interest in the property such as deed, option to purchase, lease, or agreement.
 - 3. A site plan drawn at a scale sufficient to allow review of the items listed under the preceding general standards but not at more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
 - a. Names and addresses of all abutters on the plan and names and addresses of all abutters on a separate listing.
 - b. Sketch map showing general location of the site within the town.
 - c. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
 - d. The bearings and distances of all property lines and the source of this information. The Board may waive the requirement of a formal boundary survey when sufficient information is available to clearly establish, on the ground, all property boundaries.
 - e. Classification(s) of the property and the location of zoning district boundaries as applicable.
 - f. Soil types and location of soil boundaries suitable for waste water disposal as certified by a registered engineer or soil scientist.

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- g. The location of all building setbacks required by this or other ordinances of the Town of Damariscotta.
 - h. The location, size, and character of all signs and exterior lighting.
 - i. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping; and wetlands and streams as identified by a wetlands scientist.
 - j. The location of all buildings within 50 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.
 - k. Existing and proposed topography of the site at two foot contour intervals if major changes to the existing topography are being proposed.
- 4. A management plan in conformance with the provisions of Section 11.L.
- 5. An erosion and sediment control plan in conformance with the provisions of Section 11.M.
- 6. Building plans showing, at a minimum, floor plans and all elevations clearly indicating the type, color, and texture of all exterior surfacing materials of all proposed principal buildings and structures and all accessory buildings and structures.
- 7. Copies of any proposed or existing easements, covenants, deed restrictions, etc.
- 8. A list of all applicable State & Federal permits.
- 9. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- 10. Demonstration of financial and technical capacity to complete the project, as proposed, in accordance with this ordinance and the approved plan.
- 11. Location of any floodplains on the project parcel.
- 12. Soils test pit log demonstrating suitable soils for subsurface sewage disposal unless connection to a public sanitary sewer is proposed, in which case a letter from the Great Salt Bay Sanitary District attesting to its ability to accept sanitary wastes from the proposed development.
- 13. A phosphorus impact report if the project is within the watershed of a great pond.
- 14. An estimate of the amount of domestic water required for the project; if connection to the public water system is proposed, a letter from the Great Salt Bay Water District attesting to its ability to provide sufficient water to the project; if water is to be supplied by wells, the results of a hydrological study if required by the Planning Board.
- 15. Plan for supplying water for fire protection.

16. Letters from appropriate state authorities attesting to the project's impact, if any on historic, archaeological and rare or endangered plant or animal species on or in the vicinity of the project parcel.
 17. Demonstration that access to the site will be safe and will meet or exceed minimum required sight distance.
 18. Demonstration that the project will comply with applicable noise and air quality standards.
- F. Submission Requirements for Wireless Communication Facilities: The application shall include 10 copies of all of the following:
1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
 2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
 3. USGS 7.5 minute topographic map showing the location of all structures and wireless application is filed) from the FCC Tower Registration Database.
 4. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes; certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
 5. A scenic assessment, consisting of the following:
 - a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 - b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the Color of the structure, and the proposed lighting method.
 - c. Photo simulations of the proposed facility taken from perspectives determined by the Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - d. A narrative discussing: the extent to which the proposed facility would be visible from or within a designated scenic resource, the tree line elevation of vegetation within 100 feet of the facility, and the distance to the proposed facility from the designated scenic resource's noted viewpoints.
 6. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

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7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements
 - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically: planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - d. Evidence that the applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - e. Evidence that existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - f. For facilities existing prior to the effective date of this ordinance, the fees, costs, for a tower built after the passage of this ordinance;
 - g. Evidence that the applicant has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access;
8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
9. A signed statement that the owner of the wireless telecommunications facility and his or other successors and assigns agree to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
 - d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design construction, financing, return on equity, depreciation, and all of the costs of

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adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

- e. A form of surety approved by the Board to pay for the costs of removing the facility if it is abandoned.
- f. Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.
- g. The Board may waive any of these requirements when it determines that the scale of the project makes the information unnecessary.

G. Notification and Hearing requirements

1. The Applicant shall notify all abutting property owners by certified mail, return receipt requested, of all requests for site plan review. If two or more abutters, or 5 residents of the Town, object in writing, and such objection is received by the Board, or postmarked, within 15 days after a public notice of the request for Site Plan Review, the Board shall schedule a public hearing on the proposal. Such hearing shall be scheduled within 30 days of acceptance of an application as complete.
2. If the Board schedules a public hearing pursuant to section 10.G.1 or at its own discretion. The Board shall give written notice of the date, time, and place of such a hearing to the person making the application, and the applicant shall arrange with the Town Office to pay for the cost of publishing such notice. Such notice shall be published by the Board in a newspaper of general circulation in Damariscotta at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing. Written notification by the Board of the hearing shall also be sent to the applicant and adjacent property owners by certified mail, return receipt requested, at least seven (7) days prior to the hearing.
3. If other agency permits are required, such as D.O.T. traffic movement permits, with roadwork involved, notifications shall be expanded as follows:
 - a. All property owners and lessees affected by the road modifications shall be notified by publication of intent in a newspaper of general circulation in Damariscotta.
 - b. Copies of the notifications shall be submitted with the application.

H. Board Review

1. Within 45 days of the acceptance of a complete application it becomes a Preliminary plan application. If the Board determines that the preliminary plan does not require a public hearing or the application site visit, the Board may determine that the application is a Final plan and shall make a decision. This period may be extended by mutual written agreement (by being recorded in the Board meeting Minutes). If the Board requires either a public hearing or site visit on a preliminary plan for it to gain acceptance as a final plan, the 45 day period does not start until after either and/or the public hearing or site visit have been held. All site plans with 7,500 square feet or more footprint in the aggregate, shall be required to have one or more public hearings and site visits after the Board determines it is a preliminary plan and before it may be declared a final plan.
2. The Board shall inform the applicant in writing of their decision (a Notice of Decision) on

final plan applications within ~~seven (7)~~ fifteen (15) days of their action.

3. One copy of the approved site plan shall be retained in the Town Office and one copy shall be given to the Code Enforcement Officer.
4. The Board may require the posting, prior to final approval of any plan, of a bond, agreement, or letter of credit in such amount as is approved by the Board as being reasonably necessary to insure completion of all improvements required as conditions of approval of such plan, and in such form as approved by the Planning Board and the Selectmen.
5. The Board may attach reasonable conditions to approvals to ensure conformity with the purposes and provisions of this ordinance. The Board may condition final approval on receipt of copies of all state or federal permits required by the project including, but not limited to, Natural Resource Protection Act Permit, Traffic Movement Permit, Site Location of Development Permit and US Army Corps of Engineers permits.
6. If the application concerns property which in whole or part is within any Shoreland Zone, the criteria included in the Shoreland Zoning Ordinance shall be reviewed concurrently with the Site Plan Review.
7. All approvals shall expire within one year of the date of issuance unless work thereunder is substantially commenced within one year from the date of approval. If work is not substantially completed within two years from the date of issue, a new application may be required by the Board.

