

**New Gloucester Zoning Ordinance
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Except as hereinafter specifically provided, the provisions of the Land Zoning Ordinance for the Municipality of New Gloucester, Maine, adopted February 1976, and as amended through September 1986, are further amended by being repealed and replaced by this Ordinance.

ARTICLE 1

PREAMBLE

1.1 Authority

This Ordinance has been prepared in accordance with the provisions of the Revised Statutes of Maine, as amended.

1.2 Title

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Town of New Gloucester, Maine”, and will be referred to herein as the “Ordinance”.

1.3 Purpose

The purpose of this ordinance is to implement the land use policies contained in the Comprehensive Plan, entitled the “New Gloucester Town Plan”, adopted by the voters of New Gloucester in September 1986 and amended in March 1988. The Plan seeks a balance between competing desires to develop land and to preserve land. While the basic traditional right of the landowner to use property as he or she sees fit remains respected, it is recognized that uncontrolled growth among incompatible land uses will have negative results for the community as a whole. This ordinance seeks to preserve the existing character of the Town, with its historic villages, clean ponds, safe drinking water, rural nature, and feeling of openness. It is the intent of this ordinance to encourage business development, economic well-being and job opportunities for all residents as well as to encourage a safe, healthy and attractive residential environment where landowners will be protected from unreasonable or detrimental, cumulative effects of growth and development.

1.4 Jurisdiction

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of New Gloucester, Maine.

1.5 Conflict with other Ordinances

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, permit or provision of law. Wherever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern.

1.6 Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such

decision shall not invalidate any other article, section or provision of this Ordinance.

1.7 Effective Date

The effective date of this Ordinance or any amendment thereto is the date of its adoption by the Governing Body.

ARTICLE 2

DEFINITIONS

2.1 Word Usage

In this Ordinance, certain terms or words shall be interpreted as follows: the singular may be taken for the plural and the plural for the singular; “person” may include an association, a partnership, a corporation or other entity; the present tense includes the future; the word “building” includes the word “structure”; the word “lot” includes the word plot; the word “shall” is mandatory; the word “may” is permissive.

In case of any difference in meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have their customary dictionary meaning.

2.2 Definitions

For the purpose of this Ordinance and the New Gloucester Subdivision Regulations, the terms and words listed below shall be specifically interpreted or defined as follows:

Abutter - The owner of a property sharing a common boundary with or within 250 feet of a given piece of property, whether or not these properties are separated by a public or private way. For the purposes of this Ordinance, the owners of properties shall be considered to be those parties currently listed by the Tax Assessor of New Gloucester as those against whom taxes are assessed. (adopted 4/2/94)

Accessory Apartment - A housing unit that is self-contained, but is incorporated within and is accessory to an existing structure that was originally designed for a single family. The criterion for defining the accessory unit shall be the existence of separate cooking facilities.

Accessory Use or Structure - A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot. Where an accessory building is attached in a substantial manner by a wall to a principal building or structure, it shall be considered a part of said principal structure or building.

Activity - the specific use or uses to which premises are put.

Affordable Housing - A housing unit is affordable to a particular household if the monthly shelter costs associated with the unit do not exceed a reasonable percentage of the household’s gross monthly income. The following parameters shall be used to define housing affordability:

1. A renter-occupied housing unit is considered affordable to a household of a particular size and income if the unit’s monthly estimated rent, insurance costs, and utility costs do not exceed 30% of the gross monthly income of a household whose income equals 80% of the median income of the Town of New Gloucester. [Amended 12/14/2004 Special Town Meeting]
2. An owner-occupied housing unit is considered affordable to a household of a particular size and income if the unit's sales price or value does not exceed that for which the monthly estimated mortgage payments (principal and interest), property tax and insurance costs (homeowner's and

private mortgage insurance), would equal 28% of the gross monthly income of a household whose income equals 80% of the median income of the Town of New Gloucester. [Amended 12/14/2004 Special Town Meeting]

3. A household's gross monthly income in New Gloucester shall be estimated by dividing the median household income by 12 months. Median household income shall be that figure provided annually by the Department of Economic and Community Development.

Agriculture - The production of crops by the cultivation of the soil. Gardens of 1/2 acre or less in size shall be excluded from this definition. Gardens used strictly for home use are excluded.

Alteration - Any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams or girders.

Animal Husbandry - the dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business or gainful occupation.

Antenna – Any exterior apparatus designed for telephonic, radio, television or similar communications through the sending and/or receiving of electromagnetic waves. (adopted May 4, 1998 town meeting)

Aquifer - A geologic unit composed of bedrock or sand and gravel, which contains sufficient saturated permeable materials to conduct groundwater and also yield significant quantities of groundwater to wells and springs.

Aquifer Recharge Area - The upland area surrounding a defined sand and gravel deposit identified as an aquifer which as a result of slope and natural features drains into the aquifer.

Arterial Street or Road - A street or road carrying the primary load of traffic within the Town, which collects and distributes vehicular traffic to the other, less travelled streets or roads.

Automobile Repair Garage - A business establishment where motor vehicles and/or their related parts are repaired, reconditioned, painted or rebuilt, but where no engine fuels are sold at retail. The following services may be carried out: general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, collision services such as body, frame or fender straightening and repair, overall painting and undercoating and mechanized washing of automobiles.

Automobile Graveyard - An area used as a place of storage for three or more unserviceable, unlicensed, and uninspected, discarded, worn-out or junked motor vehicles.

Automobile Service Station - A place where gasoline, or any other vehicular engine fuel or lubricant, is retailed directly to the public on the premises; including the sale of minor accessories and such work as tune-ups and minor mechanical repairs, but not including the storage of unlicensed vehicles or the repair of body, frame or fenders.

Barn - A structure designed for the housing of animals and storage of feed crops.

Base Flood - The flood having a one (1) percent chance of being equaled or exceeded in any given year,

alternatively referred to as the 100-year flood.

Bed and Breakfast Establishments - A dwelling in which is provided short-term overnight lodging to paying guests in a maximum of seven (7) guestrooms located within the dwelling or permitted attached structures. Breakfast shall be the only meal served and shall be limited to overnight guests. A bed and breakfast with three (3) guest rooms or less shall be considered a home occupation accessory to principal use of the dwelling and shall be allowed under the standards applicable to home occupations.

Beach Construction - Dredging or removing materials from below the normal high water mark of a pond; constructing or repairing any permanent structure below the normal high water mark of a pond; or depositing any dredged spoil or fill below the normal high water mark of a pond or on the land adjacent thereto in such a manner that the material may fall or be washed into the pond, or bulldozing on land adjacent to a pond in such a manner that the material or soil may fall or be washed into the pond.

Billboard - A structure, either freestanding or attached to a building, the surface of which is available for hire for advertising purposes.

Boarding Care Facilities - a house or other residential structure having more than two residents which is maintained wholly or partly for the purpose of boarding and caring for elderly residents, but which does not provide a supportive services program.

Boathouse - A non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.

Borrow Pit - An area of land from which soils, stone, or other mineral materials are extracted where those materials are intended to be used for filling, landscaping, or other similar activities at other sites or locations.

Buffers and Landscaped Areas - Areas of undisturbed natural vegetation, landscaping, fences, berms, walls or combinations thereof, used to shield or block adverse impacts or nuisances on a site or between adjacent sites.

Buildable Land - Land that in its natural state is suitable for development. For the purposes of this Ordinance, land treated as 100 percent deductions for the net residential area calculation shall be considered unbuildable land.

Building - Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property. For the purposes of determining exterior measurements or footprints in order to locate the setback line, buildings shall include all attached structures such as open or closed porches, carports, garages, balconies, roof overhangs, stairways and other similar structures.

Business and Professional Office - A building in which there are located the offices of one or more professional businesses including but not limited to banks, insurance offices, realtors, law and medical offices.

Business services - A commercial activity which renders an actual service (such as cleaning, repairing or consulting) primarily where businesses are the end users, and which involves a low volume of accessory

retail sales upon the premises.

Campground - A parcel which is used as a recreational site for tents, trailers, or recreational vehicles or other forms of temporary shelter and for which a use fee is charged.

Canopy Tree - A tree with branches that, individually or with other trees, hang to form an umbrella or “canopy” effect.

Cemetery - A burial ground maintained by the town or other public or non-profit body or private individual.

Central Collection System - A wastewater disposal system that receives wastewater from two or more structures. The system may have a private sewer collection system flowing into a common septic tank, or it may utilize individual septic tanks. The wastewater, after receiving primary treatment in the septic tank or tanks, may be pumped or gravity-fed to a single subsurface disposal field or several fields on a common land area.

Church - A building or structure, or groups of buildings and structures, which by design and construction are primarily intended for the conducting of organized religious services.

Cluster Development - A form of residential development that allows a reduction in lot size and area standards, with the remaining land to be used for recreation, open space, preservation of environmental features, agriculture, or timber harvesting.

Code Enforcement Officer - A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Co-Location – The location of more than one telecommunications facility (use) on a tower. (adopted May 4, 1998 town meeting)

Commercial Clearcutting - The removal of timber such that the residual stand is less than 30 square feet of basal area for trees of 4 inches or larger DBH.

Commercial cutting, commercial harvest operation or commercial timber harvesting - The cutting and removal of trees from their growing site for sale.

Commercial Sales and Service: Outdoor - Commercial sales and service which permits both indoor and outdoor storage as principal uses.

Community Living Use - A state-authorized, certified or licensed group home for eight (8) or more developmentally disabled persons. Procedures and standards for permitting these uses are described in M.R.S.A. Title 30, Section 4962A.

Conforming Use - A use of buildings, structures, or land which complies with all applicable provisions of this Ordinance.

Congregate Housing - housing that is designed to provide housing solely for elderly households and within which a supportive services program is available for functionally impaired residents who have difficulty living independently without assistance, yet who do not require the level of service available at a nursing home. For the purposes of the New Gloucester Zoning Ordinance, "congregate housing" shall include only those facilities that have been certified by the State of Maine as meeting regulations governing the administration of congregate housing services programs for the elderly according to the provisions of Maine law.

Construction - Includes building, erecting and moving of structures, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage and the like shall be considered part of construction.

Construction Services - The performance of work or the furnishing of supplies to members of the building trades, such as but not limited to plumbing, painting, building, well drilling, carpentry, masonry, or electrical installation, which requires the storage of materials and/or the location of commercial vehicles at the site.

Continuing Care Retirement Community - a residential care facility that provides a combination of nursing home and congregate housing services as defined herein.

Convenience Store - A retail establishment that accommodates neighborhood needs for groceries and sundries and that may sell, as an accessory use, prepared food for carry-out.

Convenience Store With Gas Pumps - A convenience store which sells, as an accessory use, gasoline at pump or pumps.

Day Care Centers - Facilities providing, for compensation, day care for children under 16 years of age who are not residents of the facility.

Family Day Care Home - A residence or other place where up to six children are cared for, which is in compliance with the rules and regulations of the Maine Department of Human Services. Family day care homes are classified as home occupations when located in the operator's residence.

Group Day Care Home - A residence or other place in which 7-12 children are cared for, which is in compliance with the rules and regulations of the Maine Department of Human Services. Group day care homes are classified as home occupations when located in the operator's residence.

Day Care Center Facilities - A residence or other place where thirteen or more children are cared for, either on a regular or non-recurring basis, and which fully complies with the rules and regulations of the Maine Department of Human Services.

DBH - A tree's diameter as measured at breast height, 4 feet, 6 inches from the ground.

Deck - An uncovered structure with a floor, elevated above ground level, or a patio at ground level if a concrete slab or below-grade foundation is utilized. A deck is a structure for the purpose of this Ordinance.

Development - Any human-produced change to land, including but not limited to building, mining, dredging, filling, grading, paving, excavating, or drilling.

Development Right - The right to develop one (1) residential unit based on the allowable density of the underlying zoning district. [Adopted 12/14/2004 Special Town Meeting]

Distribution Facility - A facility specializing in the shipping and receiving of goods and articles, which may include associated assembling, finishing and packaging.

District - A section or sections of the Town of New Gloucester for which regulations governing the use of buildings and premises, the size of lots and setbacks and intensity of use are uniform.

Draining - lowering the water table below its natural level.

Dredging - removing materials from below the Wetland/Upland edge.

Drive-Through - An accessory use which by design, physical facilities, services or by packaging materials, encourages customers to receive services or obtain goods while remaining in their vehicles.

Dwelling - A fixed structure containing one or more dwelling units.

Dwelling, Single-Family - A building, designed and/or used exclusively for residential purposes for one (1) family and containing not more than one (1) dwelling unit. Manufactured housing shall be considered a single-family dwelling if the length to width ratio does not exceed four (4) to one (1) and the minimum horizontal dimension at its narrowest point is at least eighteen (18) feet. (adopted 4/2/94)

Dwelling, Two-Family - A building designed and/or used exclusively for residential purposes for two (2) families living independently and containing not more than two (2) dwelling units. Manufactured housing shall be considered a two-family dwelling unit if the length to width ratio does not exceed four (4) to one (1) and the minimum horizontal dimension at its narrowest point is at least eighteen (18) feet. (adopted 4/2/94)

Dwelling, Multi-Family - A dwelling or group of dwellings in one structure containing separate dwelling units for three or four families.

Dwelling, Attached - A dwelling with two or more party walls, or one party wall in the case of a dwelling at the end of a group of attached buildings.

Dwelling, Detached - A dwelling which is designed to be and is substantially separate from another building or buildings except for accessory buildings.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating. This term shall include manufactured housing units, but shall not include hotels, motels, bed and breakfast establishments, inns, rooming houses, recreational vehicles or other temporary trailers.

Earth - Topsoil, sand, gravel, clay, peat, rock or other minerals.

Elderly Housing - See Housing for the Elderly.

Engineered Subsurface Waste Disposal System - A system or combination of individually or jointly owned systems which serve a single building or group of associated buildings with a total design flow in excess of 2,000 gallons per day.

Essential services - The erection, construction, alteration or maintenance by public and private utilities or municipal or other governmental agencies of gas, electrical or communication facilities, steam, fuel, water transmission, distribution, collection, supply or sewage disposal systems. Such systems may include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, street signs, similar accessories for the promotion of the public health, safety, or general welfare, and buildings necessary for the furnishing of such services or systems. Such systems shall not include collection, storage or disposal of hazardous materials including but not limited to toxic metals, chemicals, residues or contaminants.

Excavation - Any removal of earth or earth material from its original position.

Family - One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house or hotel. Such unit shall not exceed five persons not related by blood or marriage, except that such unit may exceed five persons in any living quarters constructed by and for the use of the United Society of Shakers.

Farm Stand - A structure that supports the seasonal sale of locally grown produce and is provided with adequate off-street parking.

Filling - Placing of any material which raises, either temporarily or permanently, the elevation of an area.

Flood - A temporary rise in stream flow or water volume that results in water overtopping stream or lake banks and inundating adjacent areas.

Flood Plain - The lands adjacent to a body of water which have been or may be covered by the base flood.

Floor Area, Gross - The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of all exterior walls. In this Ordinance, total floor area for retail establishments includes indoor sales and storage areas. This area shall include the basement or attic in such cases when they are finished or are to be used as part of a business.

Frontage, Road - The road frontage shall be on the lot line that lies between the two side lines and abuts a road. For any lot bounded on more than one property line by a road, only one road may be used for the purpose of road frontage. Frontage on a cul-de-sac may be measured at the building setback line. Except as otherwise provided in this ordinance, an interior lot shall have its frontage determined by the horizontal distance, between side lot lines, nearest to and roughly parallel to the closest road or street.