Section 11. PERFORMANCE STANDARDS

The following standards are to be used by the Board in judging applications for site plan review. ~~While~~ These standards are meant to provide minimum criteria, and while they should not be regarded as inflexible requirements, all proposals should address them while being open to demonstrating creativity, invention and innovation, to ensure the best outcome for the applicant and the Damariscotta community. ~~all nor should they discourage creativity, invention and innovation.~~ The site plan shall be approved unless in the judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include evidence necessary to demonstrate compliance with all applicable standards. If the site plan includes a building or buildings in the aggregate of 7,500 square feet or greater of floor area or has a facade of 50 feet or more, additional standards in Section 12 may also apply.

As a requirement for being approved by the Board as a complete application and thus a preliminary plan, the applicant shall submit a plan that fully meets all the requirements of all the Section 11 Performance Standards. The applicant may also submit an accompanying separate preliminary plan that sets out any proposed waivers from Section 11 Performance Standards accompanied by a written statement(s) explaining why the applicant believes the waivers would still accomplish the purpose of the performance standard so proposed to be altered.

A. Preserve and Enhance the Landscape

The landscape should be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil and by retaining existing vegetation during construction. Except for

excavation operations approved pursuant to section 11.Q, only that topsoil directly affected by buildings, access and parking areas may be removed from the site.

B. Relationship to Environment and Neighboring Buildings

1. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed building.
2. Except in the downtown Commercial (C1) area, the following setbacks and buffer strips for parking areas shall be provided:
 - a. Frontage on Road: a 15 foot buffer strip from the property line to parking areas.
 - b. Side and rear lot lines: A 15-foot minimum buffer strip from the property line to any parking areas.
3. In the downtown commercial area, the following setbacks for parking areas shall be provided:
 - a. Frontage on road: Setbacks for parking shall be the same as that for structures as required by the Damariscotta Land Use Ordinance.
 - b. Side and rear lot lines: No setbacks are required for parking areas in this district.

C. Air Quality

The Board may require the applicant to demonstrate that the project, as proposed, will not result in undue air pollution or odors. In making this determination, the Board may require the applicant to consult with federal and state authorities to determine applicable air quality laws and regulations. Emission of dust, fly ash, fumes, vapors, smoke or other particulate matter or gasses and chemicals which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line shall be prohibited.

D. Lighting and Glare

1. Lighting: Exterior 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-tenth (0.1) foot-candles upon abutting residential properties.
2. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.
3. Hazards: The Code Enforcement Officer may require a light source to be modified or removed even though it may have been approved by the Board if such light source is subsequently determined to cause a hazard as referenced in paragraph 1, above.
4. Plans shall be submitted for all proposed exterior lighting, drawn to a scale of 1"=20' and shall include the location and type of lighting equipment, manufacturer's specification sheets, and point-by-point calculated luminance values noted on a 10 foot grid. The following

lighting criteria shall not be exceeded:

- a. Parking lots: a maximum of 1.5 foot-candles throughout.
 - b. Intersections: a maximum of 3 foot-candles.
 - c. At property lines: Maximum 0.1 foot-candles.
 - d. The maximum height of the luminaire of freestanding or building-attached lights on properties or in parking areas for multi-use residences, commercial and other non-residential uses shall be the same as the principal building, but shall not exceed 16 feet.
 - e. All lights shall have shielding to provide a beam cut-off at no more than 75 degrees nadir. The source of any light (illumination) shall not be visible from any place on any abutting lot.
 - f. All new or replacement outdoor lights in the public right-of-way shall not exceed 20 feet in height or the manufacturer's specifications.
5. The applicant shall demonstrate to the satisfaction of the Board that the proposed lighting is appropriate for the intended use. The Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. During nighttime hours when the activity is not occurring, lighting, as a condition of approval may be required by the Board to be turned off or turned down to the minimum security level.
 - a. Automobile service stations may have canopy lights and freestanding lights that are full cut-off shielded and up to 20 feet in height. No more than 1.5 foot-candles may spill across the lot line onto abutting commercial or other non-residential uses. No more than one-tenth (.1) foot-candle shall spill across any lot line abutting a residential use.
 - b. During nighttime hours when service stations are closed, all outdoor lighting shall be turned off or down to the minimum security level.
 6. Lighting may be located along streets within the development, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.
 7. Pathways, sidewalks and trails may be lighted with low mushroom-type standards or bollard type lights 3 feet or less in height.

E. Noise

The proposed development shall not increase noise levels to the extent that abutting or nearby properties are adversely affected. In order to comply with this, the development must meet the following requirements.

1. The maximum permissible sound level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited according to the time of day and land use which abuts it as listed below except that 7 p.m. – 7 a.m. sound level limits shall apply all day on Sunday.

Abutting Use	Sound Level Limits dBA	
	7 a.m. – 7 p.m.	7 p.m. – 7 a.m.
Residential	55	45
Commercial	65	55
Industrial	70	60
Institutional	55	45

2. Where the abutting property is undeveloped, the sound level shall be equal to or less than the most restrictive other abutting use. Where there are no uses on abutting properties, the sound level at the property line shall be equal to or less than the least stringent use allowed in the zoning district.
3. Sound levels shall be measured at least four (4) feet above the ground at the property line of the development. Sound levels shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S1.4.) “American Standard Specification for General Purpose Sound Level Meters” and shall have been calibrated at a recognized laboratory within the past year.
4. The following uses and activities shall be exempt from the sound pressure level regulations.
 - a. Noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.
 - b. The noises of safety signals, warning devices, and emergency pressure relief valve and other emergency activities.
 - c. Traffic noise on public roads.
 - d. Snow removal.

F. Adequacy of Public Road System

Vehicular access to the site must be on roads which have adequate capacity to accommodate the MDOT Level of Service Process, even if it is a Town owned road. A development not meeting this requirement may be approved 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 as soon as possible or,
2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements as soon as possible, with a financial guarantee acceptable to the municipality.

G. Access into the Site

Vehicular access to and from the development must be safe and appropriate.

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1. Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation (MDOT) standards. Unless otherwise specified by MDOT, the following standards apply:

Posted Speed - Required Sight Distance (1)*	
25 mph	200 ft
30 mph	250 ft
35 mph	305 ft
40 mph	360 ft
45 mph	425 ft
50 mph	495 ft
55 mph	570 ft

***(1) Sight distance shall be increased by up to 50% if 30% or more of the vehicles using the proposed driveway or street will consist of vehicles larger than pickup trucks**

2. For developments on lots of record (created after the effective date of this Ordinance), the applicant shall meet, to the maximum extent possible, the above MDOT sight-distances. When meeting their MDOT sight-distances adjacent to said lots of record is clearly a hardship, the Planning Board may vary the sight-distance requirements so long as the public safety is substantially served.
3. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows. The proposed site layout shall provide for safe access to and egress from public and private roads. Provision shall be made for providing and maintaining convenient and safe emergency vehicle access to all structures at all times.
4. The grade of any proposed drive or street must be not more than 3% for a minimum of forty (40) feet, from the intersection.
5. The intersection of any access/egress drive or proposed street must function at the MDOT Level of Service, even if it is a Town owned road.
6. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.
7. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes and traffic controls within public streets.
8. Access ways must be designed to have sufficient capacity to avoid queuing of entering vehicles on any public street.
9. The following criteria must be used to limit the number of driveways serving a proposed project:
 - a. No use shall have more than one (1) two-way driveway onto a single roadway unless a traffic engineer demonstrates that a second access is required for traffic safety. Any driveway must be no greater than thirty (30) feet wide The Board may permit an additional driveway if necessary to accommodate delivery truck movements on

the site

- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two points of access to a single roadway.

H. Parking and Circulation

1. Parking and Streetscape:

Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. The object is to provide neither more nor less parking spaces than is needed and to maintain the village-scale street-scape by not setting larger retail buildings farther back from the street than necessary. This regulation may be subject to Planning Board review where out buildings are employed.

2. Parking Requirements

For properties of one-half acre or less, the Planning Board may reduce the minimum parking count (from Section 11.H) standards down to zero on-site spaces for good reason. For properties over one-half acre, the minimum parking requirement may be reduced for good reason by the Planning Board (from standards in Section 11.H.5.i) to no less than 1 space per 1,000 square feet of leasable or saleable floor area. These spaces may be located either onsite, on-street (directly adjacent to the property), in shared parking scenarios or in any public parking facility, the closest outside edge of which facility is located no more than 500 feet from the entry of the proposed building.

3. Off-street Surface Parking Lot Placement

- a. Wherever possible, parking lots shall be located behind or to the side of buildings such that buildings separate parking areas from the frontage street. An exception may be made for parking areas used for the display of vehicles for sale. In no case shall parking lots be located between the front facade of the principal building and the primary abutting streets unless the Planning Board grants a waiver and both the building and parking area are screened from view from the frontage street. Development consisting of out buildings (defined in Section 12.H.2) (i.e. buildings less than seven thousand, five hundred (7,500) square feet of floor area) and placement of 6 foot walls, singly or together may be used to screen parking areas.

- b. Off-street surface parking lots shall be set back a minimum of 15 feet from non-frontage streets excluding alleys.

- 4. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement of parking areas.
- 5. Parking areas shall be off street and designed so that vehicles leave the parking area in a forward motion. To minimize the number of entrances on to the main travel way, a single combined entrance/ exit is encouraged, while a maximum of 2 separate curb cuts is permitted. For those lots in the C2 District as defined herein, the requirements of this paragraph may be modified to fit the prevailing pattern of development.

6. Parking Lot Lay-out

- a. Parking lots shall be divided into small areas of no more than 40 parking spaces each by landscaping, such as but not limited to, shade trees, shrubs, and evergreens. For those lots in the C1 District, the Board may consider the Municipal Parking lot when assessing the project's parking requirements.
- b. Each 40 space (or fraction thereof) parking area shall be landscaped with curbed medians with a minimum curb to curb width of ten (10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet in landscaped area.

7. The parking spaces provided will meet the needs of the particular use and the following standards shall be used as a guide:

- a. Access to stalls. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- b. Movement to and from spaces. 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.
- c. Pedestrian access. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- d. Setbacks. See Section 11B.
- e. Parking stalls. Parking stalls and aisle layout shall conform to the following standards:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-5"	24'-0"
60°	8'-6"	10'-5"	16'-0"	one-way only
45°	8'	12'-9"	17'-5"	one-way only
30°	8'	17'-0"	12'-0"	one-way only
Parallel	9'	n/a	20'-0"	n/a

- f. Parking stripes. In paved parking area painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of 4" in width.
- g. Directional arrows. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- h. Bumpers. 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 damage landscape materials.
- i. Number required. Off-street parking spaces shall be provided, unless the applicant can demonstrate that another standard is appropriate, to conform to the number required in

the following schedule:

1. Light industrial	1.5/1000 s.f.
2. Industrial park	1.5/1000 s.f.
3. Manufacturing	1.5/1000 s.f.
4. Warehousing	1.5/1000 s.f.
5. Residential	2/du
6. Apartments, condominiums	2/du
7. Senior citizen multi-family	1/du
8. Hotel/Motel/Inn	1/rm
9. Bed and breakfast	1/guest room
10. Club, lodge	½ persons based on maximum legal capacity
11. Hospital/medical facility	1/3 beds and 1 per 2 employees per shift
12. Art gallery, museum, library	6.5/1,000 s.f.
13. School, primary	1.5 per classroom
14. School, secondary	8 per classroom
15. School, post-secondary	1 per student and 1 per faculty & staff member
16. Theater, auditorium, assembly	1/3 seats based on maximum legal capacity
17. Marina	½ berths
18. Sports club, health spa	5/1000 s.f.
19. Church	½ seats
20. Nursing home	1/3 rooms
21. Medical, dental office	4/1000 s.f.
22. General offices	3/1000 s.f.
23. Governmental offices	4/1000 s.f.
24. Retail store	4/1000 s.f.
25. Home improvement, hardware	3/1000 s.f.
26. Shopping center	4/1000 s.f.
27. Restaurant	9/1000 s.f. or 1/3 seats
28. Fast food restaurant	14/1000 s.f. or ½ seats
29. Bank	4/1000 s.f.
30. Services	4/1000 s.f.
31. Child care	¼ children licensed for care
32. Auto, truck repair	5/service bay
33. Funeral home	1/100 s.f.
34. Campgrounds	1/campsite

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- | | |
|--------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 35. Barber, beauty shop | 3/chair |
| 36. Car, truck dealers (see also 32) | 5 plus 1/3000 s.f. indoor or outdoor display |
| 37. Convenience store | 4/1000 s.f. |
| 38. Convenience store with pumps | 4/1000 s.f.; one-half of service spaces at the gas pumps may be applied to meet not more than one-half of total parking required |
| 39. Other uses | sufficient spaces to accommodate the normal parking demand as determined by the Plan. Board |

I. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/ exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

J. Existing Public Utilities and Services

1. The proposed development shall not impose a burden on sewers and storm drains, water lines or other public utilities.
2. The proposed development shall not have an adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, and other municipal services and facilities.
3. If proposed development will be served by the Great Salt Bay Sanitary (and water) District, the applicant shall submit a letter from the District stating that they will be able to hook up to the system upon payment of an impact fee. This impact fee must be paid prior to issuing of building permit.
4. The Board may require the applicant to complete a public facilities impact study or retain a consultant pursuant to the provisions of section 10.D to conduct such study if it determines the results of such study are necessary to adequately review the application.

K. Water Quality

1. The proposed development shall not unduly affect the quality or quantity of ground water. In making this determination, the Board shall consider the location of aquifers and aquifer recharge areas, the nature of the proposed development and its potential threat to ground water resources. The Board may place conditions upon an application to minimize potential impacts to the Town's ground water resources.
2. The development will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the State Drinking Water Regulations, pursuant to Title 22, M.R.S.A. Section 2601. If the existing ground water quality is inferior to the State Drinking Water Regulations, the development will not degrade the water quality any

further.

3. At commercial and other non-residential uses, above ground commercial or bulk fuel storage and chemicals or industrial wastes and potentially harmful raw materials, shall be contained within an impermeable diked area shall be provided; the diked area must be sized to contain one hundred ten (110) percent of the total volume of the fuels/chemicals/wastes able to contained therein. The containment area shall be roofed to prevent accumulation of rainwater in the diked area and shall be properly vented. There shall be no drains in the facility. All concrete whether walls and/or pads, shall be reinforced concrete and shall be designed by a State of Maine registered Professional Engineer.
4. Underground petroleum tanks where permitted shall be installed in accordance with the standards promulgated by the Maine Board of Environmental Protection.
5. Residential uses, such as but not limited to a multi-unit residential development, may store conventional heating fuel, such as but not limited to heating grade oil, propane or natural gas, in above-ground tanks.