Frontage, Shore - The horizontal distance, measured as a straight line, between the intersection of the side lot lines with the shoreline at the normal high water mark elevation.

Garden - A tract of land 1/2 acre or less used for the growing of plants.

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

Hazardous Material - Material which may pose a present or potential hazard to human health or the environment including without limitation hazardous wastes identified and listed in accordance with Section 3001 of the Resource Recovery Act of 1976 and subsequent regulations promulgated in the Federal Register process, or designated as hazardous by the Board of Environmental Protection under Title 38, M.R.S.A., Section 1303.A.

Height - The vertical distance of a building measured from the average elevation of the finished grade within twenty (20) feet of the building's contiguous perimeter, to the highest point of the roof. Height limitation shall not apply to chimneys, steeples, towers (uninhabitable), water standpipes, detached barns and silos used for agricultural purposes, spires or similar non-habitable structures. (adopted May 4, 1998 town meeting)

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

Historic Setting - An area of outstanding historical and cultural significance including but not limited to those designated as such by Federal, State or local authorities.

Home Occupation - An occupation or profession carried out for gain by a resident and conducted as an accessory use in or about the resident's dwelling unit or accessory structures and subject to the performance standards contained in Article 5 of this Ordinance.

Horizontal Distance - A line running between two points on the same plane.

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

Hotel - A facility which is not a Bed and Breakfast Establishment or inn as defined herein, in which lodging is offered to transient guests for compensation with no cooking facilities in individual rooms or suites. Hotels shall meet the minimum lot size for the district, plus 10,000 square feet for each lodging unit. Hotels may include additional uses such as restaurants, public assembly and/or recreational facilities in which case the requirements and standards for multi-use commercial buildings apply.

Housing for the Elderly - A facility providing living accommodations for the elderly, including boarding care facilities, congregate housing, continuing care retirement communities, nursing homes, residential

care facilities, and retirement homes and communities for elderly persons of low and moderate income.

Hydric soils - Soils defined in the U.S. Soil Conservation Service publication, "Hydric Soils of the State of Maine 1988". These soils shall include, but not be limited to, the following: (formerly used soil series names are in parenthesis)

1. Very poorly drained organic soils, including Chocorua, Ossipee, Rifle, Sebago, Togus, Vassalboro and Waskish;
2. Very poorly drained mineral soils, including Biddeford, Burnham, Gouldsboro, Halsey, Medomak (Saco), Peacham (Whitman), Searsport (Scarboro), Washburn and Whately; and
3. Poorly drained mineral soils, including Atherton, Aurelie, Brayton (Ridgebury), Charles (Limerick), Easton, Fredon, Lyme, Mainarda, Moosilauke (Walpole), Naskeag, Naumberg (Au Gres), Roundabout, Rumney, Scantic and Swanton.

Impervious Surface - Structures and other man-made improvements to land, and materials covering the land, which substantially reduce the infiltration of water. Impervious surfaces shall include but not be limited to roofs, paved areas, and parking lots and driveways, regardless of surface materials.

Inn - A dwelling in which is provided short-term overnight lodging to paying guests in a maximum of fifteen (15) guestrooms located within the dwelling or permitted attached structures. Restaurants shall be allowed as an accessory use, which may serve meals to both overnight guests and the general public.

Junkyard - Any area, lot, land, parcel, building or structure or part thereof used for the temporary storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery and their related recycling operations. Bottle redemption facilities are not included in this definition. Junkyards must conform to minimum state standards and to the performance standards contained in Article 5 of this Ordinance.

Kennel - Any place, building, tract of land, abode, enclosure, or vehicle where three (3) or more dogs or six (6) or more cats, owned singly or jointly, are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dogs or other pets are kept for their owners in return for a fee. This definition shall not apply to household pets or dogs or cats under the age of six months.

Landings or yards - Any area where logs or any other form of forest product is taken for transfer to trucks for hauling from the site.

Leachable Materials - Materials including but not limited to solid wastes, sludges, industrial wastes, and agricultural wastes capable of releasing contaminants to the surrounding environment.

Light Industrial Use - A research laboratory, light assembly or light manufacturing facility that does not endanger the health and safety of surrounding areas and which meets the following requirements:

1. The operation can be conducted primarily within enclosed buildings.
2. There shall be no exterior storage or assembly of materials or products, except the outdoor storage of lumber and temporary display of goods.
3. There shall be no activity that is defined as a high hazard by Section 305.0 of the BOCA Basic

Building Code/1981.

4. Noise levels at the property boundary shall not exceed those identified in Article 5 of this ordinance.
5. The use will not create any offensive vibration.
6. No offensive smoke, dust, odor or other unhealthy or offensive airborne discharge will be created.
7. The proposed use is not water intensive.
8. The use is designed so that the external appearance of any buildings is compatible with the area in which it is located.
9. The proposed use shall not adversely affect the value of adjacent properties.
10. The proposed use shall not create unsafe traffic conditions or excessive traffic.

Lodging unit - A room or suite designed to accommodate transient guests.

Logging Road - A road or way used primarily by trucks transporting raw forest products.

Logging Slash or Debris - Any logging residue greater than one inch in diameter and four feet off the ground including but not limited to: limbs, tips, bark, cull logs, trees felled or uprooted as a result of wood harvesting.

Lot - A parcel of land having distinct and defined boundaries and described in a deed, plan or similar legal document. Lands on opposite sides of a public way shall be considered separate lots.

Lot Area - The total horizontal area within the lot lines excluding any existing or proposed street rights-of-way.

Lot Lines - The lines bounding a lot.

Lot Line, Front - The line separating the lot from a road. On any lot bounded on more than one property line by a road, the front lot line shall be that property line of the lot designated as "road frontage" in any building permit application for such lot.

Lot Line, Rear - The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be a line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line.

Lot Line, Side - Any lot line other than the front lot line or rear lot line.

Lot Depth - The average horizontal distance from the street line of the lot to its opposite rear line.

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

Lot Width - The average horizontal distance between the side lines of a lot measured at right angles to its depth parallel to the front lot line at the minimum required front setback.

Manufacturing - The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

Manufactured Housing Unit - (1) A mobile home constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards, or (2) a Modular Home constructed after January 1, 1984, which the manufacturer certifies is constructed in compliance with the State of Maine's Manufactured Housing Act. Manufactured housing units must be designed for long-term, year-round occupancy and contain sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances, with plumbing and electrical connections provided for attachment to outside systems.

Manufactured Housing Units as defined must also meet the Manufactured Housing Performance Standards contained in Article 5 of this Ordinance.

A mobile home that does not meet this definition but which was lawfully in use as a dwelling unit in the Town of New Gloucester on the date of the adoption of this Ordinance shall be permitted to continue on its respective site or lot and can be moved to another location within the Town that allows manufactured housing as a permitted use.

Marina - A place adjacent to inland waters which offers, for rent or sale to the public, moorings, dock space, boats or marine equipment, and ancillary services such as boat repair, indoor and outdoor storage of boats and marine equipment, boat and tackle shop and marine fuel facilities.

Mill Site - a location where portable saw or chipping mill equipment is used to convert raw wood material to saleable products.

Mineral Extraction - Excavation for the purpose of removal of any earth product, including but not limited to, sand, gravel, clay, topsoil, rock minerals and metals.

Mobile Home - A residential unit that is constructed in a manufacturing facility and then transported to a site on a permanent chassis.

Modular Home or Modular Housing Unit - A residential dwelling unit designed for transportation, after fabrication, to the site where it is to be occupied, as two or more component parts which must be assembled into a livable dwelling unit on site. No component part of the Modular Housing Unit shall be considered a complete dwelling unit.

Motel - A building or group of buildings containing a maximum of 30 rooms which are rented as sleeping units for transient guests, each sleeping unit consisting of at least a bedroom and a bathroom, with no cooking facilities in individual rooms or suites.

Multiplex - A multiplex is three (3) or more attached dwelling units, with all units having independent outside access. No more than four (4) units may be attached in a group.

Municipal Facility - A facility owned by the municipality and operated under its direct supervision, including but not limited to schools, libraries, offices, and garages.

Net Residential Acreage - The net acreage of a parcel or site that is generally suitable for development in its natural state. Net residential acreage shall be determined by subtracting unsuitable and marginal areas

from the gross area of the parcel.

- A. The following areas shall be considered unsuitable for development and 100% of the acreage of these areas shall be deducted from the gross land area:
 1. Land that is cut off from the main parcel by a road, or by existing land uses and where no means of access can be provided, so that the land is isolated and unavailable for building purposes or common uses.
 2. Land situated below the normal high water mark of any waterbody.
 3. Land within the 100-year floodplain as identified by Federal Flood Boundary and Floodway Maps or Federal Flood Insurance Rate Maps.
 4. Land within a Resource Protection District.
 5. Land which has been created by filling or draining a pond or wetland.
 6. Land area consisting of unreclaimed gravel pits.
 7. Very Poorly Drained Soils (see E. below).
 8. Land that is covered under existing conservation easements or other similar restrictions.
[Amended 12/14/2004 Special Town Meeting]

- B. The following areas shall be considered marginally suitable for development, and fifty (50) percent of these areas shall be deducted from the balance of A.
 1. Poorly Drained Soils and Somewhat Poorly Drained Soils (see E. below).

- C. 15% of the total acreage of the site remaining after subtracting those areas listed in A and B above, shall be deducted as an allowance for roads, whether or not the actual area devoted to roads is greater or less than 15%. However, the 15% deduction shall not be subtracted when there are no roads planned as part of a subdivision, or for TDR Density calculations on sending sites.
[Amended 12/14/2004 Special Town Meeting]

- D. No building or structure shall be sited in areas subtracted as 100% deductions as listed in A above. Siting of structures in areas subtracted as 50% deductions as listed in B above shall be discouraged but shall be permitted where the applicant or developer demonstrates that measures will be taken to minimize erosion, sedimentation, and seasonal wetness, that these areas are stable for the siting of structures, and that proposed subsurface waste disposal systems will comply with the Maine State Plumbing Code.

- E. For determination of the very poorly, poorly and somewhat poorly drained soils, the following guidelines shall apply:
 1. Soil classifications shall preferably be developed using a high intensity soils map prepared by a registered soils scientist, in accordance with the National Cooperative Soil Survey Classification.
 2. In cases where the requirement of a high-intensity soils map is waived, deductions for unsuitable soils shall be determined in the following manner:
 - a. One hundred (100) percent of land areas with a water table within six (6) inches of the surface for three (3) or more months a year shall be deducted. In making this

determination, the Planning Board shall consult medium-intensity soils maps, perform site visits, consult experts and review other available information.

- b. If the applicant wishes to contest the Planning Board's determination of unsuitable soils on the site using the above method, the applicant may submit for the Board's consideration a high-intensity map prepared by a Maine Certified Soils Scientist in accordance with the National Cooperative Soil Survey Classification.

Net Residential Density - Net residential density shall mean the number of dwelling units per net residential acre.

Non-commercial cutting - Cutting of wood by a woodland owner for the exclusive use of the owner.

Nonconforming Lot of Record - A lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment, which does not conform to the standards of the District in which it is located.

Nonconforming Structure - A nonconforming structure is any structure that does not meet one or more of the dimensional requirements of this Ordinance.

Nonconforming Use - A nonconforming use is any use of land, buildings, or structures lawfully existing at the effective date of adoption or amendment of this Ordinance which does not conform to the requirements of the district or districts in which it is located.

Normal High Water Mark - That line on the shores of inland waters or wetlands which is apparent because of the contiguous different character of the soil and the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial. Aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, partridge berry, wintergreen, pines, ashes, cedars, and elms. Relative to soils, it is that line where soils change from predominantly hydric to predominantly non-hydric. Hydric soils shall be defined by the U.S. Soil Conservation document entitled "Hydric Soils of Maine 1988", and subsequent revisions thereof. In places where the shore or bank is of such character that the high water mark cannot be easily determined because of rockslides, erosion or other slumping banks, the normal high water mark shall be estimated from places where it can be determined by the above method.

Nursing Home - a facility in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the State of Maine and is designed to provide full-time convalescent or chronic care to individuals who, by reason of advance age, chronic illness or infirmity, are unable to care for themselves. For the purposes of this ordinance, "nursing home" shall include only those facilities that have been certified by the State of Maine as meeting all licensing and operation regulations for skilled care or intermediate care facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine law.

Open Space Use - Any area of land or water set aside, dedicated, designated or reserved in a development for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall be used for recreation, protection of natural

resource areas, passive amenity, agriculture or timber harvesting; be accessible to all residents of the development, except where used for agricultural or timber harvesting purposes; and be accessible to the public, if accepted by a public agency. Open space shall not be occupied by nonrecreational buildings or parking, and shall not include required lot areas of dwelling units.

Outdoor Storage - A land area where goods and materials are stored in specific outdoor locations.

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

Party Wall - A wall, in conformance with fire codes, separating multiplex units.

Permitted Use - A use specifically allowed in a zoning district.

Piers, Docks, Wharves, Breakwaters, Causeways, Bridges Over 20 feet in length, and Uses Projecting into, on or over Waterbodies: Temporary: Structures which remain in the water for less than seven (7) months in any period of twelve consecutive months. Permanent: Structures which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.

Pond - Any inland body of water which has a surface area in excess of ten (10) acres, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

Premises - One or more parcels of land which are in the same ownership and are contiguous.

Principal Structure - The structure in which the primary use is conducted.

Principal Use - The primary use to which the premises are devoted.

Private Assembly - A building which is owned and used as a meeting place for private or semi-private social organizations and clubs such as grange halls, fraternal organizations and religious institutions, in which the principal use is exclusively for members. Rental of the facilities to outside groups is clearly incidental to the principal use and shall not significantly increase the intensity of the use of the site, especially in regard to parking and traffic.

Private Way - Any way designed for private use and maintained by a property owner or group of property owners, and which is not an accepted town way. The authority for approving names of private ways shall rest with the Board of Selectmen or their designated representative(s).

Prohibited Use - All uses not specifically allowed as Permitted Uses.

Public Assembly - A building which is available to the public on a nonprofit or for-profit basis. Examples include auditoriums, meeting rooms and halls available for functions.

Public Way - Any way designed for vehicular use and maintained with public funds. The authority for naming public ways shall rest with the Board of Selectmen.

Receiving Site - A parcel of land located within a Receiving Zone to which development rights may be transferred. [Adopted 12/14/2004 Special Town Meeting]

Receiving Zone - An overlay zoning district established by the Town as an area in which development rights can be purchased and used. [Adopted 12/14/2004 Special Town Meeting]

Recreational Facilities -

Commercial Recreation: Indoor - Any recreational use in which the primary use is within a structure, such as a bowling alley, roller or ice skating rink, swimming pools, tennis courts, movie theaters or arcades, operated primarily for profit.

Commercial Recreation: Outdoor - Any outdoor recreational use such as, but not limited to, golf courses, tennis courts, riding stables and arenas, swimming pools or ice skating rinks, operated primarily for profit, but not including campgrounds, race tracks, amusement parks and mechanical or motorized rides.

Public - An area or structure set aside for recreational use by the general public or all the townspeople of New Gloucester, for which no user fee is charged.

Semi-public - An area or structure set aside for recreational use, not operated for profit, but for which a user fee is charged or which is not open to the general public or all the townspeople of New Gloucester. This term does not include recreational uses that are accessory to residential uses.