L. Storm Water Management

A management plan, prepared by a registered professional engineer, shall be designed so that the post-development runoff does not exceed the pre-development runoff for the 24- hour duration, 2-, 10-, and 25-year frequency storm events. The plan shall be prepared in accordance with *Storm Water Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District. If the development requires Storm water Permit from the Department of Environmental Protection (DEP), the Board may accept the Storm Water Permit issued by DEP as evidence that this section has been satisfied.

M. Erosion and Sediment Control

An erosion and sediment control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

1. The name, address, and telephone number of the person responsible for implementation of the plan.
2. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.
3. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.

4. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
5. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
6. Description of temporary and permanent erosion control practices that will be used.
7. Identification of the locations of the temporary and permanent erosion control practices.
8. Identification of how and where collected sediment will be disposed.
9. Dust control measures.
10. Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

N. Water Supply

The development has sufficient water available for the reasonably foreseeable needs of the development, including adequate fire protection and will not cause an unreasonable burden on an existing town water supply and/or neighboring wells.

O. Natural Beauty

The development will not have an undue adverse effect on the scenic or natural beauty of the area, or rare and irreplaceable natural areas. In making this determination, the Planning Board shall consider the following.

1. The clearing of trees should be the minimum necessary to accommodate the proposed development. The development shall, by notes on the final plan, limit the clearing of trees to those areas designated on the plan.
2. The development shall be designed to minimize the visibility of buildings from existing public roads. If the land cover type at the time of application is forested, the applicant shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets. If the development is in proximity to a ridgeline, the applicant shall demonstrate how the design will minimize or eliminate any adverse visual impact on such ridgeline.
3. The Board may require the application to include in the landscape plan the preservation of any existing large trees, the replacement of trees and vegetation, and graded contours.

P. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

Q. Filling and Excavation

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Excavations of sand & gravel, borrow, clay, topsoil, silt or rock that are not incidental to a development approved by the Planning Board and which exceed 1 (one) acre in area shall conform to the following performance standards. The Planning Board may approve modifications to these standards if such modifications have been approved by the Department of Environmental Protection. Where the project schedule for excavation that is incidental to a development approved by the Planning Board will exceed two years, such excavation shall default to comply with this section.

1. The following minimum setbacks from the excavation must be maintained. See Table below:
2. No excavation within 5 (five) feet of the seasonal high water table.
3. Refueling and maintenance operations within the excavation must be in accordance with a spill prevention, control and countermeasures plan prepared by a registered professional engineer and approved by the Planning Board.
4. The excavation must be naturally internally drained or the applicant shall submit a storm water management plan in conformance with section 11.L.
5. An erosion control plan prepared in conformance with Section 11.M shall address any access or haul roads, stabilization of material stockpiles and prevention of tracking of material onto public roads.
6. Dust associated with excavation and trucking activities shall be controlled by sweeping, paving, watering or other approved method.
7. The applicant shall submit a reclamation plan that shall include, at a minimum, the following:
 - a. final slopes shall be no steeper than 2.5 horizontal feet to one (1) horizontal foot vertical;
 - b. re-vegetation of excavated surfaces within one year of completion of each phase of the excavation; re-vegetation must result in a 75% survival rate for trees and shrubs and a permanent 90% ground cover;
 - c. removal of all structures and access and haul roads;
 - d. an engineer's cost estimate for all reclamation activities;
 - e. a bond or other financial guarantee satisfactory to the Planning Board sufficient to cover the cost of reclamation.
8. The excavation shall comply with the noise standards of Section 11.E and the access road shall comply with the minimum sight distance of Section 11.G.

(1) Must be maintained as a natural buffer. Existing vegetation cannot be removed. If existing vegetation has previously removed, it must be replaced in conformance with a plan approved by the Planning Board.

(2) No minimum buffer strip required between excavations owned by abutting property owners with abutters' written permission.

Point-driven or dug well in existence prior to the excavation	200 feet
Drilled well into bedrock in existence prior to the excavation	100 feet
Public drinking water source serving 500 persons or less	300 feet
Public drinking water source serving 501-1000 persons	500 feet

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Public drinking water source serving over 1000 persons	1,000 feet
Great pond or river	100 feet (1)
All other water bodies	75 feet (1)
Public road unless reduced by public entities with authority to grant Such reduction	100 feet (1) (25 ft (1) topsoil excavation)
Private road unless reduced by agreement with legal users of private road	75 feet (1)
Public right of way not containing a road	50 feet (1)
Property boundary (2)	50 feet (1) (25 ft (1) topsoil excavation)

9. Excavation operations are limited to 7 a.m. to 6 p.m. Monday to Friday and 7 a.m. to 2 p.m. Saturday.
10. If blasting is proposed, the applicant shall submit a blasting plan prepared by a firm licensed to conduct such work. The plan shall include pre-project inspections of any off-site structures and wells that may be potentially affected by the blasting.

R. Sewage Disposal

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

1. All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
2. If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within two hundred (200) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided the connection to the public system will occur if and when the subsurface system needs to be replaced.
3. If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules. The location of the bed and distances from wells on the property and on adjacent lots will be clearly shown. A copy of the design will be submitted with the application. If site is currently served by a septic system and the use is being expanded or changed, report must be submitted by a licensed soil scientist that the existing system and soils can accommodate the increased load or an expanded system.
4. When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an
5. Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be in compliance with the Great

Salt Bay Sanitary District “Regulation of Sewer Use”.

6. For all developments which require a building permit, the applicant shall demonstrate to the satisfaction of the Plumbing Inspector that the existing septic system is functioning properly.

S. Phosphorus Control

The introduction of excessive amounts of phosphorus into lakes and ponds has been identified as a significant threat to water quality. The following provisions are applicable to all projects requiring site plan review that are located within the watershed of a great pond.

1. For all new principal structures, expansions of existing structures which increase the floor area by 30% or more over the lifetime of the structure, new accessory structures of 300 square feet or more and new or enlarged roads and driveways on lots, phosphorus export from such development shall be equal to or less than that which is calculated using the methods established by the Maine Department of Environmental Protection and described in Section 4.2.1 of Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992). The following phosphorus allocation factors shall be applicable.

Watershed	Water Quality as established by MDEP	Protection Level (from MDEP)	Phosphorus Coefficient (a)	Acceptable Increase in Phosphorus	Future Area to be Developed (b)	Per Acre Phosphorus Allocation ©
Paradise Pond	Mod-sensitive	Medium	8.13 lbs	1.00	174 acres	0.047
Little Pond	Mod-sensitive	High	4.80 lbs	0.75	92 acres	0.039
Pemaquid Pond	Mod-sensitive	High	26.15 lbs	0.75	464 acres	0.042
Biscay Pond	Mod-sensitive	High	18.65 lbs	0.75	254 acres	0.055

- a. Indicates the amount of additional phosphorus that, if exported from the watershed to the lake, will produce a 1 part per billion (ppb) increase in the lake’s phosphorus concentration (lbs./ppb/year)
 - b. Assumes 15% of each watershed is undevelopable due to environmental considerations; 30% of the remaining acreage is likely to be developed over the next 50 years.
 - c. Amount of phosphorus each developed acre is allowed to export without violating water quality goals.
2. For all other accessory buildings, expansions of existing structures and expansions of existing roads and driveways, the applicant shall demonstrate that, by utilizing permanent vegetated buffers, limiting the clearing of vegetation and the size of the development area limiting impervious surfaces and directing runoff away from the affected water body, the potential for phosphorus export has been minimized.

T. Buffer Areas

No industrial or commercial buildings or uses shall be established in, or abutting, a residential use unless a landscaped buffer strip is provided to screen visually the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of

fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection, and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to ensure continuous year round screening.

The following standards apply to buffer strips, screening and landscaping required under this Ordinance:

1. Buffer strips. Buffer strips shall be required of the following widths for the following areas and/or purposes:
 - a. Protect water bodies. Along any water body within or adjacent to the project where the Board determines it desirable and necessary to protect such water body from sedimentation and pollution: Such buffer strips shall be a minimum of one hundred (100) feet in width or such greater width which in the judgment of the Board may be necessary to protect water bodies from sedimentation and pollution
 - b. Buffer strip on adjacent lot. If there is a buffer strip on the adjacent lot and the applicant for Site Plan Approval provides the Board with a guarantee from the abutter acceptable to the Board that the adjoining buffer strip will remain undeveloped, the Board may reduce the required buffer strip by the width of the encumbered adjoining buffer strip.
 - c. Route 1 buffer. A vegetative buffer 100 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of the traveled way, shall be provided along Route 1 for all new commercial developments and for the re-development of existing commercial properties. Parking shall be prohibited within this buffer strip.
 - d. Roadside buffer in C2 District. Except as described in section 11.T.c, a vegetative buffer 50 feet deep, or twenty percent (20%) of the depth of the lot, whichever is less, measured from the edge of the traveled way, shall be provided along all public roads in the C2 District 1 for all new commercial developments and for the re-development of existing commercial properties. Parking shall be prohibited within this buffer strip.
 - e. Incompatible uses. Where the Board determines that adjacent uses or accessory uses are incompatible, a buffer strip may be required along any property line to shield incompatible uses or accessory uses from one another. Such buffer strips shall be a minimum of twenty-five (25) feet in width and such additional width which in the judgment of the Board may be necessary to shield incompatible uses from ordinary view.
2. Screening. Screening within the required buffer strips, in the form of natural or man-made barriers, existing vegetation or new plantings, if suitable existing vegetation and natural features do not exist, is required as follows:
 - a. Natural features. Natural features in buffer strips shall be maintained wherever possible. When natural features such as topography, gullies, stands of trees, shrubbery, and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of abutting properties and, where applicable, public roadways, other types of buffers shall be provided to supplement the existing features.

- b. Vegetation variety. All buffers that contain vegetation shall provide for a variety and mixture of landscaping. The variety shall be based on a consideration of susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage. Planted vegetation shall take the form of shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover, the species of which shall be well suited to the Damariscotta area and approved by the Board.
- c. Vegetation standards. Where planting is required, as determined by the Board at least one (1) shade tree at least six (6) feet in height and at least two and a half (2) to three (3) inches in diameter, measured at a point four (4) feet above finished grade level, shall be planted no nearer than five (5) feet to any lot line for each three hundred (300) square feet of required landscaped area; and at least one (1) deciduous shrub or evergreen at least eighteen (18) inches above finished grade level, shall be planted for each two hundred (200) square feet of finished landscaped area.
- d. Fencing. Where fencing is provided, it shall be no more than six (6) feet in height, and shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties, except that the Board may require up to an eight (8) foot high fence to separate incompatible uses.

U. Signs

See the Damariscotta Sign Ordinance.

V. Building Appearance

The following standards shall apply to all buildings less than the size standard for large-scale development. Buildings required to meet the standards for large scale development (7,500 square feet and larger) shall comply with those standards contained in Section 12 of this ordinance.

- 1. The building's architecture (e.g. buildings of less than 7,500 square feet of gross floor area) shall reflect traditional New England building forms including, but not limited to, pitched roofs, dormers, windows (rather than plate glass) and clapboard, shingle or brick siding. Freestanding accessory structures, such as ATMs, gas pump canopies, sheds or drive-thrus (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.
- 2. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular esthetic objective.
- 3. Building facade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

Section 12. LARGE-SCALE DEVELOPMENT

In addition to the standards of Section 11, the following standards apply to larger non-residential buildings or structures and multi-family dwellings, including connected buildings, accessory buildings and structures, on site plans with the building or connected/associated buildings being 7,500 square feet or more of total floor area. The following standards are to be used by the

Board in reviewing applications for site plan review. After the effective date of this Section, additions to a building (as defined herein) that exceeds the 7,500 square foot threshold, either individually or cumulatively, shall meet the following standards for large-scale development. The Board may modify or waive specific performance standards for such additions if it finds that, due to the design, location, function or layout of the principal structure, the application of specific performance standards is impractical or inappropriate.

A. Building Appearance.

The building shall employ varying setbacks, heights, roof treatments, doorways, window openings and other structural or decorative elements to reduce apparent size and scale of the building.

1. The building's architecture shall include, but not be limited to, pitched roofs, dormers, windows (rather than plate glass) and clapboard or brick siding. Freestanding accessory structures, such as ATM's, gas pump canopies, sheds or drive-thrus (so called), etc., shall be treated as architectural elements and meet the same design standards as the principal structures on the site.
2. a. A minimum of fifty (50) percent of the structure's facades, 50 feet or longer in length and that are directly facing (i.e. parallel to) a public street, shall employ architectural features such as, but not limited to, actual protrusions or recesses with a depth of at least six (6) feet. No uninterrupted façade shall extend more than forty-nine (49) feet.

b. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than fifty (50) percent of their horizontal length.
3. A minimum of twenty (20) percent of all of the linear roof eaves or parapet lines on the side of structures (with a façade of 50 feet or more in length fronting on a public way), shall employ differences in height, with such differences measured eaves to eaves or parapet to parapet.
4. Pitched roofs with a minimum pitch of 5/12 may be required by the Planning Board to complement existing abutting buildings or otherwise maintain a particular aesthetic objective.
5. Building facades shall include a repeating pattern that includes no fewer than three (3) of the following elements: (a) color change; (b) texture change; (c) material module change; (d) expression of architectural or structural bay through a change in plane no less than twenty-four (24) inches in width such as an offset, reveal or projection rib. At least one of these elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
6. Any rear or side building façade that is directly facing a public street (i.e. parallel thereto), shall be designed to complement the architectural treatment of the primary façade. Rear and side building facades visible from residential properties shall be screened to block visibility from the residential property in conformance to Section 12.E.2.
7. Building façade colors shall be non-reflective, subtle, neutral or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature colors of black, but such colors shall be muted, not metallic, not fluorescent and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.
8. Building Compatibility

- a. Exterior building materials shall be of a comparable aesthetic quality on sides of the building directly facing (parallel to) public ways. Building materials such as glass, brick, tinted or decorative concrete block, wood, stucco, vinyl siding or exterior insulation and finish systems (EIFS) shall be used. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.
 - b. Sides of the building not visible from a public way shall maintain compatibility with other sides of the building by use of compatible colors.
9. The integration of windows into the building design is required and shall be transparent glass between three (3) to eight (8) feet above the walkway along any facades facing a public street. The use of blinds shall be acceptable where there is a desire for opacity. Any blinds shall comply with the color standards of Subsection A.7 above. If large areas of plate glass are proposed, the Planning Board may require the applicant to demonstrate that glare from such glass will not create safety concerns for vehicles.
10. Ground floor facades of retail buildings that face public streets or contain the principal access to the building and which exceed one hundred and fifty (150) feet in length shall be designed to appear as a series of attached, individual storefronts even though the building itself may consist of a single retail occupancy.
11. Public entryways shall be clearly defined and highly visible on the building's exterior design and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details.