Recreational Vehicle - A vehicle or vehicle attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling unit and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered a vehicle and not a structure, the unit must remain with its tires on the ground, must be road worthy and must possess a current registration sticker from any state Division of Motor Vehicles. Recreational Vehicles shall be no more than 400 square feet in size, including attachments.

Registered professional forester - any individual duly licensed to practice forestry within the State of Maine.

Reliable water supply – a reliable water supply for fire-fighting purposes shall be considered a source of water accessible and available year-round, that is sufficient in size and capacity to provide sufficient water for rural fire-fighting purposes.[added May 1, 2006]

Residential Care Facility - Residential housing consisting of private apartment or private room and central dining facilities and within which a supportive services program is provided to residents who are unable to live independently without assistance, yet do not require the constant supervision or intensive health care available at nursing homes or hospitals.

Restaurant - A commercial establishment where food and drink are prepared, served and consumed primarily within the principal building. Outdoor seating is permitted. Drive-through facilities are not included in this definition.

Retail Trade - Any business engaged primarily in the sale, rental or lease of goods and/or services individually to the ultimate consumer for direct consumption and/or use, and not for resale. Retail trade shall not include other commercial uses specifically defined.

River, stream or brook - River, stream or brook means a channel between defined banks including the floodway and associated floodplain wetlands where the channel is created by the action of surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water borne deposits on exposed soil, parent material or bedrock.

Road or Street - For the purpose of this Ordinance and for determining minimum road frontage requirements, a road is considered to be: (a) any public way maintained by public authority, excluding a limited access highway; (b) a private way located within a sixty (60) foot right of way; (c) a private way shown on a recordable plan, approved by the Planning Board; or (d) a private way in existence and in use on the effective date of adoption of this ordinance that has a width of at least 25 feet. A road or street shall include the land between the road/street lines, whether improved or unimproved.

School - Includes nursery, elementary and secondary schools that are public, private or parochial; and accessory uses; and shall exclude colleges, universities, and commercially operated schools of beauty culture, business, driving, music, dance and similar establishments.

Selective cutting--Harvesting - An operation that retains a well distributed residual stand of sixty (60) square feet of basal area per acre of trees four (4) inches in diameter and larger, measured four-and-one-half (4 1/2) feet above ground level, in any ten (10) year period.

Sending Site - A parcel of land located within a Sending Zone from which development rights may be sold. [Adopted 12/14/2004 Special Town Meeting]

Sending Zone - An overlay zoning district established by the Town as an area from which development rights can be sold. [Adopted 12/14/2004 Special Town Meeting]

Setback - A line that is a required minimum distance from the road right-of-way line or any other lot line that establishes the area within which principal and accessory buildings or structures must be erected or placed. Antennae shall also meet setback requirements. Where road rights-of-way cannot be determined, setbacks shall be measured from the centerline of the traveled way and shall equal the minimum setback for the particular district, plus thirty-five (35) feet.

Setback, Front - Setback between the front lot line and front line of a building. The depth of the front setback shall be measured from the front lot line to the front line of the building.

Setback, Side - Setback between the side lot line and side line of a building. The depth of the side setback shall be measured from the side lot line to the side line of a building.

Setback, Rear - Setback between the rear lot line and rear line of a building. The depth of the rear setback shall be measured from the rear lot line to the rear line of the building.

Shore Setback - The setback, measured horizontally, between the normal high water mark of a

waterbody, and the nearest side of a building. This horizontal setback distance can be visualized as the line running between the high water mark and a point on the same plane as the high water mark that is directly below (or above) the nearest side of the building. All other dimensions or distances in this Ordinance that use the normal high water mark as a reference point shall be measured horizontally.

Sign - (Adopted May 4, 1998 Town Meeting)

Banner – Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Flag – Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as symbol of a government, political subdivision or other entity.

Freestanding sign - Any sign supported by structures or supports that are placed on, or anchored in, the ground and that is independent from any building or other structure.

Pennant – Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string usually in series, designed to move in the wind.

Projecting sign – Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Roof sign - Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign – Any devise, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Temporary movable sign - Any sign not permanently attached to the ground, a building, or other permanent structure by direct attachment to a rigid well, frame or structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T- frams; and balloons used as signs.

Wall signs – Any sign attached parallel to, but within six inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.

Window sign – Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Skid road - A route used frequently by skidders that is graded to level out irregular topography and where large areas of soil are exposed.

Skid Trail - The area over which forwarding machines travel within a woodlot.

Slash - Tree residue left on the ground after harvesting occurs.

Sludge - The semi-solid or liquid residual generated by a municipal, commercial, or industrial wastewater treatment plant.

Solid Waste - Useless, unwanted, or discarded solid material without sufficient liquid content to be free flowing. This includes, but is not limited to rubbish, garbage, scrap metals, junk and refuse, and recyclable materials.

Stand of trees - A contiguous group of trees, sufficiently uniform in species, arrangement of age classes, and condition, to be identified as a homogeneous and distinguishable unit.

Street - See "Road or Street".

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, exclusive of vegetation, boundary walls, fences, mailboxes, lamp posts, bird houses, antennae, or similar construction. An outdoor swimming pool is a structure.

Supportive Services Program - a program of services for the elderly that provides, at a minimum: a central dining facility and meals program; a central recreation/activities room and program; central housekeeping services; available, qualified medical staff coverage, such as by a registered nurse or a physician, for at least eight hours per day; regular transportation services; and the availability of personal care assistance.

TDR Density - The number of transferable development rights per net residential acre. [Adopted 12/14/2004 Special Town Meeting]

Telecommunications Facility – Any structure, antenna, tower or other device that provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications, common carrier wireless exchange access services, and personal communications services or pager services. (adopted May 4, 1998 town meeting)

Timber Harvesting - The felling, skidding and removal of trees from their growing site and the attendant bucking and/or chipping operations, including the creation and use of skid trails and logging roads and yards.

Tower – Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular towers, cellular telephone towers and similar structures. (adopted May 4, 1998 town meeting)

Transferable Development Right - The number of development rights on a sending site that are available for selling or transferring, based on the TDR Bonus Density in Section 9.5.2. [Adopted 12/14/2004 Special Town Meeting]

Transfer of Development Rights (TDR) - The practice of shifting development rights from one property

to another, or a program established to facilitate that practice. [Adopted 12/14/2004 Special Town Meeting]

Transient Use/Guest - Occupancy of a lodging accommodation for not more than three (3) consecutive weeks during any six (6)-month period.

Truck Facility - Any building, premises or land in or upon which a business, service or industry involving the sale, maintenance, servicing, storage or repair of commercial vehicles, including heavy machinery, is conducted or rendered as a principal use.

Use - The purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied.

Variance - A departure from the requirements of this Zoning Ordinance as authorized by the Zoning Board of Appeals only where strict application of the Ordinance would cause undue hardship. As used in this Code, variances may be authorized only for minimum setbacks, maximum building coverage or impervious surface, minimum frontage and reconstruction of destroyed non-conforming buildings.

Warehouse facility - An enclosed structure used primarily for the storage of goods or materials.

Wetlands - land where saturation with water is the dominant factor determining the nature of soil development and the types of plants and animal communities living in the soil and on its surface. For the purpose of this ordinance, wetlands must have at least one of the following characteristics:

1. that, at least periodically, the land supports predominantly vegetation listed as “obligate” vegetation in the U.S. Fish and Wildlife Service publication, National List of Plant Species that Occur in Wetlands: 1988, Maine.”
2. that the substrate consists predominantly of hydric soils categorized as very poorly drained organic or very poorly drained mineral soils. (see Hydric soils).
3. that the substrate consists predominantly of hydric soils categorized as poorly drained mineral soils (see Hydric soils) and that, at least periodically, the land supports wetland vegetation listed as “facultative” wetland vegetation in the U.S. Fish and Wildlife Service publication, “Wetland Plants of Maine 1986”.
4. that the substrate is saturated with water to the surface or submerged for at least twenty (20) consecutive days during the growing season each year.

Wetland Buffers - Designated areas bordering wetlands required to be left in their natural state in order to protect wetlands from adjacent land uses.

Wetland/Upland Edge - The upland edge of a wetland is that boundary between:

1. land with predominantly wetland or aquatic vegetation and land with predominantly terrestrial vegetation; or
2. soil that is predominantly hydric and soil that is predominantly non-hydric; or
3. in the case of wetlands without aquatic vegetation or hydric soils, land that is saturated with water to the surface or covered with shallow water and land that is not saturated with water to the surface or covered with shallow water.

Where there is both wetland vegetation and wetland soils, the highest boundary shall be used. In places where the upland edge cannot be accurately determined, i.e. due to ledges or erosion, said upland edge shall be estimated from the nearest locations where wetland vegetation or wetland soils occurs.

Wetland vegetation - Those species termed “Obligate” or “Facultative” wetland vegetation in the U.S. Fish and Wildlife Service publication entitled “National List of Plant Species that Occur in Wetlands: 1988, Maine”.

Yard - An open space that lies between the required setback of the principal or accessory building(s) and the nearest lot line.

Yard, Front - The area of land between the front lot line and the nearest part of the existing or proposed principal or accessory building.

Yard, Side - The area of land between the side lot line and the nearest part of the existing or proposed principal or accessory building.

Yard, Rear - The area of land between the rear lot line and the nearest part of the existing or proposed principal or accessory building.

ARTICLE 3

GENERAL PROVISIONS

3.1 General Restrictions

- 3.1.1 Except as otherwise provided for in Section 3.2, no building shall hereafter be used or occupied and no building or part thereof shall be erected, moved or structurally altered unless it is in conformity with the standards of the district within which it is located and is in conformity with all other provisions of this Ordinance.
- 3.1.2 The use of any building, structure or land shall comply with the performance standards and all other applicable provisions of this Ordinance, except as provided for in Section 3.2. The Code Enforcement Officer and the Planning Board, when reviewing applications for permits required by law, shall determine if that use complies with all applicable performance standards and other provisions.
- 3.1.3 Except in accordance with provisions for Cluster Housing, Housing for the Elderly, Transfer of Development Rights and the Density Bonus for Affordable Housing, no lot shall be created or changed in area after the enactment of this Ordinance so as to create a lot that does not comply with the minimum lot size and other applicable dimensional requirements of this ordinance.
[Amended 12/14/2004 Special Town Meeting]
- 3.1.4 No more than one principal use or building and its accessory buildings as regulated by the provisions of this Ordinance may be located on any one lot, unless all dimensional requirements for the District in which the lot is located are met for each separate principal use or building and its accessory buildings, except in the case of Cluster Housing, multiplex dwelling units, Housing for the Elderly, multi-use commercial or multi-use industrial buildings that meet all other applicable standards of this Ordinance.
- 3.1.5 No structure shall project into any minimum front, side, rear or shore setback, including structures that are attached or unattached to principal structures, structures that are open or enclosed, as well as porches, carports, balconies, decks or any platforms above normal grade level unless a variance shall first have been granted.
- 3.1.6 No part of a yard or other open space around any building required by this Ordinance shall be included as part of a yard or other open space similarly required for another building.
- 3.1.7 When a lot in the same ownership is transacted by a zoning district boundary, the standards set forth in this Ordinance for each district shall apply to the area of the lot in each district except that the standards applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to site plan review.
- 3.1.8 Distances shall be measured horizontally, unless the Board determines that measurement of the actual land contours is appropriate, due to the varied topography of the land in question.
- 3.1.9 Excavation or filling shall be permitted in any district only to the extent such activities are necessary for and incidental to any permitted use.

- 3.1.10 Nothing in this Ordinance shall be construed to prevent the strengthening or restoring to safe condition, any part of a building or structure declared unsafe by the Code Enforcement Officer.
- 3.1.11 Nothing in this Ordinance shall require any change in the plans, construction, or structure, or part thereof, for which a Building Permit has been issued prior to the enactment of this Ordinance, provided construction starts within sixty (60) days of enactment of the Ordinance.
- 3.2 Nonconformance
- 3.2.1 General Provisions
- A. Continuance: The lawful use of any building, structure or land that is made nonconforming by reason of the enactment of this Ordinance, or which shall be made nonconforming by reason of a subsequent amendment, may be continued, subject to the provisions of this Section 3.2.
- B. Transfer of Ownership: Ownership of lots, structures and uses that remain lawful but become nonconforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
- 3.2.2 Nonconforming Uses
- A. Nonconforming Use Defined: A nonconforming use is any use of land, buildings, or structures lawfully existing at the effective date of adoption or amendment of this Ordinance which does not conform to the requirements of the district or districts in which it is located.
- B. Continuance: The lawful use of any building, structure, or land which is made nonconforming by reason of the enactment of this Ordinance or subsequent amendment to this Ordinance may be continued subject to the following provisions.
- C. Repairs and Alteration: A building or structure devoted to a nonconforming use may be repaired, maintained or improved, provided that the number of square feet of floor area devoted to the nonconforming use is not increased except in accordance with the provisions of this section.
- D. Discontinuance: A nonconforming use of a building, structure or land shall be considered discontinued if, in the case of a building or structure, it remains vacant for a period of twelve (12) months, and in the case of an activity, if it ceases for a period of twelve (12) months. During the following 36 month period, the building or structure may be reoccupied and the use reestablished with approval by the Planning Board pursuant to Site Plan Review. Subsequent use shall conform to the regulations specified in this Ordinance for the district or districts in which the building, structure or land is located. If a nonconforming use is superseded by a permitted use, the nonconforming use shall not thereafter be resumed. (revised 6/1995 town meeting)
- E. Change of Use: A nonconforming use of a building, structure or land may be changed to another nonconforming use only when the impact of the new use on adjacent properties and

upon the Town is less adverse than the impact of the former use, and a permit is issued for such change by the Planning Board after site plan review in accordance with the procedures and criteria described in Article 7. Once the use has been changed by permit from the Planning Board, the former nonconforming use shall be considered abandoned.

- F. Expansion of a Nonconforming, Nonresidential Use: The Planning Board may issue a permit for an expansion of a nonconforming, nonresidential use up to a maximum of fifteen (15) percent of the original floor area of the existing structure, or in the case of an outdoor use, 15% of the original land area used for the activity, according to the criteria for site plan review contained in Article 7 of this ordinance, provided that the expansion meets the dimensional requirements and other provisions of this Ordinance. The expansion of a nonconforming use shall not be for the purpose of changing that use to another nonconforming use, except as provided in paragraph E above.
- G. Expansions of Nonconforming, Residential Uses: Any nonconforming residential use of a building outside of the Lake and Resource Protection Districts may be expanded upon approval from the Planning Board under the criteria for site plan review contained in Article 7 of this Ordinance, provided that said expansion is in compliance with the dimensional requirements and other provisions of this Ordinance.
- H. Lake and Resource Protection: Expansions of nonconforming uses are prohibited except that nonconforming residential uses may, after obtaining a permit from the Planning board, be expanded within existing residential structures or within expansions of such structures as permitted by the Planning Board.
- I. Nonconforming Mobile Home Parks: Any Mobile Home Park in existence in the municipality prior to the adoption of the overlay district of Section 4.4.10 below is deemed to be legally nonconforming and is not subject to the provisions of said overlay district except those concerning health, safety and welfare of occupants located within such park and any performance standards under the ordinance relating to the same and all other applicable provisions of the Zoning Ordinances and Subdivision Regulations.