B. Outdoor Sales.

Additional standards are applicable to large-scale development consisting of retail establishments greater than seven thousand and five hundred (7,500) square feet of floor area. The Planning Board may modify or waive one or more of the following standards for vehicle display areas if it finds that the application of such standards is impractical or inappropriate.

1. Areas for outdoor sales of products may be permitted if they are extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping, be counted as part of the minimum 7,500 square feet (or maximum of 35,000 square feet) of floor area and shall be permanently defined and screened with walls, roofs and shall conform to those compatible predominant materials and colors used on the rest of the building.
2. Outdoor sales areas not counted toward minimum 7,500 square feet (or maximum 35,000 square feet) of floor area at commercial buildings include the location, storage and display of such hardscape or softscape landscaping, nursery, gardening or agricultural products such as, but not limited to, cement or brick pavers, outdoor pottery, outdoor furniture or plants, mulch, fertilizer or sand bags. Except for such agricultural, gardening, landscaping, nursery and similar products normally stored outdoors, the outdoor storage of products for retail sale is prohibited in an area where customers are not permitted unless such area is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers. There may, however, be outdoor storage of such things, but not limited to, excess stock of products normally found outdoors such as patio furniture, if

properly visually screened and for display purposes only.

3. Outdoor sales areas must be clearly depicted on the site plan. They must be at least ten (10) feet from motor vehicle routes and protected by a physical barrier.

C. Parking.

1. Parking areas shall provide safe, convenient and efficient access for vehicles and pedestrians. They shall be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface.
2. Parking lots over 100 spaces shall be segmented visually and functionally into distinct parking areas of no more than 40 spaces by landscaped and curbed medians with a minimum curb to curb width of ten (10) feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) square feet of landscaped area.
3. No off-street parking shall be sited between the front façade of the principal building and the primary abutting streets with the exception of parking areas used for the display of vehicles for sale. The Planning Board may waive this requirement up to fifteen (15%) percent of off-street parking if it determines that the building and parking area are screened from view by out lot(s) (as defined in Section 12.H.2) consisting of buildings less than seven thousand and five hundred (7,500) square feet of floor area and by the use of additional tree plantings, berms, fencing, low walls, shrubs and/or perennials.

D. Bicycles and Pedestrian Facilities

1. Sidewalks internal to the development shall be provided and shall be no less than eight (8) feet in width and raised at least 6 inches above the vehicle travelway. Also, they shall be provided from the public sidewalk or right-of-way to the principal customer entrance(s) of all larger commercial buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points and shall feature adjoining landscaped areas that includes trees, shrubs, benches, flower beds, ground covers and other such materials for no less than fifty (50) percent of the length of the walkway.
2. Sidewalks at least five (5) feet in width shall be provided along all sides of the lot that abut a public street.
3. Sidewalks at least eight (8) feet in width shall be provided along the full length of the building along any façade featuring a customer entrance and along any façade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade. Weather protection features such as awnings or arcades are required at all customer entrances.
4. All internal pedestrian crosswalks shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as, but not limited to, pavers, bricks or scored concrete or asphalt to enhance pedestrian safety and comfort as well as the attractiveness of the walkways.

5. The development shall provide exterior pedestrian furniture in appropriate locations at the rate of one seat for every five thousand (5,000) square feet of gross floor area and secure, bicycle parking at the rate at least three bicycle rack spaces for every fifty (50) vehicle parking spaces.

E. Landscaping

1. The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. Landscaping shall be considered an integral component of the approved project. The applicant shall replace within thirty (30) days, or as seasonally required by the species, any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the Planning Board that the site conditions require an alternative species of comparable size.
2. A minimum of thirty (30) percent of the building's total foundation, including a minimum of fifty (50) percent along the building's façade facing a public street, shall be planted with landscaping, based on proper planting conditions, consisting of trees at least 1"caliper in width and an average height of six (6) feet, appropriate to USDA Plant Hardiness Zone 5 and placed into soil that would allow long-term growth and survival. Add adequate coverage by shrubbery to visually screen the base_(foundation) of the building(s). At a minimum, planted shrubbery shall be 3 gallon pot size so called. This landscaping shall be near entrances and facades facing public streets as well as in parking areas. If the building will be located in a village area and there will be no setback between it and a public sidewalk or street right-of-way, landscaping along the building's front façade is not required.
3. Parking islands shall be landscaped in conformance to Subsection 2 above.
4. Buffer strip landscaping shall consist of trees, based on proper planting conditions, at least 1"caliper in trunk width and a minimum suitable height appropriate to USDA Plant Hardiness Zone 5, placed into soil that would allow long-term growth and survival and in sufficient number to form a visual barrier consisting of understory trees, evergreen or deciduous shrubs and evergreen trees. These shall be planted along and within a minimum thirty (30) foot deep green buffer strip adjacent to all public and private streets and drives including parking lot connections, circulation drives (including those adjacent to buildings) and loading areas. If the building(s) will be located in a village area and there will be no setback between it and a public sidewalk or street right-of-way, landscaping adjacent to the public sidewalk or street right-of-way is not required.
5. Where the commercial building abuts a residential boundary line or a property with at least one residence, a stone wall or fencing with evergreen trees that provides screening and buffering shall be included, but not limited to, a six (6) foot high berm. or, as determined by the Planning Board, plantings that would protect the residents from seeing the commercial building(s).

F. Screening

1. Ground and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on-site and off-site ground level views with materials identical to those on building exteriors.

2. All trash collection areas that are not within an enclosed building or underground, must be screened or recessed so that they are not visible from public sidewalks, internal pedestrian walkways or adjacent residential properties and at least 50 feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.
3. Roof-top equipment must be screened by parapets, upper stories or exterior walls from viewing from public streets within one-thousand (1,000) feet. Roof-top solar panels or windpower generators shall be screened only to the extent that their function is not compromised
4. Gates and fencing may be used for security and access. Chain link, wire mesh or wood slat fencing are acceptable for security purposes. Such security fencing, however, does not satisfy buffering or screening requirements of this Ordinance.
5. Loading docks must be screened from surrounding roads and developed properties by walls matching the building's exterior or by fully opaque landscaping.

G. Building Reuse

Additional standards for maintenance of a site after vacancy applicable only to large-scale developments consisting of commercial buildings (in the aggregate) greater than 7,500 square feet in total floor area are:

1. If the building remains vacant for a period of four (4) consecutive years (within a 20 year time frame after having been initially constructed), the Selectmen may, following notice to the owners, mortgagees and any other legally interested parties, along with an opportunity to be heard, vote their right to pursue the removal of the building(s) from the site pursuant to 17 MRSA, Section 2851 (The Dangerous Buildings Statute) if the Selectmen find that the building(s) are structurally unsafe, unstable, unsanitary, constitutes a fire hazard, is unsuitable or improper for the use or occupancy to which it is put (or could reasonably be put pursuant to the Damariscotta Land Use Ordinance), constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, or is otherwise dangerous to life or property. In pursuit of exercising removal of a building(s) pursuant to 17 MRSA, Section 2851, the Selectmen must find, after notice and hearing on the vacant or abandoned building(s), that the building(s) are a nuisance or dangerous before deciding upon razing and removal of the building(s) from the site.
2. Where a proposed new building will replace an existing commercial building of 7,500 square feet of total floor area or more, the applicant shall submit evidence that there will be no private prohibition on the type of reuse of the previously occupied building through conditions of sale or lease.

H. Additional Standards for Buildings 20,000 square feet or Greater in total floor area

Additional standards applicable only to large-scale development greater than twenty thousand (20,000) square feet in total floor area. These standards are intended to ensure that the buildings are not prominently visible from roads unless they are sited close to the road in a manner similar to traditional village commercial development.

1. Retail buildings of twenty (20,000) square feet or greater in total floor area that are set back more than fifty (50) feet from a road shall not be prominently visible from such a road. This may be accomplished by existing vegetation and topography as well as proposed site improvements such as landscaping, berms and similar site design features. In determining if

existing vegetation and/or proposed landscaping will satisfy this standard, the Planning board shall require the applicant to provide a visualization of the building and landscaping as they would appear 7 years after completion of the project.

2. Alternatively, the standards in Section H herein, may be satisfied by the siting of smaller commercial buildings on pads or out-lots between the large-scale retail building and the designated road. This technique shall be employed for the full width of the development site along the road that provides its principal vehicular access except for access locations and landscaped public open spaces that the Planning Board determines will provide effective visual buffering of the large retail building.

3. Community Impacts

The Planning Board may require an economic and fiscal impact analysis for a proposed large-scale development. The applicant shall provide adequate funding to the Town to retain a consultant of the Town's choice with appropriate experience to complete and present such analysis.

a. The impact statement shall include the following elements:

- (1) Identification and assessment of the impacts of the proposed project, including positive, negative and indirect impacts.
- (2) Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public service improvements sufficient to support the project. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
- (3) Proposed measures to mitigate negative traffic impacts to road plans of the Town and how to integrate the proposed development into the road plans of the Town.

b. The impact statement shall assess the following areas of potential impact:

- (1) Types of jobs created.
- (2) Number of full-time (forty (40) hours per week) and part-time (less than forty (40) hours per week) jobs created.
- (3) Evaluation of the market and financial feasibility of the project. Include a trade area analysis indicating the market area proposed for the project and the area from which patrons will be attracted and any plans for phased construction. Include any further market studies prepared for the project by the applicant.
- (4) Evaluation of the potential for the proposed project to create an over-supply of retail space in Town using industry-accepted standards for commercial floor area per resident.
- (5) Evaluation of the impact of the proposed project on commercial vacancy rates in Damariscotta and Lincoln County.
- (6) Estimate to what extent the proposed project would reduce the diversity of the Town's economic base by eliminating smaller businesses.
- (7) Comparison and evaluation of the projected costs and benefits to the Town resulting from the project including:

- (i) Projected costs arising from increased demand for and required improvements to public services and infrastructure.
- (ii) Value of improvements to public services and infrastructure to be provided by the project.
- (iii) Projected tax revenues to the Town to be generated by the project and the need for increased financial support for infrastructure improvements and protective services.
- (iv) Projected impact of the project on land values (both residential and commercial) and potential loss or increase in tax revenues to the Town.
- (v) Short-term and long-term projection of increased revenues to the Town and costs resulting from the proposed project.
- (vi) Estimate of the difference between how much of the revenue generated by the proposed project would be retained and re-directed back into the economy of the community compared to other retail chain stores and locally-owned, independent retailers in Town.

Section 13 APPEALS AND VARIANCES

- A. To appeal a decision of the Board, an aggrieved party must file the appeal with the Board of Appeals within 30 days of the date of the decision of the Board. If such appeal decision is not filed within the stated time, the prior decision of the Board shall be final. Following a hearing, the Board of Appeals may reverse the decision of the Board only upon a finding of Fact or in law that the decision is clearly contrary to specific provisions of this Ordinance. The Board of Appeals may affirm, modify, or remand the application to the Board for further proceeding. The Board of Appeals shall render a decision within 30 days of receiving an application.
- B. The Board of Appeals may grant a variance from the strict application of this Ordinance provided that the strict application of the terms of this Ordinance would result in undue hardship to the applicant. The term “undue hardship” shall mean:
 - 1. That the land in question cannot yield a reasonable return unless a variance is granted, 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 will 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.
- C. Appeal Procedure
 - 1. Making an Appeal
 - a. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Board. Such appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30 day requirement.

- b. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (1) A concise written statement indicating what relief is requested and why it should be granted.
 - (2) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - c. Upon being notified of an appeal, the Code Enforcement Officer or Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - d. The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.
 - e. The Code Enforcement Officer shall participate in appeals procedures.
2. Decision by Board of Appeals
- a. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
 - b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
 - c. The person filing the appeal shall have the burden of proof.
 - d. The Board shall decide all appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
 - e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

3. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 30 days from the date of any decision of the Board of Appeals.

4. Reconsideration

The Board of Appeals may reconsider any decision within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

Section 14 ENFORCEMENT

A. Nuisances

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

B. Code Enforcement Officer

1. This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record.
2. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
3. The Code Enforcement Officer shall be responsible for administering the provisions of this ordinance, including interpreting the provisions hereof. Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance may appeal, within the time limits for such appeals, such determination to the Board of Appeals as an administrative appeal. If the Appeals Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

C. Legal Actions

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

D. Fines

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

Section 15 DEFINITIONS

Meaning of Words. All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

ABUTTING PROPERTY - Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESSORY BUILDING - A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

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

AGGRIEVED PARTY - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such a permit or variance.

ANTENNA - any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

ANTENNA HEIGHT- the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ARCADE: A series of outdoor spaces located -under a roof or overhang and supported by columns or arches.

ARTERIAL - A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

BAY: As applied to large scale development, a spatial division element in a building defined by beams or ribs and their supports.

BERM: An earthen mound designed to provide visual interest on a site, screen -undesirable views, reduce noise or provide a buffer from adjoining uses.

BUFFER: As applied to large scale development, an area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesirable views, noise and glare, effectively providing greater privacy to neighboring land uses. Typical buffers include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses.

BUILDING - Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a

division wall without opening, then each such portion shall be deemed a separate building.

BUILDING FOOTPRINT - The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

BED & BREAKFAST - A private home occupied by the owner or his tenant as his principal residence which offers overnight sleeping accommodations and breakfast at a single price for travelers; the total space occupied by such accommodations no to exceed twenty percent of the dwelling.

BOARD - The Planning Board of the Town of Damariscotta.

CANOPY: As applied to large scale development, a projection over a niche or doorway, often decorative or decorated; a roof over an accessory structure including but not limited to gasoline pumps and an Automated Teller Machine (ATM).

CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER

CATEGORY OF NONRESIDENTIAL USE - A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

COLLECTOR – A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

COLOCATION - the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

COLUMN: A vertical support, usually cylindrical, consisting of a base, shaft and capital, either monolithic or built up of drums the full diameter of the shaft.

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

CONNECTED/ASSOCIATED BUILDINGS: Two or more buildings on a site plan that are connected by and arcade or sidewalk or that are less than 50 feet apart at any point on any building.