3.2.3 Nonconforming Structures

- A. Nonconforming Structure Defined: A nonconforming structure is any structure that does not meet one or more of the dimensional requirements of this Ordinance.
- B. Continuance: A nonconforming structure that is lawful at the effective date of the adoption or subsequent amendment of this ordinance may continue to be occupied subject to the provisions of this section. A structure that is made nonconforming by an action of eminent domain of a public entity may continue to be occupied subject to the provisions of this section. [Amended 5/5/2003]
- C. Expansion: A nonconforming structure may be repaired, maintained or improved, but shall not be expanded, enlarged or increased unless such expansion or enlarged portion complies with the other dimensional requirements of this Ordinance or unless a variance from such requirements is granted by the Board of Appeals according to the criteria established in Section 6.3. Expansions of nonconforming structures within a Lake or Resource Protection District

must comply with 3.2.3.D. below.

- D. Lake and Resource Protection Districts: Within any Lake or Resource Protection District, no nonconforming structure shall be expanded or enlarged without a permit from the Planning Board in accordance with the standards of Section 6.1.6. Within any Lake or Resource Protection District, structures that are nonconforming with respect to the minimum required setback shall not be expanded in size by more than 30% of the floor area or volume of the existing structure. The 30% limitation shall be for the life of the structure.

Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.

No structure which is less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward to water body, tributary stream, or wetlands.

Relocation - A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

- E. Destroyed or Demolished: A nonconforming building or structure that is destroyed or damaged by any means beyond the control of the owner, may be rebuilt or restored within a period of twelve (12) months, or it shall thereafter conform with the dimensional requirements and other provisions of this Ordinance unless a variance from such requirements is granted by the Board of Appeals as provided for other structures. If a nonconforming building is demolished or removed by or for its owner, it may be rebuilt or restored, provided that: the restoration does not constitute an expansion, the structure conforms as closely as possible with the provisions of this ordinance, and provided that the restoration is completed within a period of twelve (12) months. Otherwise, it shall thereafter conform with the dimensional requirements of this Ordinance.
- F. Use: A nonconforming structure may be occupied for any use allowable in the zoning district

where it is located, unless other provisions of this ordinance contain specific dimensional requirements peculiar to the use which cannot be met in the existing structure or on the existing lot. Such use shall meet the criteria of Section 5.2.2.

- G. Flood Hazard Areas: Improvements to nonconforming structures located within special flood hazard areas shall conform to the requirements of the New Gloucester Floodplain Management Ordinance.
- H. Nonconforming Mobile Homes: A mobile home that does not meet the definitions contained in Article 2 for Manufactured Housing Unit or other definitions relating to Section 4.4.10 below which was lawfully used as a dwelling unit in the Town of New Gloucester on the date of the adoption of the mobile home park overlay district shall be permitted to continue on its respective site and lot and can be moved to another location or mobile home park within the town. Such mobile home shall meet the requirements of the zoning ordinance of New Gloucester regarding health, safety and welfare for the occupants of said home, and shall not otherwise be expanded or altered except in accordance with Section 3.2.3C.

3.2.4 Nonconforming Lots of Record

- A. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the minimum lot size and/or minimum shore frontage or road frontage standard for the district in which it is located, may be built upon without a variance, provided such lot is in separate ownership and not contiguous with any other lot in the same ownership and provided further that all other provisions of this Ordinance are met. For such lot, a reduction of the side setback requirement, on one side only, to fifteen (15) feet will be allowed subject to Site Plan Review.
- B. Except as provided in 3.2.4.C , if two or more contiguous lots or parcels are in single ownership of record at the effective date of the adoption or subsequent amendment of this Ordinance, or come into such ownership at any time thereafter, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single parcel for the purposes of this Ordinance, and no portion of said parcel shall be built upon or sold which does not meet the dimensional requirements of this Ordinance; nor shall any division of the parcel be made that creates any dimension or area below the requirements of this Ordinance. This subsection shall not apply to lots which have already been improved with buildings or structures.
- C. Any lot situated in a subdivision approved by the Planning Board after February 24, 1976, and before the effective date of this Ordinance, which does not conform to the dimensional requirements of the District in which it is located will be considered a nonconforming lot of record as defined in Article 2 of this Ordinance. Two or more contiguous lots in the same ownership shall be considered as separate lots in subdivisions approved after February 24, 1976.
- D. Any lot made nonconforming by an action of eminent domain of a public entity will be considered a nonconforming lot of record as defined in Article 2 of this Ordinance and may be built upon in accordance with Section 3.2.4.(A). [Amended 5/5/2003]

3.3 Changes and Amendments

3.3.1 This Ordinance, and the official zoning map of the Town of New Gloucester may be amended and its regulations, including subdivision regulations, boundaries, district classifications and standards changed according to the following procedures:

- A. Amendments or changes may be initiated by a majority vote of the Board of Selectmen, the Planning Board, the Zoning Committee, any local planning committee established by the Board of Selectmen for purposes set forth in Chapter 187 concerning planning and land use regulation under Title 30-A M.R.S.A. 4301 et. Seg., any economic development committee established by the Board of Selectmen, or by written petition of at least 10% of the votes cast in the municipality in the last gubernatorial election. (passed 5/3/99 Town Meeting)
- B. Individual request for amendments or changes, including a change of zone, shall be submitted in writing to the Board of Selectmen. (passed 5/3/99 Town Meeting)
- C. No request or initiation for amendments or changes shall be placed by the Selectmen on the warrant for the annual or a Special Town Meeting without the following process having been followed:
 - 1. Such request or initiation for amendments or changes shall have been made in writing and given to the Planning Board, the Zoning Committee and such other committees as the Selectmen shall determine for each committee's review and consideration. (passed 5/3/99 Town Meeting)
 - 2. Joint meetings of the Board of Selectmen, the Planning, the Zoning Committee and such other reviewing committees as the Selectmen shall have determined shall be held to consider and discuss the proposed amendment or change including redrafts that may be suggested as appropriate. (passed 5/3/99 Town Meeting)
 - 3. Thereafter, each of the committees reviewing the amendment of change shall have provided the Selectmen and all other reviewing committees a memorandum outlining that committee's input, recommendation or position within 21 days subsequent to the joint meeting. (passed 5/3/99 Town Meeting)
 - 4. A public hearing or hearings shall then be held by the Planning Board at which the Selectmen and/or the other joint committees may attend. Such hearing(s) shall be noticed in compliance with Title 30-A M.R.S.A. 4352 (9) or such other applicable law, at least 14 days and again at least 7 days prior to such hearing in a newspaper of general circulation in the Town of New Gloucester and to all abutters of the affected property if a zoning change is being considered. After such public hearing(s), the Planning Board shall by written recommendation and each of the committees reviewing the amendment or change may provide the Selectmen and all other reviewing committees with a further recommendation outlining that committee's additional input, recommendation, or position within 15 days subsequent to such public hearing(s). (passed 5/3/99 Town Meeting)
- D. An amendment to this Ordinance may be adopted by a majority vote of the Governing Body.

- E. The State Department of Environmental Protection shall be notified of proposed amendments in the Lake and Resource Protection Districts thirty (30) days prior to the meeting of the Governing Body where adoption of such amendments will be considered. Such amendments shall not be effective until approved by the Board of Environmental Protection. A file of return receipts shall be maintained as a permanent record.

The Federal Insurance Administration and State Planning Office shall be notified before Flood Plain Management Regulations are amended based on modified data reflecting natural or man-made changes.

ARTICLE 4

ZONING DISTRICTS

4.1 Establishment of Districts

The Town of New Gloucester is hereby divided into the following districts and overlay districts:

A. Districts

1. Residential C (RC)
2. Village (V)
3. Rural Residential (RR)
4. Farm and Forest (FF)
5. Lake (L)
6. Resource Protection (RP)
7. Residential RB-1
8. Residential RB-2
9. Pineland Development District A (PDDA)
10. Pineland Development District B (PDDA) (**Adopted 4/26/00 Special Town Meeting**)
11. Pineland Development District C (PDDC) (**Adopted 6/11/01 Special Town Meeting**)

B. Overlay Districts

1. Groundwater Protection Overlay (GPO)
2. Historic Resource Overlay (HRO)
3. TDR Sending Zone [Adopted 12/14/2004 Special Town Meeting]
4. TDR Receiving Zone [Adopted 12/14/2004 Special Town Meeting]

4.2 Official Zoning Map

- 4.2.1 The Official Zoning Map is hereby adopted as part of this Ordinance. It shall be located at the town office and shall be the final authority as to the current zoning status of all land and water areas, buildings and structures throughout the Town of New Gloucester.
- 4.2.2 If action of the Governing Body amends districts or district boundaries, such change shall promptly be entered on the Official Zoning Map and certified on the map by signature of the Town Clerk.

4.3 Zoning District Boundaries

Where uncertainty exists with respect to the boundary of any district as shown on the Official Zoning Map, the following rules shall apply:

- 4.3.1 Where district boundaries are so indicated as to approximately follow lot lines, such lot lines shall be construed to be such district boundaries;
- 4.3.2 Where district boundaries are indicated as approximately following the center lines of roads,

streets, highways, streams, rivers or other rights-of-way, such center lines shall be construed to be such boundaries;

- 4.3.3 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline;
- 4.3.4 Where uncertainty exists in determining the precise location of any district boundary line, or where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, the Planning Board shall interpret the district and zone boundaries.
- 4.3.5 Overlay District requirements apply concurrently with the requirements for the underlying zoning district. Where a conflict exists between the Overlay District requirement and the underlying zoning district requirement, the more restrictive requirement shall apply.

4.4 District Standards

This section sets forth the purposes, allowable uses, dimensional requirements and other standards for each of the zoning districts of this Ordinance. Except as otherwise provided in Section 3.2 (Nonconformance), any structure or land that hereafter is used or occupied, and any structure or portion thereof that is erected, moved, constructed, reconstructed, extended, enlarged, or altered shall be in conformity with the standards and requirements herein specified for the zoning district in which it is located, and the performance standards of this Ordinance.

4.4.1 RESIDENTIAL C DISTRICT (RC)

A. Purpose

Retail uses that serve primarily community-wide shopping and service needs as opposed to regional needs shall be permitted in this zone. However, non-retail businesses that draw from the regional job force and those that serve regional markets shall be encouraged. The residential C district generally contains uses that are desirable to separate from residential uses; therefore, existing residential uses require protection and new residential uses require planning. The type and mix of commercial development permitted in this District is intended to be more intensive than that provided for in the Village District, while remaining sensitive to maintenance of the rural characteristics of much of New Gloucester's road frontage. Because business corridors are located in areas of high visibility within the Town, it is also the purpose of this district to protect entranceways to the Town, to discourage highway strip development, to restrict allowable uses based on traffic generation criteria, to limit traffic congestion by limiting the number of access points for commercial uses on arterial roads and to encourage attractive development along these identified major roadways.

B. Permitted Uses

1. home occupations, subject to the performance standards herein
2. signs, subject to the performance standards herein except if part of a development subject to site plan review
3. accessory apartments, subject to the performance standards herein
4. agriculture, subject to the performance standards herein

5. timber harvesting, subject to the performance standards herein
6. gardens, other than as an accessory use

The following uses are permitted subject to site plan review

1. retail stores
2. food store
3. automobile service stations
4. convenience store with and without gas pumps
5. business services
6. business and professional offices
7. commercial schools
8. municipal uses and buildings
9. eating and/or drinking establishments, not including drive-through windows
10. banks
11. hotels and motels
12. bed and breakfast establishments which involve conversion or adaptation of existing residential structures
13. commercial recreation: indoor
14. commercial recreation: outdoor (excluding amusements)
15. self-storage establishments
16. warehousing and wholesale distribution related thereto, exclusive of junk yards and salvaging operations
17. light industrial facilities
18. private and public assembly
19. theaters
20. museums
21. commercial and veterinary kennels
22. essential services
23. commercial greenhouses and nurseries
24. hospitals and clinics
25. reserved
26. reserved
27. single-family dwellings
28. two-family dwellings
29. uses similar to permitted uses
30. inns, including restaurants as accessory uses
31. veterinary services and clinics
32. automobile sales provided that they are limited in size to one acre
33. outdoor sales and storage of equipment or materials for construction
34. day care centers
35. reserved
36. multiple use commercial buildings, so long as all uses are permitted in this district
37. signs, subject to the performance standards herein that are part of a development subject to site plan review
38. automobile repair garages
39. reserved
40. uses or structures that are accessory to the above uses

41. animal husbandry, subject to the performance standards herein
42. cluster development, subject to the performance standards herein
43. housing for the elderly subject to the performance standards herein.
44. Single-Family and two-family manufactured housing.

All other uses are prohibited.

C. Dimensional Requirements

1. Minimum lot size: 1 acre for each nonresidential use and 2 acres for each residential dwelling unit or any other use where the standards for volume of effluent would equal or exceed the most conservative standard for a 2 bedroom single family home as per the State Plumbing Code.

For multi-use commercial buildings, the minimum lot size shall be one (1) acre, or the acreage required to comply with all other applicable dimensional requirements, parking regulations, buffering, and well/septic setbacks, whichever is greater. (amended 1/12/2004 Special Town Meeting)

2. Minimum road frontage:
150 feet for a lot less than 2 acres - 250 feet for a lot greater than or equal to 2 acres.
(amended 1/12/2004 Special Town Meeting)
3. Maximum impervious cover: 30%
4. Minimum setbacks:
Front: 75 ft., except that the minimum front setback for a dwelling is 50 ft.
Side: 25 ft.
Rear: 20 ft.
5. Maximum Building Height: 35 ft.

D. Reserved (adopted 5/4/96 town meeting)

E. Performance Standards

In addition to the performance standards contained in Article 5, the following performance standards shall be met for development within the Residential C District.

1. Driveway cuts shall be limited to one per business onto public roadways, unless the characteristics of site topography, the nature of the business or the complexity of internal circulation on the lot necessitates a second driveway location, in which case two driveway cuts may be allowed at the discretion of, or required by, the Planning Board. This provision is effective regardless of the availability of driveway permits on state aid roadways from the Maine Department of Transportation. In cases where two curb cuts are permitted for any one lot, distances between curb cuts shall be at least 100 ft.
2. No outdoor storage shall be allowed in the required front yard setback.

3. A twenty foot wide, maintained, vegetated buffer shall required within the front setback area. Buffers shall meet the performance standards contained in Article 5.
4. For a multi-use commercial building:
 - a. maximum floor area for all uses shall not exceed 12,000 square feet
 - b. adequate water and sewage disposal facilities shall be provided for each use
5. RESERVED. (amended 1/12/2004 Special Town Meeting)

4.4.2 VILLAGE DISTRICT

A. Purpose

It is the purpose of this district to preserve and continue existing mixed use development patterns that are characteristic of New England town centers. Non-residential development in this district shall meet local neighborhood needs for limited business services and may include limited specialty retail uses. New development in this district shall be consistent with historical land use patterns. A number of historically significant structures are located within this district. Recognizing that economic and social conditions may warrant interior renovations to these structures, and conversion to different uses, it shall be the primary intent of this section to encourage preservation and enhancement of exterior architectural features. A goal shall be to preserve the primarily residential nature of the existing Villages and to retain open space.