CURB CUT - The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

DOWNTOWN COMMERCIAL AREA - the Downtown Commercial Area is defined as follows: Downtown Commercial (C1) district of Article 3(C)(2)(a) of the Damariscotta Land Use Ordinance.

DWELLING UNIT - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

EAVE: The overhang at the lower edge of the roof, which usually projects out over the exterior walls of the structure.

EXPANSION -

1. An increase of the building footprint and/or increase in the height of the structure beyond it

present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans With Disabilities Act (ADA) and/or State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

2. Any intensification of use in time, volume or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans With Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

3. (As it applies to telecommunication facilities) - the addition of antennas, towers or other devices to an existing structure.

FAA - The Federal Aviation Administration or its lawful successor.

FACADE: The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

FCC - means the Federal Communications Commission , or its lawful successor

FOOTCANDLE: A measure of light falling on a surface. One (1) footcandle is equal to the amount of light generated by one (1) candle shining on one (1) square foot surface located one (1) foot away.

FORMULA RESTAURANT: An eating place that is one of a chain or group of three (3) or more establishments and which satisfies at least two of the following description:

- a. It has the same or similar name, trade name, or trademark as others in the chain or group;
- b. It offers either of the following characteristics in a style which is distinctive to and standardized among the chain or group;
 - (1) Exterior design or architecture;
 - (2) Uniforms, except that a personal identification or simple logo will not render the clothing a uniform.
- c. It is a fast food restaurant within a chain of 3 or more similarly named and identifiably designed and constructed to look similar to the viewer.

FISHERIES - Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

FLOOR AREA - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

GROUND WATER - All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

HISTORIC OR ARCHAEOLOGICAL RESOURCES and SITES - resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily 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 approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

HISTORIC DISTRICT - a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

HOME OCCUPATION - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than 2 persons other than family members residing in the home.

HOTEL/MOTEL/INN - a commercial building or group of detached or connected buildings designed to accommodate for a fee travelers and other transient guests remaining for a limited duration with sleeping rooms without cooking facilities, each unit having its own private bathroom and its separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel, motel, or inn may include restaurant facilities for the use of its guests and other customers.

ILLUMINANCE – The measure of the amount of light that is intercepted by an object that is a distance away from the sign. That is, the lighted sign face illuminates objects that are away from it, and the lighting level produced by the sign on a particular object is measured in footcandles (fc)s.

IMPERVIOUS SURFACE - The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water.

INDUSTRIAL - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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

LARGE SCALE DEVELOPMENT: Unless otherwise described, a commercial establishment or a multi-family dwelling or other non-residential development that equals or exceeds seven thousand

five-hundred (7,500) square feet of gross floor area, a non-residential development with a drive-thru facility or outdoor fuel sales or a formula restaurant; large scale development does not include agricultural building or commercial greenhouses and nurseries accessory to a retail or wholesale sales establishment.

LINE OF SIGHT- the direct view of the object from the designated scenic resource.

LOCAL STREET - A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

LUMINANCE – The measure of the brightness of the sign face.

MULTI-FAMILY RESIDENTIAL - a residential structure containing 3 or more residential dwelling units.

NADIR: The angle pointing directly downward zero (0°) degrees from the lighting fixture. Seventy-five (75°) degrees nadir, for example, is the angle pointing seventy-five (75°) degrees above nadir.

NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES - Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

OUT LOT: A comparatively small lot with a small building located between a larger, commercial or institutional building and a public street. The larger internal-lot building is generally of 7,500 square feet or greater footprint.

OWNER - Any person, firm, corporation, or other legal entity which controls a parcel of land by a fee or less than fee title, or is party to a valid contract or option to purchase said title.

PARABOLIC ANTENNA (also known as a satellite dish antenna) - an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

PARAPET: The portion of a wall that extends above the roofline.

PARKING SPACE - An area abutting a street or drive and intended or used for parking vehicles, in compliance with Section 11.H.

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

PITCH: The slope of a roof commonly expressed in terms of inches of vertical rise per foot of horizontal run.

PORTICO: A porch or walkway with a roof supported by columns, often leading to the entrance of a building.

PRINCIPAL USE - the use other than one which is wholly incidental or accessory to another use on the same premises.

PRINCIPAL STRUCTURE - A building other than one which is used for purposes wholly

incidental or accessory to the use of another building or use on the same premises. A use other than one which is wholly incidental or accessory to another use on the same premises.

PUBLIC RECREATIONAL FACILITY - a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property's owner.

RECHARGE AREA - Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

RETAIL BUSINESS, STORE OR USE - A business engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale; also pertaining to any structure or use connected with or engaged in such sale, whether it be attached to the principal structure or any accessory structure or use which would reasonably be considered incidental and subordinate to the principal use or structure. This definition shall apply to any such structure or use located on the same lot or adjoining lots under the same ownership.

SCALE: The size or proportion of a building element or space relative to the structural or functional dimension of the human body.

SCREEN: See also "buffer". The sole purpose of a screen is to block views. A screen should be constructed of opaque materials and whose height will be effective in obstructing unwanted views.

SETBACK - the nearest horizontal distance from the property line or normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

SETBACK, FRONT - An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, REAR - An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of the lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, SIDE - An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SHARED PARKING – A system of parking, typically applied to buildings of differing uses that each have peak parking demands at different times within a 24 hour period, thereby allowing some parking spaces to be shared.

SIGHT DISTANCE - The direct line of sight from a point four feet above the centerline of a road or highway to a point four feet above the center of the place at which vehicles enter and leave the highway.

SIGNIFICANT CHANGE OF USE – The change of the use of a property which triggers changes to any of the performance standards of Section 11 of this Ordinance. Such changes may include, but are not limited to, changes in the number of on-site parking spaces, for example, as required in Section 11(H)(4)(i).

STRUCTURE - Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

STOREFRONT: The traditional "main street" facade bound by a structural pier on either side, the sidewalk on the bottom and the lower edge of the upper facade at the top.

SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED - Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than seventy (70) percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

SUBSURFACE SEWAGE DISPOSAL SYSTEM - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 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 38 MRSA Ch 13, Subchapter 1.

TARGETED MARKET COVERAGE AREA - the area which is targeted to be served by this proposed telecommunications facility.

TEXTURE: The visual and tactile quality of a surface apart from its color and form. A building texture refers to the variations in the exterior facade and may be described in terms of roughness of the surface material, the patterns inherent in the material or the patterns in which the material is placed.

THEATRE BUILDING - Or theatre (also a playhouse) is a structure where theatrical works or plays are performed or other performances such as lectures or musical concerts may be given in front of an audience. A theatre building (also a cinema, movie house, picture theater, film theater) may also be a venue for viewing motion pictures ("movies" or "films") by an audience.

USE - The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

VEGETATION - All live trees, shrubs, ground cover, and other plants.

WIRELESS TELECOMMUNICATIONS FACILITY OR FACILITY- any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT - Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan.

Board of Selectmen

Amy Leshure

Date

Ronn Orenstein

Roberta Mayer

Mark Hagar

Louis Abbotoni

Attest: A true copy of an Ordinance entitled: "Site Plan Review Ordinance, Town of Damariscotta"
Amended June 35, 2018, as certified to me by the Municipal Officers of Damariscotta, Maine on
the ?th day of month, 2018.

Michelle Cameron, Town Clerk
Damariscotta, Maine