B. Permitted Uses

The following uses are permitted:

1. agriculture, subject to the performance standards herein
2. timber harvesting, subject to the performance standards herein
3. home occupations, subject to the performance standards herein
4. signs not exceeding four square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises, or other commerce
5. gardens other than as an accessory use
6. uses or structures that are accessory to the above uses
7. animal husbandry, subject to the performance standards herein
8. Accessory Apartments

The following uses are permitted subject to site plan review:

1. single-family dwelling
2. two-family dwelling
3. municipal uses
4. day care centers
5. bed and breakfast establishments

6. cemeteries
7. business and professional offices not exceeding 3000 square feet of gross floor area
8. retail uses such as a bakery, general store, bookstore, drugstore, hardware store, craft shops, the sale of antiques, and specialty shops, provided that they are limited in size to 2000 square feet of first floor area.
9. barber shop, beauty salon, provided that no more than 2 chairs are proposed
10. elementary and secondary schools, both public and private
11. multiplex, limited to 4 units per building, subject to the performance standards herein
12. cluster development subject to the performance standards herein
13. churches, parish houses and rectories
14. housing for the elderly, subject to the performance standards herein
15. nursing homes and residential care facilities, subject to the performance standards for housing for the elderly
16. inns, including restaurants as accessory uses
17. art and craft studios
18. museums
19. public and semi-public recreation facilities
20. funeral homes
21. private and public assembly
22. essential services
23. any sign other than those listed as permitted uses
24. uses or structures that are accessory to the above uses subject to site plan review.
25. uses similar to permitted uses

All other uses are prohibited.

C. Dimensional requirements

1. Minimum lot size - 1 acre per use or dwelling unit.
2. Minimum land area per dwelling unit in multiplex and cluster housing - 1 unit/lot per acre of net residential acreage.
3. Lot frontage - 150 ft.
4. Minimum Setbacks

Front Setback - 30 ft., but may be varied during Planning Board's site plan review upon a determination that such a reduction in setback will enhance the architectural integrity of a neighborhood or the same as the front setback of that building located on either of the two adjacent parcels on the same street or the next two adjacent parcels on the same street that is closest to the front lot line, whichever is less.

Side and Rear Setbacks - 20 ft.

5. Lot Coverage - Impervious surfaces (including buildings, parking areas and walkways) shall not exceed 30% of each lot.

6. Dimensional requirements for housing for the elderly are contained in Section 5.1.11.B.
7. Maximum Building Height: 35 feet.

D. Performance Standards

1. In addition to the Performance Standards contained in Article 5, uses in the Village District shall adhere to the following standards:
 - a. In the Village Districts known as the Upper and Lower Villages, only buildings existing before the effective date of this Ordinance may be used for non-residential uses and for conversion to multi-family dwellings.
 - b. In the Village Districts known as the Upper and Lower Villages, a structure in residential use or partial residential use must retain at least one dwelling unit when a portion of the structure is converted to non-residential use.
 - c. For any use, the total square footage of the footprint of any addition or any accessory building on a non-conforming lot shall not exceed 50% of that to the original building. Municipal buildings are exempt from the 50% limitation on additions. **(Amended May 1, 2000 Town Meeting)**
 - d. With the exception of up to 5 parking spaces, all parking shall be located to the side and rear of structures, with vegetative screening, fences, berms and other methods used to provide effective visual barriers. Buffers and landscaped areas shall comply with the performance standards contained herein.

4.4.3 RURAL RESIDENTIAL DISTRICT

A. Purpose

The purpose of this district is to provide areas throughout the Town of New Gloucester specifically for low density residential development. Such areas shall be located where development will not place an undue burden on the ability of the Town to provide services and utilities. The rural residential district shall provide a transitional area between the more intensive Village development and the very low density Farm and Forest District. In order to preserve the rural character of this district, to preserve agricultural land, forest land and open space, clustering of residential development will be required to be considered for subdivision and multiplex development.

B. Permitted Uses

The following uses are permitted:

1. agriculture, subject to the performance standards herein
2. timber harvesting, subject to the performance standards herein
3. single-family dwellings
4. single-family or two-family manufactured housing units subject to the performance

standards herein.

5. two-family dwellings
6. home occupations, subject to the performance standards herein
7. day care centers
9. bed and breakfast establishments
10. expansion of an existing gravel pit operation provided such expansion shall not exceed two (2) acres of surface area per year and shall not cause the cumulative unreclaimed surface area of such pit operation to exceed fifteen (15) acres
11. signs not exceeding four square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises, or other commerce
12. farm stands
13. gardens other than as an accessory use
14. uses or structures that are accessory to the above uses
15. animal husbandry, subject to the performance standards herein
16. accessory apartments

The following uses are permitted subject to site plan review:

1. excavation and mining activities other than those permitted above, subject to the performance standards herein and any other applicable provisions of law.
2. commercial greenhouses
3. public buildings such as libraries, museums, and municipal buildings
4. elementary and secondary schools, both public and private
5. commercial schools limited to those involving instruction in horseback riding, cross-country skiing, fishing, and other recreational activities permitted in this district.
6. churches, parish houses and rectories
7. campgrounds, subject to the performance standards herein
8. multiplex (limited to four units per building), subject to the performance standards herein
9. clustered residential development, subject to the performance standards herein
10. housing for the elderly, subject to the performance standards herein
11. nursing homes and residential care facilities, subject to the performance standards for housing for the elderly
12. community living use
13. essential services
14. inns, including those with restaurants as an accessory use
15. private assembly and public assembly
16. Commercial outdoor, public, and semi-public recreational facilities.
17. cemeteries
18. any sign other than those listed as permitted uses
19. accessory uses or structures to those uses above subject to site plan review
20. uses similar to permitted uses

All other uses are prohibited.

C. Dimensional requirements

1. Minimum lot size - 2 acres per principal use or dwelling unit

2. Minimum land area per dwelling unit in multiplex and cluster housing - 1 unit/lot per 2 acres of net residential acreage.
3. Minimum frontage -250 feet
4. Minimum setbacks
Minimum front setback - 50 ft.
Minimum side and rear setbacks - 30 ft.
5. Dimensional requirements for housing for the elderly are contained in Section 5.1.11.B.

D. Performance Standards

The performance standards of Article 5 shall apply to all uses as appropriate.

4.4.4 FARM AND FOREST DISTRICT

A. Purpose

Recognizing that the retention of existing farm and forest land, and open space is an important part of maintaining rural character, it is the intent of the Farm and Forest District is to encourage and promote agricultural and forest management activities within the community, and to provide land areas within the Town of New Gloucester where agriculture and forestry activities can co-exist with limited residential development. Areas designated as farm and forest are not suited to large scale development due to their status as working farms, forest land, or open space, and/or due to their location away from Town service centers. In order to preserve the rural character of this district, clustering of residential development will be required to be considered for subdivision or multiplex development.

B. Permitted Uses

The following uses are permitted:

1. agriculture, subject to performance standards herein
2. timber harvesting, subject to performance standards herein
3. single-family dwellings
4. single-family or two-family manufactured housing units that conform to performance standards as contained in Article 5.
5. two-family dwellings
6. home occupations, subject to performance standards herein
7. day care centers
8. bed and breakfast establishments
9. expansion of an existing gravel pit operation provided such expansion shall not exceed two (2) acres of surface area per year and not cause the cumulative unreclaimed surface area of such pit operation to exceed fifteen (15) acres
10. signs not exceeding four square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises, or other commerce
11. farm stands
12. gardens other than as an accessory use
13. uses or structures that are accessory to the above uses

14. accessory apartments

The following uses are permitted subject to site plan review:

1. excavation and other mining activities other than those permitted above, subject to the performance standards herein,
2. junkyards and automobile graveyards, subject to the performance standards herein
3. elementary and secondary schools, both public and private
4. commercial schools limited to those involving instruction in horseback riding, cross-country skiing, fishing, and other recreational activities permitted in this district.
5. campgrounds, subject to the performance standards herein
6. public buildings such as libraries, museums and municipal buildings
7. commercial kennels, including boarding kennels
8. commercial greenhouses and nurseries
9. clustered residential developments, subject to the performance standards herein
10. multiplex, limited to four (4) units per building, subject to the performance standards herein
11. saw mills, provided that retail sales are limited to processed timber and related hardware items
12. churches, parish houses and rectories
13. commercial outdoor, public, and semi-public recreational facilities
14. inns, including those with restaurants as an accessory use
15. private assembly and public assembly
16. essential services
17. cemeteries
18. any sign not exempted from site plan review above, subject to the performance standards herein
19. uses or structures accessory to those uses above, subject to site plan review
20. uses similar to permitted uses
21. housing for the elderly subject to the performance standards herein.

All other uses are prohibited.

C. Dimensional Requirements

1. Minimum lot size - 5 acres per principal use or dwelling unit
2. Minimum land area per dwelling unit in multiplex and cluster developments - 1 unit/lot per 5 acres of net residential acreage.
3. Minimum frontage - 300 ft.
4. Minimum setback
Minimum front setback - 50 ft.
Minimum side and rear setbacks - 30 ft.
5. Maximum Building Height: 35 feet.

D. Performance Standards

The performance standards of Article 5 shall apply to all uses as appropriate.

4.4.5 LAKE DISTRICT

A. Purpose

To allow residential development and other less intensive uses while protecting shoreline areas that are vulnerable to physical, natural and scenic harm.

B. Permitted Uses

The following uses are permitted:

1. Non-intensive recreational uses not requiring structures, such as hunting, fishing and hiking.
2. Fire prevention activities
3. Resource management activities
4. Forest management activities, except for timber harvesting
5. Agriculture, subject to the performance standards herein
6. Home Occupations, subject to performance standards herein
7. Private sewage disposal systems, with CEO permit
8. Engineered sewage disposal systems, with CEO permit
9. Signs not exceeding four (4) square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises, or other commerce
10. Gardens other than as an accessory use
11. Uses or structures that are accessory to the above uses

The following uses are permitted subject to site plan review:

1. Facilities or uses for educational, scientific or nature interpretation purposes
2. Public parks and outdoor recreation areas
3. Timber harvesting, subject to the performance standards herein
4. Piers, docks, bridges, and uses projecting into water bodies on a permanent or temporary basis
5. Essential Services
6. Excavation and other mining activities, subject to the performance standards herein
7. Animal Husbandry
8. Single-family dwellings
9. Two-family dwellings
10. Multiplex, limited to four (4) units per building, subject to the performance standards herein
11. Single-family or two-family manufactured housing units that conform to the performance standards in Article 5
12. Conversion of seasonal dwellings to year-round dwellings
13. Bed and Breakfast establishments Bed and Breakfast
14. Road construction
15. Filling and earth moving
16. Any sign other than those listed as permitted uses
17. Accessory uses or structures to those uses above, subject to site plan review.

18. uses similar to permitted uses.

All other uses are prohibited.

C. Dimensional Standards

1. Minimum lot size - 2 acres per principal use or dwelling unit
2. Minimum land area per dwelling unit in multiplex and cluster developments - 1 unit/lot per 2 acres of net residential area.
3. Minimum frontage - 250 ft.
4. Minimum shoreline frontage - 250 ft.
Minimum shoreline setback - 100 ft.
5. Minimum Setbacks
Minimum front setback - 40 ft
Minimum side and rear setback - 30 ft.
6. Maximum Building Height: 35 feet.

D. Performance Standards

The performance standards of Sections 5.1 and 5.2 shall apply to all uses as appropriate.

4.4.6 RESOURCE PROTECTION

A. Purpose

The Resource Protection District includes areas which development would adversely affect water quality, productive habitats, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Lake District or streams and rivers as identified on the New Gloucester Zoning Map as Resource Protection Districts, except that areas which are currently developed, and areas which meet the criteria for the Limited Commercial or General Development need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.
2. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially

connected to a water body during normal spring high water.

5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

B. Permitted Uses

The following uses are permitted:

1. Non-intensive recreational uses not requiring structures, such as hunting, fishing, hiking and camping
2. Fire prevention activities
3. Resource management activities
4. Gardens
5. Areas for carry-in and carry-out of canoes and similar water craft and access thereto and parking therefore. **(Amended April 26, 2000 Special Town Meeting)**
5. Signs not exceeding four (4) square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises or other commerce.

The following uses are permitted subject to site plan review:

1. Facilities or uses for educational, scientific or nature interpretation purposes
2. Forest management activities
3. Timber harvesting, subject to the performance standards herein
4. Piers, docks, bridges, and uses projecting into water bodies on a temporary basis
5. Essential Services
6. Roads or catwalks
7. Any sign other than those listed as permitted uses
8. Agriculture, subject to the performance standards herein
9. Animal husbandry, subject to the performance standards herein
10. uses similar to permitted use
11. uses or structures that are accessory to any of the above permitted uses except those listed in #1, or to any of the above uses subject to Site Plan Review.

All other uses are prohibited.

C. Dimensional Requirements

If a lot is located partly in another district and partly in a portion of the Resource Protection District that is not subject to flooding and/or highly important to the protection of the resources set out in paragraph A above, the Planning Board, following site plan review, but only for single-family dwellings or uses or structures accessory thereto, may authorize counting up to 125 feet of the land in Resource Protection as part of the dimensional requirements of that lot; provided that no structure or use prohibited in the Resource Protection District will be allowed within this area except as allowed under Section 3.1.7 of this Ordinance.

Where a principal building is in existence on the effective date of adoption or amendment of this Ordinance, no lot shall be created which does not meet the following requirements:

1. Minimum lot area - 5 acres per principal use or dwelling unit
2. Minimum land area per dwelling unit in multiplex - 1 unit per 5 acres of net residential area
3. Minimum road and shoreline frontage - 250 ft.
4. Minimum front setback - 40 feet (from mean high water - 75 ft)
5. Minimum side and rear setbacks - 30 ft.

D. Performance Standard

4.4.7 RESIDENTIAL B DISTRICT (RB)

A. Purpose

The purpose of this district is to provide land in the community for commercial and business uses which can be developed in a manner compatible with existing low-density residential uses. The overall goals of the Residential B District are to encourage commercial and business development which:

- is characterized by relatively low parking turnover;
- requires larger land areas;
- can be developed to provide greater buffering potential;
- can be confined to buildings;
- will utilize limited points of access onto public roads;
- discourages traditional highway strip development; and
- will not generate noise, odor or glare which is incompatible with nearby residential uses.

By utilizing large lots, limited highway access, long frontage and substantial setbacks, negative impacts which might be associated with commercial or business development can be internalized. The effective use of the provisions of the Residential B District will allow reasonable growth of nonresidential development in the community without negatively impacting the predominantly rural character of the area.

The Residential-Business District shall be further divided into the Residential B-1 (RB-1) and Residential B-2 (RB-2) Districts for purposes of permitted uses and dimensional requirements.

B. Permitted Uses

The following uses are permitted:

1. agriculture, subject to the performance standard herein
2. timber harvesting, subject to the performance standards herein
3. single-family dwellings
4. single-family or two-family manufactured housing units subject to the performance standards herein
5. two-family dwellings
6. home occupations, subject to the performance standards herein

7. day-care centers
8. bed and breakfast establishments
9. expansion of an existing gravel pit operation provided such expansion shall not exceed two (2) acres of surface area per year and shall not cause the cumulative unreclaimed surface area of such pit operation to exceed fifteen (15) acres
10. signs not exceeding four (4) square feet in area, not lighted or flashing, erected to advertise or give information or warning about activities or conditions on the premises, or other commerce
11. farm stands
12. gardens other than as an accessory use
13. uses or structures which are accessory to permitted uses
14. animal husbandry, subject to the performance standards herein
15. accessory apartments, subject to the performance standards herein
16. signs, subject to the performance standards herein, except if part of a development subject to site plan review (passed 5/3/99 Town Meeting)

The following uses are permitted, subject to site plan review, in the RB-1 and RB-2 Districts:

1. business services conducted entirely indoors
2. business and professional offices
3. municipal uses and buildings
4. self-storage establishments
5. warehousing and wholesale distribution related thereto, exclusive of junkyards and salvaging operations
6. veterinary services and clinics
7. signs, subject to the performance standards herein that are part of a development subject to site plan review (passed 5/3/99 Town Meeting)
8. on-site sales that are accessory to permitted uses
9. multiple-use commercial buildings
10. farm and construction equipment sales and service
11. nursing homes and residential care facilities, subject to the performance standards for housing for the elderly
12. commercial greenhouses and nurseries
13. Cluster housing, subject to Section 5.1.7 [Adopted 12.14/2004 Special Town Meeting]

The following uses are permitted, subject to site plan review, in the RB-1 District only:

1. commercial schools
2. light industrial facilities including light manufacturing or assembly using previously prepared materials
3. wholesale storage and distribution of fuels and petroleum products
4. trucking terminals except that truck idling and service areas shall be at least two hundred (200) feet from any residence
5. inns, including those with restaurants as an accessory use

C. Dimensional Requirements

1. Minimum Lot Size:

RB-1 District:

- Uses not subject to site plan review - 2 acres per principal use or dwelling unit except for cluster housing which requires 1 unit/lot per 2 acres of net residential area
- Uses subject to site plan review - 5 acres per principal use except for the following uses which require a minimum 2 acre lot size: business services if conducted entirely indoors; business and professional offices; municipal uses and buildings; veterinary services and clinics; and inns

RB-2 District:

5 acres per principal use or dwelling unit

2. Minimum Road Frontage:

RB-1 District:

- 500 feet for uses which require a minimum 5 acre lot size
- 250 feet for uses which require a minimum 2 acre lot size

RB-2 District:

- Uses not subject to site plan review - 300 feet
- Uses subject to site plan review - 500 feet

3. Maximum impervious cover: 30%

4. Minimum setbacks:

- Uses not subject to site plan review
 - Front - 50 feet
 - Side, Rear - 30 feet
- Uses subject to site plan review
 - Front - 100 feet
 - Side - 100 feet from a lot in residential use; 50 feet from a lot in nonresidential use
 - Rear - 50 feet. All required setbacks for nonresidential use shall be maintained as buffers. The Planning Board may reduce the front setback for nonresidential uses by up to 50% during site plan review to accommodate on-site wetlands.

5. Maximum building height: 35 feet

6. Curb cuts for nonresidential uses:

Curb cuts shall be limited to one per lot in nonresidential use except that if such use predates the date of enactment of this ordinance, curb cuts shall be limited to the minimum

necessary to reasonably accommodate such use. Furthermore, curb cuts devoted exclusively for the use of emergency vehicles shall not be limited as described above.

Curb cuts for lots in nonresidential use shall be further limited to one for every 1000 feet of frontage along a public road regardless of the number of lots in nonresidential use to be served unless the Planning Board determines that the joint use of curb cuts by adjacent lots is not practical based upon topography, environmental conditions, traffic patterns, incompatibility of uses or similar factors. The potential for multiple use of curb cuts by existing, proposed or future nonresidential uses shall be considered during the Planning Board review of all uses subject to Site Plan Review.

4.4.8 GROUNDWATER PROTECTION OVERLAY DISTRICT

A. Purpose

It has been found that the protection of groundwater resources is critical in promoting the health, safety and general welfare of the residents of New Gloucester, and residents of surrounding towns who share common groundwater resources. To this end, the purpose of the Groundwater Protection Overlay District is to protect the quality and quantity of present and future groundwater resources by regulating activities and land use practices which can reasonably be expected to reduce the availability or purity of water supplies. Furthermore, it is the intent of this District to restrict or control uses involving hazardous or leachable materials, which, if introduced into the ground or groundwater, cannot be rendered harmless by dilution or the absorptive capacity of the soil, and to prohibit sources of viral and bacterial contamination.

B. Administration

1. The provisions of the Groundwater Protection Overlay District shall be applied in addition to those of the underlying zones. Where the provisions of this district conflict with the provisions of the underlying zone, the more restrictive shall apply.
2. For uses within the Groundwater Protection Overlay District that do not require site plan review by the Planning Board, the Code Enforcement Officer shall be responsible for administering the provisions of this section. No building permit shall be issued unless the CEO has made a positive finding that the proposed use or structure meets the requirements and standards of this section. An applicant may appeal to Planning Board under the provisions of Section 6 of this ordinance if the CEO denies a building permit based on non-compliance with the groundwater protection standards contained in this section.
3. In reviewing subdivisions located all or in part within the Groundwater Protection District, the Planning Board shall apply the requirements and standards of this section in addition to those of the Subdivision Regulation.
4. The Planning Board may consult other local boards or groups such as the Conservation Commission regarding uses or development in the Groundwater Protection Overlay District. Where the Planning Board determines that adequate review of a proposed development requires consultation of experts, it may hire such consultants at the applicant's

expense, according to the standards for retaining outside consultants contained in Article 7 of the Ordinances.

C. Identification of Aquifer Boundaries

For the purposes of this ordinance, and in order to carry out its provisions, the New Gloucester Groundwater Protection Overlay District shall be delineated on the official zoning map of the Town. Said map shall be available for inspection at the Town Office. Boundaries of the aquifer and the aquifer recharge area have been identified in the Robert C. Gerber Inc. Study completed for New Gloucester. Such boundaries shall be updated by vote of Town Meeting, as new information or findings, provided by the Maine Geological Survey or by a Maine Certified Geologist or Registered Professional Engineer with experience in hydrogeology, warrant that they be changed.

D. Boundary Disputes

When the official boundaries of the Groundwater Protection Overlay Zone as delineated on the zoning map are disputed due to lack of sufficient detail on available maps and where the dispute can be resolved through submission of a property survey, the Planning Board, with advice from the Code Enforcement Officer, shall interpret the intent and purpose of the zoning map to determine the boundary location. However, when a boundary dispute involves submission of engineering data to determine the location and extent of the aquifer and aquifer recharge area, a boundary change request must be presented to and voted on by the Town at an annual or special Town Meeting. At the request and expense of a property owner to clarify the location and extent of the aquifer, the Town may engage a professional geologist and/or certified soil scientist to determine more accurately the location and extent of the aquifer and aquifer recharge areas.

E. Hydrogeologic Study

1. Subject to the provisions of Article 7.G.1.F. below, when necessary, in light of the size, location, surrounding uses, or other characteristics of the proposed use or site, to determine compliance with the requirements of this section, the Planning Board may require submittal by the applicant of a hydrogeologic impact study. The impact study shall be prepared by a State of Maine Certified Geologist or a Registered Professional Engineer with experience in hydrogeology. The study shall contain, at a minimum, the following components:
 - a. A map showing soil types on the property, including the results of a high intensity soils survey if required by the Board.
 - b. A map showing the recommended sites for subsurface wastewater disposal systems and wells and the locations of existing wells and systems on-site and within 200 feet of the property boundary. In addition, the depth to the water table at representative points throughout the site shall be included.
 - c. Direction of groundwater flow, documentation of groundwater levels and travel times through the site.
 - d. An analysis of surface drainage conditions and their relationship to off-site conditions.
 - e. Documentation of existing groundwater quality for the site. Collection of this data can

either be provided by test wells within the proposed project or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site. A minimum of nine months of groundwater sampling may be required, with a minimum of four samples.

- f. Projections of post development nitrate-nitrogen concentrations at any on-site wells, at the property boundary and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For proposals within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation). Studies may be required if the Board determines that, due to the scale or nature of the development, such information is necessary to determine compliance with the intent and purposes of this Ordinance.
 - g. For water intensive uses, analysis of the effects of aquifer drawdown on neighboring water supplies.
2. When determined to be necessary to ascertain compliance with the standards contained in this section, the Planning Board shall arrange for peer review of the hydrogeologic study by a qualified consultant at the applicant's expense according to the standards for retaining outside consultants contained in Article 7.
 3. The Planning Board can require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants.
 4. The number, location and depth of monitoring wells shall be determined by a hydrogeologist chosen or approved by the town and shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Planning Board with evidence showing that contaminant concentrations meet the performance standard for pollution levels.

F. Permitted Uses

The following uses are permitted:

Except as hereinafter provided, any use permitted, or permitted subject to site plan review, in the underlying zone is permitted or permitted subject to site plan review in the groundwater protection overlay district.

The following uses are permitted subject to site plan review regardless of their delineation in the underlying zone:

1. storage of petroleum or gasoline in excess of 50 gallons as an accessory use
2. cemeteries

G. Prohibited Uses

Regardless of the delineation of uses in the underlying zone, the following uses are prohibited:

1. Uses prohibited in the underlying zone
2. extractive industries with the exception that those facilities existing within the GPOD shall be permitted to expand according to the provisions of this Ordinance
3. golf courses
4. uncovered salt-sand and road salt storage and loading areas.
5. dumping of snow containing deicing chemicals without municipal authority
6. junkyards and automobile graveyards
7. sanitary landfills or demolition/stump dumps
8. commercial animal feedlots
9. metal plating facilities
10. commercial furniture stripping
11. dry cleaning establishments
12. commercial motor vehicle storage or salvage
13. truck terminals
14. pipelines for transmission of oil, gas, or hazardous materials
15. spray irrigation of sewage
16. land application of sludge and ash
17. any commercial or light industrial use primarily devoted to the manufacture, storage, use, transportation or disposal of toxic or hazardous materials
18. disposal of solid waste, hazardous materials, or leachable materials except for subsurface wastewater disposal of domestic waste from single-family homes and those uses permitted or permitted subject site plan review and not prohibited.

Any other use not mentioned as a permitted use in the underlying zone is prohibited.

H. Dimensional Requirements

Minimum lot size, minimum road frontage, minimum front setback, and minimum side and rear setbacks shall be determined by the requirements for the underlying zoning district.

Maximum Impervious Surface - Up to 30% with site plan review approval; otherwise 10%.

I. Submission Requirements

Applications for the construction and/or operation of a permitted use requiring approval of the Code Enforcement Officer shall be submitted to the Code Enforcement Officer with the following information:

1. A map showing the location of the property and the location of the proposed activity on a USGS topographic map at a scale of 1" = 2,000' or larger scale;
2. A written description of the proposed activity and how all applicable performance standards shall be met;
3. If applicable, a copy of the soil evaluation form required under the State of Maine Subsurface Wastewater Disposal Rules (form HHE-200).
4. If applicable, a complete list of all toxic to be used or stored on the premises in quantities greater than those associated with normal household use.

Application for the construction and/or operation of a use requiring site plan review and approval by the Planning Board shall be submitted to the Code Enforcement Officer, in accordance with the requirements as outlined in Article 7 of this Ordinance.

J. Performance Standards

In addition to the performance standards contained in Article 5, development within the Groundwater Protection Overlay District shall comply with the following standards:

1. Water Quality

- a. No development shall increase any contaminant concentration in the ground water at any on-site well, at the lot lines and the property boundary and at a distance of 1,000 feet from potential contamination sources to more than one half of the State's Primary Drinking Water Standards. No development shall increase any contaminant concentration in the ground water at any on-site well, at the lot lines and the property boundaries and at a distance of 1,000 feet from potential contamination sources to more than the State's Secondary Drinking Water Standards.

If ground water contains contaminants in excess of the secondary standards, the development shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or subsurface disposal systems are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

- b. There shall be no application of de-icing chemicals throughout the identified aquifer and aquifer recharge area except sand with a salt content of no more than ten (10) percent except by municipal authority. Any salt concentration shall be no greater than that absolutely required under the prevailing conditions.

2. Expansion of Existing Gravel Pits

- a. Extraction shall not be allowed below two and one-half (2 1/2) feet above the average seasonal high ground water table. For the purposes of this section, the high water table shall be measured through the observation of test borings during one full spring recharge or high water season. No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions.
- b. Washing operations shall not be conducted in the pit without acceptable disposal of waste water.
- c. As the pit is concurrently closed, exhausted areas shall be loamed and seeded or

otherwise stabilized with native vegetation. Reclamation plans shall include provisions for natural revegetation and replanting in mixed growth forest so as to maximize recharge to the aquifer. Application of fertilizer, manure, or other soil amendments to areas of bare soil where the topsoil has been removed is prohibited unless vegetative cover has been established on the area first. In addition to the Town's requirements for pit reclamation, plans for gravel pits in designated aquifer areas shall include provisions for reclaiming slopes to 3:1 grade.

- d. Storage of hazardous materials and petroleum products in the pit is prohibited.
- e. Access roads into and around the pit shall not be oiled or treated with sodium chloride. They may be paved only to the extent allowed under the performance standards of this Ordinance.
- f. The pit shall not be used for storage or dumping of any substances that could produce a harmful leach, both during operation of the pit and following its permanent closure.
- g. All trucking operations shall be responsible for taking all steps to maximize dust control.

3. Subsurface Wastewater Disposal

Notwithstanding the requirements of the State of Maine Subsurface Wastewater Disposal Rules, the following supplemental standards shall be required to be met for subsurface wastewater disposal systems installed within the Groundwater Protection Overlay District after the date of enactment of this District.

- a. If less than 24 (twenty-four) inches of original undisturbed material is present between the bottom of the subsurface disposal area and the most limiting soil factor (seasonal high groundwater table, bedrock, or other restrictive layer), and the soil material is classified as profiles 5, 6 or 11 (where this consists of sand or gravel) under the Maine State Plumbing Code, the use of alternative systems comprised of the following shall be required:
 - disposal bed size shall be a medium/large size rating as a minimum;
 - 12 (twelve) inches of sandy loam or loamy sand filtration liner materials shall be required below the disposal bed, and
 - the system shall be similar to that required by the Maine State Plumbing Code for disposal systems in Coastal Sand Dune areas.
- b. Individual wells and septic systems must be placed a minimum of 100 ft. apart, including wells and septic systems of neighboring properties.

4. Agriculture

All manure handling shall be carried out in conformance with a Conservation Plan approved by the Cumberland County Soil and Water Conservation District.

5. Home Occupations

Home occupations involving the use or storage of hazardous or toxic materials in excess of normal residential use are not permitted.

6. Petroleum Storage

All petroleum storage tanks shall meet the requirements established in DEP regulations 691, Section 6, and in addition, shall have a secondary containment system. Above ground, outdoor tanks shall conform to State requirements.

7. Trucking Facilities

(All truck facilities within the GPOD will comply with the following):

1. No washing of tractors or trailers will be allowed on the premises except if part of an approved washwater recycling system.
2. No floor drains shall be allowed in the truck maintenance areas.
3. A Best Management Practices Plan (BMP) shall be developed that describes the storage, handling, use, and disposal of all materials stored or generated in the operation of the truck facility that has the potential to pollute or otherwise harm groundwater or surface waters. The BMP shall be presented to the Planning Board for approval.
4. All employees shall be familiar with the BMP. All employees shall read the BMP annually and sign a BMP log book which documents that they have read and understood the BMP. The employer shall be required to maintain the BMP log book on-site.

4.4.9 **HISTORIC RESOURCE OVERLAY DISTRICTS**

Purpose

New Gloucester residents seek *to promote the education, cultural, economic value and general welfare of the community by protecting* and enhancing existing Town character. The most easily identifiable components of New Gloucester's rural town character are those associated with its historic structures and their setting. *Once destroyed, historic architecture, areas and sites cannot be replaced. The Town of New Gloucester shall protect and enhance the historic resources of Town-wide concern, while accepting as appropriate new construction that is compatible. The purpose of the Historic Resource Overlay Districts is to provide legal framework for the review of lot design, siting of new structures, exterior reconstruction, and alterations to existing structures by requiring compliance with design performance standards.*

Uses

Permitted uses shall be those allowed in the underlying district, except that site plan review shall be required for all uses except agriculture and home occupations.

The purpose for this is to preserve historic sites, and structures, prevent inappropriate alterations to structures of historic value, and assure new structures are designed and built in a manner compatible with the Districts character in terms of scale and visual effect.

A. Dimensional requirements

Dimensional requirements shall comply with the standards of the underlying district. Except that the 35-foot height limitation may be exceeded if the Planning Board determines the height of the proposed structure is compatible with the height of similar existing structures characteristic of the Historic Resource Overlay District. Maximum structure height shall be 35 feet or the average of the heights of similar existing structures located with 500 feet and fronting on the same street, whichever is greater.

D. Special Requirements for Structures and Sites on the National Register of Historic Places and/or National Historic Landmarks.

The purpose of this section is to further the intentions of the Historic Resource Overlay Districts, by preserving structures *and sites* that are important to the architectural, historical and neighborhood significance of the *Town of New Gloucester*.

Neighborhood significance: the physical setting, which is composed of buildings, landscape features, open space and other natural and architectural features.

Due to their architectural, cultural, and historic significance, *many* structures *and sites* located *in* the Town of New Gloucester are listed on the National Register of Historic Places, including *structures and sites in the Lower Village, The Sabbathday Lake Shaker Village and The Universalist Meeting House*. A list of structures *and sites*, as amended from time to time, shall be on file with the Town Clerk *and Code Enforcement Officer, and copies shall be provided to the New Gloucester Historical Society by the Town*. Because these structures are of local, regional, state, and national significance, the following additional requirements are imposed.

1. Mandatory Notification of Demolition or Removal of Structures *listed* on the *National Register of Historic Places and/or National Landmarks*.

The purpose of this notification is to give The Town of New Gloucester, The New Gloucester Historical Society, and any individual or other organizations the opportunity to acquire or to arrange for preservation of such structure and/or site. Such efforts may include negotiation to relocate the structure or to induce interested third parties to purchase the property for the purpose of preserving the structure and site.

Should a property owner want to demolish or remove a structure that is listed on the National Register of Historic Places and/or National Landmarks, the property owner shall file an application for a permit to demolish or remove the structure with the Code Enforcement Office. The property owner shall post notice of the application.

Notices shall be published in a newspaper of general local circulation, shown on New Gloucester Public Access Television, provided to the Selectmen, and the New Gloucester

Historical Society, and posted in the Town Hall.

The notice shall be posted at least three (3) times prior to demolition:

- *Within fifteen (15) days after filing the application*
- **Not less than forty-five (45) days after filing the application**
- **Not less than ninety (90) days after filing the application**

The Code Enforcement Officer shall issue the demolition or removal permit 120 days after the application is filed. In emergency cases or where Code Enforcement Officer determines that demolition of the structure is necessary to protect the public health, safety, and welfare, the demolition permit shall be issued without the notification requirements specified in this section.

2. *Providing a historic record*

If a permit to demolish a historic structure is issued the owner shall provide so-called "line drawings" that capture the essence of the structure as well as photographs of the structure prior to demolition.

E. *Performance Standards for all Lot Design, New Structures, Exterior Reconstruction, and Alterations to Existing Structures in the Historic Resource Overlay Districts.*

In additional to the performance standards in Article 5 and the criteria established in Article 7 of this Ordinance, where applicable, development in the Historic Resource Overlay Districts shall meet the following performance standards.

1. The proposed development, *including lot access* shall be related harmoniously to the terrain, use, scale, and architecture of existing *historic structures* that have functional or visual relationships to the proposed structure. *Access through the Historic Resource Overlay District and development in an adjacent district shall be compatible and may also require buffering.*
2. The dimensions, color and architectural design of the proposed *structure* shall be *visually compatible with historic structures to which it is visually related.*
3. To preserve *and* maintain the historic setting *site disturbance* shall be the minimum necessary. *No site disturbance, including stone walls, shall be done prior to Planning Board approval. Structures shall be located to minimize site disturbance.*
4. All site work shall be designed to maintain and preserve, insofar as practical, the historic visual *elements (such as stonewalls, old shade trees, etc.,)* of the vicinity, *and* these elements shall be considered in any buffering that may be required.
5. Signs: In addition to the Performance Standards in Article 5, Section 5.1.19 any new sign or change in the appearance of an existing sign shall not detract from the historic character of the site or structure.

The size, location, design, color, texture, lighting and material of all permanent signs and

outdoor advertising structures shall not detract from the use and enjoyment of proposed structure and of the surrounding properties. Cumulative effects of multiple signs on a site or along a roadway corridor shall be evaluated by the Planning Board when reviewing site plans in Historic Resource Overlay Districts.

6. ***Exterior reconstruction and alterations to existing structures shall not destroy distinguishing qualities or historic character of a structure or setting. Distinctive architectural style such as molding, brackets, windows, doorways, porches, chimneys, etc., which characterize historic structures shall be preserved.***
 7. ***The proposed development shall, make every reasonable effort to provide a property use compatible with visually related historic structures. There shall be minimal alterations to the character defining features of the structure or site and its environment. The total setting or character of the area including landscaping shall not obstruct significant historic settings.***
 8. ***Additions or exterior reconstruction to an existing historic structure shall not destroy the original distinguishing character. The new work may differentiate from the old but to maintain the integrity and value of the historic property the new work shall be compatible in size, scale, material and character with the existing property.***
- F. ***In Addition to the Submission Requirements of Article 7, Section 7.4 the following items will be provided for New Structures, Lot Design, Exterior Reconstruction and Alterations to Existing Structures in the Historic Resource Overlay Districts.***
1. A plot plan drawn to scale.
 2. ***Documentation of the structure's proposed scale and form as shown by sketches and perspective drawings including specific height, width, roof shapes and trims.***
 3. ***Specifications of exterior materials (type of siding, roofing, windows, doors, chimney etc.). These materials shall be visually compatible with the predominate materials used in the structure and historic structures to which it is visually related.***
 4. ***Photographs of the existing site conditions prior to any site disturbance and of adjacent lots shall be taken at representative points along the adjacent roadway.***
 5. A landscaping plan showing areas of vegetation to be removed and areas to be maintained, including types and amounts of planting.
 6. ***The Planning Board may require that a registered professional architect, engineer, or landscape architect prepare the drawings and specifications.***
 7. ***If necessary to determine compliance with the standards contained in the Section, the Planning Board may require submission of topographic information at 5-ft contour intervals as prepared by a register engineer or licensed land surveyor.***

G. Ordinary Maintenance and Repair

1. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of a *structure's exterior where such repair does not involve a change in design, or appearance. (All maintenance and repair work in the Town of New Gloucester requires a permit from the Code Enforcement Officer).*

Siding and trim: original siding materials should be retained, repaired or replaced using the same material when possible. The use of aluminum or vinyl may be an acceptable alternative. The material shall be installed without irreversibly damaging or obscuring the architectural features and trim of the historic structure.

Windows and doors: if replacement is necessary the new window and/or door shall match the existing or historical size and sash arrangement.

2. Nothing in this Section shall prevent the construction, reconstruction, alteration, restoration or demolition of any feature, which the **Code Enforcement Office** shall certify, is required for public safety because of unsafe or dangerous conditions.

(Adopted May 7, 2001 Town Meeting)

4.4.10 MOBILE HOME PARK OVERLAY DISTRICT

A. Purpose

It has been found that there is a need to provide areas for the development of mobile home parks within the town consistent with state law, Title 30-A M.R.S.A. 4358. Zoning areas for mobile home park development is part of the Town's overall efforts to provide areas for reasonably priced housing. The anticipated densities in such areas will be substantially greater than that permitted in all other zones allowing residential uses. Notwithstanding that vast portions of the Town of New Gloucester consist of sand and gravel aquifers as well as bedrock aquifers not suitable for intense development, it is intended that this district shall provide areas suitable for such use without sacrifice of the protection of the quality and quantity of present and future groundwater resources. Furthermore, in order to preserve agricultural land, forest land and open space, historic and visual resources, clustering of such mobile home park residential development may be required along with design and safety performance standards to ensure the health, safety and general welfare of the park residents and the community at large.

The following definitions shall be applicable within the Mobile Home Park Overlay district.

1. Manufactured Housing Unit: Structures, transportable in one of two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including plumbing, heating, air conditioning and electrical systems contained therein.
2. Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

3. Mobile Home Stand: That part of a mobile home park which has been improved for the placement of one mobile home including all required appurtenant structures and having provisions for utility connections.

B. Uses

Permitted uses shall be those allowed in the underlying district subject to the requirements in the underlying district except that, subject to all of the administrative review criteria set forth below, the development, construction, expansion and/or alteration of mobile home parks within this district shall be allowed including the following:

1. Manufactured Housing Parks as defined in Article 2 of this Ordinance.
2. Open space in the park for recreational use of park residents only.
3. Specifically recognized accessory uses:
 - a. Park management office
 - b. Community or recreation building within the park for use by park residents only
 - c. Laundry building provided for use by park residents only
 - d. Service equipment building for storage of park maintenance equipment only
 - e. Storage facilities for use by park residents only
4. Utility services including water, sewer system, septic and regulations adopted by the Town of New Gloucester and the State of Maine and which are in force at the time of park plan approval.

C. Administration of Mobile Home Park review

1. The provisions of the Mobile Home Park Overlay District shall be applied in addition to all of the requirements and performance standards of the underlying zone or other applicable overlay zones. Where the provisions of this district conflict with the provisions of the underlying zone or other applicable overlay zone, the more restrictive shall apply unless Title 30-A M.R.S.A. Section 4358, as amended, shall supercede such provision. Except as otherwise provided herein, new mobile home parks shall comply with all applicable requirements and regulations of the State of Maine and the Town of New Gloucester.
2. Review of Mobile Home Park subdivisions shall be under this Ordinance including Site Plan Review and under the Subdivision Regulations of the Town of New Gloucester.
3. When the official boundaries of the Mobile Home Park Overlay district are in dispute, the Planning Board, with advice from the Code Enforcement Officer, shall interpret the purpose and intent of the zoning map to determine the boundary location.
4. It shall be unlawful for any person to place, construct, expand, or operate any mobile home park or do anything in furtherance of a plan for the same within the Town of New Gloucester unless a plan for the park has been approved by the Planning Board.

D. Submission Requirements

In addition to those submissions required under site plan review and the subdivision regulations, and in addition to the provisions of 7.6.1 below, an applicant shall also submit the following before an application will be deemed complete:

For mobile home parks not served by a public sewer, the application shall include an assessment of the impacts of park development on groundwater quality, drainage, stormwater management, and erosion control. The person developing or expanding a mobile home park has the burden of proving that the development will not pollute a public water supply, waterway, groundwater, or aquifer. The assessment shall be prepared by a Certified Geologist and Registered professional engineer as shall be required, and shall contain at least the following information:

1. A map showing the basic soil types, including the results of a high intensity soils survey, if required by the board, and a map showing the recommended sites for subsurface wastewater disposal systems and wells in the park and showing also thereon wells and septic systems on abutting properties within 500 ft. of the mobile home park boundaries.
2. The depth to water table at springtime levels at representative points throughout the mobile home park, direction of groundwater flow, documentation of groundwater levels and travel times throughout the park.
3. An analysis of drainage conditions throughout the mobile home park and their relationship to off-site conditions.
4. Data of existing groundwater quality for the site. Collection of this data can either be provided by test wells within the proposed mobile home park or by existing wells on abutting properties provided that the data collected would represent the groundwater at the mobile home park. A minimum of nine months of groundwater sampling may be required by the Planning Board, with a minimum of four samples.
5. Projections of contaminant levels, including average nitrate nitrogen levels on the site after development, including calculation of nitrate nitrogen levels at the downgradient mobile home park lot lines for lots containing wells and at such wells and downgradient park boundaries and at a distance of 1000 ft. from potential contamination sources. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
6. When determined to be necessary to ascertain compliance with the standards contained in this section, the Planning Board shall arrange for peer review of the hydrogeologic study by a qualified consultant at the applicant's expense according to the standards for retaining outside consultants contained in Article 7.
7. The Planning Board can require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants.

8. The number, location and depth of monitoring wells shall be determined by a hydrogeologist chosen or approved by the town and shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Planning Board with evidence showing that contaminant concentrations meet the performance standard for pollution levels.
9. A storm drainage study and a proposed drainage system plan both certified by a registered professional engineer, for surface and subsurface runoff, showing measures proposed to prevent pollution of surface or ground water, soil erosion, increased runoff, changes in ground water level and flooding. The storm drainage study shall document post vs. pre-development runoff condition for two (2) and twenty-five (25) year, twenty-four (24) hour storms. Drainage improvements shall be designated to control the rate of runoffs for the twenty-four (24) hour storm such that the rate of post development runoff will not exceed that of the pre-development condition.
10. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment required. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

E. Dimensional Requirements

1. Lots served by public sewer
 - Minimum lot area - 6,500 sq. ft.
 - Minimum lot width - 55 ft.
2. Lots served by individual subsurface sewage disposal system:
 - Minimum lot area - 20,000 sq. ft.
 - Minimum lot width - 100 ft.
3. Lots served by a central subsurface wastewater disposal system:
 - Minimum lot area - 12,000 sq. ft. provided that overall density of park - no less than 20,000 sq. ft. per mobile home.
 - Minimum lot width - 75 ft.
4. Where lots front on a curved right of way or are served by a driveway, the lot width shall be measured in a straight line perpendicular to the front of the mobile home.
5. Lots within a shoreland zoning district shall meet the lot area, lot width, setback, and shore frontage requirements for that district.
6. The overall area of the mobile home park shall equal at least the sum of:

- a. the combined area of all mobile home lots including the density requirements for lots served by a central subsurface wastewater disposal system;
- b. the area required for road right of ways;
- c. the area for buffer strips;
- d. for parks served by public sewer, an open space area for storage and recreation equal to 10% of the combined area of the individual lots, if required by the Planning Board; and
- e. the area within the shoreland setback.

F. Lot Setbacks and Coverage

1. The following lot setbacks shall apply to all units and accessory buildings:

Front setback: 20 ft.

Side setback: 20 ft.

Rear setback: 10 ft.

If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units in the underlying district.

2. So as to avoid monotony and sameness, the Planning Board may allow the front setback on a private road within the park to be varied provided that no home or building may be closer than 10 ft. from the right-of-way and the average distance is at least 20 ft. for all units and buildings.
3. The Planning Board may reduce lot side yard setbacks to 5 ft. provided a distance of 25 ft. is maintained between units.
4. A minimum 20 ft. separation shall be maintained between all units in all directions.
5. Buildings and mobile homes shall be set back at least 50 ft. from any abutting property.
6. Mobile home stands shall occupy no more than 20% of the lot area. The accumulated floor area of the mobile home and its accessory structures shall not exceed 50% of the total area of the lot.

G. Mobile Home Park Lots: Ownership, Use and Conversion

1. The mobile home park lots shall be shown on the site plan and the subdivision plan for the mobile home park. All the land in the mobile home park shall be owned by the same person or persons and the mobile home park lots may not be sold or leased individually except as approved by the Planning Board pursuant to this section. No individual interests in the mobile home park lots may be created or conveyed, except that individual mobile lots or park lots may be created or conveyed, except that individual mobile home lots or pads may be leased to the owners or occupants of the homes placed thereon. Mobile home

park lots are allowed only in mobile home parks approved by the planning board in compliance with this Section 4.4.10, and shall not be considered lots for any other purpose under this zoning ordinance. No mobile home lot may be sold, transferred or conveyed without the prior approval of the Planning Board. Any such lot sold, transferred or conveyed shall meet all the space standards and other regulations of the underlying district and other applicable overlay districts in which it is located at the time of the sale, transfer or conveyance.

2. The plan to be recorded at the registry of deeds shall include the following restrictions as well as any other notes or conditions of approval:
 - a. the land within the park shall remain in a unified ownership and the fee to the lots or portions of lots shall not be transferred.
 - b. no dwelling unit other than a manufactured housing unit shall be located within the park.

4.4.11 Pineland Development Districts

A. Purpose; Intent

1. It is the purpose of these districts to preserve the character and setting of Pineland Center and its surrounding environs and encourage their orderly transition to new office, commercial, agricultural, recreational, and residential uses. Recognizing that some of the existing structures may need to be removed and that the remaining structures may require extensive renovations in order to be reused, an important purpose of this section is to encourage the overall enhancement and preservation of the campus atmosphere in the PDDA. Dimensional requirements and other provisions of this Section 4.4.11 reflect the historic development pattern of limited setbacks between buildings and roads, extensive areas of impervious surfaces, the pedestrian orientation of the campus in the PDDA, the existing layout of the campus in the PDDA, and the limited ability of interior roads and other infrastructure to meet modern design criteria. It is the intent of these districts to encourage the redevelopment and reuse of existing buildings located at Pineland Center in the PDDA and to further the agricultural, recreational and similar uses of the surrounding environs comprising the PDDB and PDDC while recognizing the practical impediments that would exist if such activities were subject to Site Plan Review in each and every instance. The provisions of this Section are, therefore, intended to expedite the development of these districts for the foregoing purposes by eliminating the requirement of Site Plan Review for certain uses in existing buildings and certain new buildings and by eliminating the requirement that such development meet certain performance standards that would be impracticable given the layout and configuration of buildings and improvements that currently exist in these districts.

B. Definitions applicable to this Section

The following definitions shall be applicable within the Pineland Development Districts:

“Dormitory”: Rooms temporarily housing persons associated with educational activities conducted in the Pineland sub-districts.

“Existing building(s)”: A building or buildings in existence prior to January 1, 1996, the total floor area of all such existing buildings being hereby deemed to be Five Hundred Thousand (500,000) square feet;

“Existing road”: A paved or unpaved road in existence prior to January 1, 1996, or any road approved by the Planning Board pursuant to Site Plan Review or Subdivision Review;

“Existing parking area”: A paved or unpaved parking area in existence prior to January 1, 1996, or any parking area approved by the Planning Board pursuant to Site Plan Review or Subdivision Review;

“Existing essential service”: An essential service in existence prior to January 1, 1996, or any essential service approved by the Planning Board pursuant to Site Plan Review or Subdivision Review; and,

"Essential Services" shall have the meaning set forth in Section 2.2, and specifically includes any such services erected, constructed, altered, or maintained by or for the benefit of a private property owner.

"Sheltered Group Home": A facility which provides food, shelter, and/or guidance or counseling services to a defined population.

"Special Needs Independent Living Unit": A single family dwelling, multi-family dwelling (which may have more than four dwelling units), or other residential facility for habitation by persons with special social, physical, or mental needs and may include more than five (5) persons not related by blood or marriage.

"Town Representatives": The Chair of the Planning Board or a nominee designated by the Chair of the Planning Board from the Planning Board, the Town Planner, and the Code Enforcement Officer. If the Chair of the Planning Board has a conflict of interest on any permit application, the Planning Board is to elect a representative from the Planning Board for all review related to that application.

C. Permitted Uses

The following uses are permitted in PDDA:

1. Governmental uses and buildings, including without limitation, municipal facilities
2. Essential services
3. Agriculture and timber harvesting
4. Churches
5. Retail trade
6. Business Services
7. Financial Services, including without limitation banks, banking operations and other financial institutions
8. Business and professional offices
9. Restaurants and/or drinking establishments, not including drive-through windows
10. Indoor and outdoor recreation and related facilities, including, without limitation, gymnasiums, swimming pools, cross-country skiing trails, and hiking trails (whether public, semi-public, private, commercial, non-profit or otherwise)
11. Equine and equestrian uses (whether public, semi-public, private, commercial, non-profit,

- or otherwise), including, without limitation, horseback riding, horse-drawn sleighs and wagons, indoor and outdoor riding arenas, and therapeutic riding centers
12. Indoor storage
 13. Light industrial facilities
 14. Theaters, museums and libraries
 15. Greenhouses and nurseries (whether commercial, non-profit or otherwise)
 16. Gardens
 17. Hospitals, mental health facilities, and clinics
 18. Landscaping operations
 19. Communications, telemarketing and computer operations
 20. Headquarters or branch offices of contracting and construction operations
 21. Public and private schools and other educational facilities
 22. Medical, research and testing laboratories and facilities
 23. Day care centers and facilities, family and group day care homes
 24. Multiple-use commercial buildings, as long as all uses therein are permitted in the district
 25. Signs
 26. Sheltered group homes, special independent living units, and similar residential facilities, including housing for the elderly
 27. Dormitories and other residential facilities housing students, family members or others in connection with services, schools or other uses permitted in the PDDA, which facilities may include more than four dwelling units in any one building
 28. Farm stands
 29. Animal husbandry and other livestock operations, including, without limitation, meat cutting, but expressly excluding slaughtering of animals.
 30. Warehouse facilities and wholesale sales and distribution facilities
 31. Art, photo and similar studios
 32. Uses similar to permitted uses in the PDDA
 33. Uses or structures that are accessory to permitted uses in the PDDA
 34. On-site disposal of construction and demolition waste materials resulting from construction, remodeling, repair or demolition of existing buildings and accessory structures located within the Pineland Development Districts provided that such disposal is part of the capping and closure of existing land fills, dumps or other areas located within the PDDA and provided further that such disposal is approved by the Maine Department of Environmental Protection under the Maine Solid Waste Management Rules, to the extent such rules require approval **(Adopted May 4, 1998 Town Meeting) (Revised April 26, 2000 Special Town meeting)**

The following uses are permitted in PDDB:

1. Agriculture and timber harvesting
2. Equine and equestrian uses (whether public, semi-public, private, commercial, non-profit, or otherwise), including, without limitation, horseback riding, horse-drawn sleighs and wagons, indoor and outdoor riding arenas, and therapeutic riding centers
3. Greenhouses and nurseries (whether commercial, non-profit or otherwise)
4. Gardens
5. Landscaping operations
6. Outdoor recreation and related facilities, including, without limitation, cross-country skiing trails and hiking trails (whether public, semi-public, private, commercial, non-profit or otherwise)
7. Residential facilities and dwellings housing proprietors, employees, managers, and agents and their family members or others in connection with services, businesses or other uses permitted in the PDDB (including by way of example and not limitation, residential

facilities for the managers of agricultural operations and equestrian or equine operations), which facilities may include more than four dwelling units in any one building, provided, however, that such facilities and dwellings shall meet the following minimum gross density requirement: 10 acres per dwelling unit

8. Signs
9. Farm stands
10. Animal husbandry and other livestock operations, including, without limitation, meat cutting, but expressly excluding slaughtering of animals.
11. Educational facilities associated with uses permitted in the PDDB (including, by way of example and not limitation, nature centers)
12. Essential Services
13. Uses similar to permitted uses in the PDDB
14. Uses or structures that are accessory to permitted uses in the PDDB
15. On-site disposal of construction and demolition waste materials resulting from construction, remodeling, repair or demolition of existing buildings and accessory structures located within the Pineland Development Districts provided that such disposal is part of the capping and closure of land fills or dumps located within the PDDB and provided further that such disposal is approved by the Maine Department of Environmental Protection under the Maine Solid Waste Management Rules, to the extent such rules require approval

The following uses are permitted in PDDC

1. Agriculture, including gardens, farm stands, and accessory greenhouses and timber harvesting
2. Equine and equestrian uses (whether public, semi-public, private, commercial, non-profit, or otherwise), including, without limitation, horseback riding, horse-drawn sleighs and wagons.
3. Outdoor recreation and related facilities, including, without limitation, all-season pedestrian, bicycling, equestrian, cross-country skiing and hiking trails (whether public, semi-public, private, commercial, non-profit, or otherwise)
4. Signs
5. Animal husbandry and other livestock operations but expressly excluding meat cutting and slaughtering of animals.
6. Essential Services
7. Uses or structures that are accessory to permitted uses in PDDC

The following uses are subject to Site Plan Review in PDDA:

1. Hotels and motels
2. Bed and breakfast establishments
3. Inns
4. Private and public assembly and outdoor public assembly facilities (such as facilities for outdoor musical performances and other entertainment)
5. Single family dwellings in existing buildings, except that this shall not be construed as requiring site plan review for the uses described as permitted uses in the PDDA
6. Multi-family dwellings in existing buildings, except that this shall not be construed as requiring site plan review for the uses described as permitted uses in the PDDA
7. New single family dwellings, subject to all requirements of the Rural Residential (RR) District (other than road frontage) and applicable performance standards to said RR district and performance standard E 2. below, except that this shall not be construed as requiring

- site plan review for the uses described as permitted uses in the PDDA or as rendering the performance standards of the RR district applicable to such permitted uses
8. New multi-family dwellings, subject to all requirements of the Rural Residential (RR) District (other than road frontage) and applicable performance standards to said RR district and performance standard E 2. below, except that this shall not be construed as requiring site plan review for the uses described as permitted uses in the PDDA or as rendering the performance standards of the RR district applicable to such permitted uses
 9. Salvaging operations located entirely within enclosed structures and which generate no appreciable noise detectable outside of such structures
 10. Manufacturing other than light industrial uses
 11. Cemeteries
 12. On-site disposal, other than disposal allowed as a permitted use, of construction and demolition waste materials resulting from construction, remodeling, repair or demolition of buildings and accessory structures located within the Pineland Development District if approved by the Maine Department of Environmental Protection under the Maine Solid Waste Management Rules

All other uses are prohibited.

The following uses are permitted subject to Site Plan Review in PDDB

1. Visitor Centers associated with uses permitted in PDDB and PDDC to provide services, products and amenities to visitors of facilities in the Pineland Development Districts.
2. Veterinary facilities, including without limitation the practice of veterinary medicine, training and education.
3. Agricultural product and food processing, including without limitation the processing of dairy products.
4. Dormitories used in conjunction with the uses permitted in the PDDB and PDDC.

The following uses are permitted subject to Site Plan Review in PDDC

1. Hotels, including restaurants, public assembly and recreational facilities as accessory uses.
2. Passenger transportation facilities, including rail, vehicular and uses or structures that are accessory to permitted uses in PDDC, excluding Airports.
3. Commercial schools limited to those involving instruction in horseback riding, cross-country skiing, fishing, and other recreational activities permitted within the PDDB and PDDC
4. Educational facilities associated with uses permitted in the PDDB or PDDC (including, by way of example and not limitation, nature centers)
5. Uses similar to permitted uses in the PDDC
6. Residential facilities and dwellings housing proprietors, employees, managers, and agents and their family members or others in connection with services, businesses or other uses permitted in the PDDB or PDDC (including by way of example and not limitation, residential facilities for the managers of agricultural operations and equestrian or equine operations), which facilities may include more than four dwelling units in any one building, provided, however, that such facilities and dwellings shall meet the following minimum gross density requirement: 10 acres per dwelling unit excluding consideration of net residential acreage.
7. Dormitories used in conjunction with the uses permitted in the PDDB and PDDC.

D. Dimensional Requirements

1. Minimum lot size: none, except as otherwise provided in this Section 4.4.11 with respect to certain residential uses in the PDDB
2. Minimum frontage: none
3. Minimum setbacks: none. In PDDC no waiver allowed under 5.1.5.A.1
4. Maximum impervious cover: 50% of lot area in the PDDA and PDDB. PDDC shall not exceed 30%

E. Performance and Review Standards

1. If any other provision of the Zoning Ordinance is inconsistent with the provisions of this Section 4.4.11, the provisions of this Section shall control, and any ambiguity shall be resolved in favor of the application of the provisions of this Section. With respect to the application or interpretation of the Performance Standards of Article Five, the authority reviewing any application for a permit under this zoning ordinance shall give deference to the purpose and intent set forth in Section 4.4.11.A.1.
2. In the PDDA, single family dwellings and multifamily dwellings permitted shall be limited to existing buildings and new buildings, the total combined floor area of which shall not exceed 20 percent of the total floor area of existing buildings, unless otherwise approved by the Planning Board.
3. Proposals to redevelop or reuse any existing buildings in the Pineland Development Districts shall minimize adverse effects on the exterior architectural character and features of existing buildings to the extent practical, but this shall not be construed to preclude the construction of additions to existing buildings.
4. Existing roads, existing parking areas, and existing essential services may be erected, constructed, used, repaired, maintained, altered, improved and replaced without Site Plan Review or application of Article 5 to serve existing buildings, additions to existing buildings and new buildings. New roads, new parking areas, and new essential services may be erected, constructed, used, repaired, maintained, altered, improved and replaced without Site Plan Review or application of Article 5 to serve existing buildings and to serve additions to existing buildings, new buildings and uses not otherwise requiring Site Plan Review. The construction of new roads, new parking areas and new essential services shall be subject to Site Plan Review and the provisions of Article 5 only if such roads, parking areas and essential services serve a use or building requiring Site Plan Review.
5. In the case of permitted uses in existing buildings, no review or other action by any official or officials of the Town shall be required under this Zoning Ordinance, except as provided in Section 6.1.1, Section 6.1.2 and Section 6.1.5 with regard to building permits and certificates of occupancy and no portion of Article 7 or Section 5.1 shall apply except 5.1.17, Section 5.1.19, Section 5.1.25, Section 5.1.30. In the case of permitted uses in existing buildings for which the applicant is seeking a building permit, the applicant may only be required to submit the items or documents set forth in Table 1. Any activity requiring a building permit under Section 6.1.1 shall be reported by the Code Enforcement Officer to the Planning Board, but the applicant shall not be required to obtain Planning Board review or approval for permitted uses in existing buildings. The foregoing reporting requirement shall not be a prerequisite to the issuance or validity of any permit.

6. In the case of (i) permitted uses in new buildings and in additions to existing buildings, provided that the total combined floor area of new buildings and additions then constructed to date does not exceed 30 percent of the total floor area of existing buildings; and (ii) accessory structures or structures related to essential services, regardless of the total combined floor area of new buildings then constructed to date, the Town Planner shall be consulted and provided with copies of plans and specifications for such new buildings, additions or structures, and Section 6.1.1, Section 6.1.2 and Section 6.1.5, and, except as otherwise set forth in this Section 4.4.11, Section 5.1 shall apply. The Town Representatives, by majority decision, shall determine which of the items set forth in Section 7.4 must be submitted by the applicant and may, by majority decision or for any matters waived by general regulation under Section 7.3.1.D, waive any such items. The Town Representatives, by majority decision, shall determine whether the proposed development satisfies the criteria set forth in Section 7.5 and if criteria are satisfied, shall direct the Code Enforcement Officer to issue a building permit. The Town Representatives or a designee selected by a majority of the Town Representatives, shall report on the status of such applications to the Planning Board, but the applicant shall not be required to obtain Planning Board review or approval and such reporting requirement shall not be a prerequisite to the issuance or validity of any permit.
7. In the case of permitted uses in new buildings and in additions to existing buildings, other than accessory structures or structures related to essential services, after the total combined floor area of new buildings and additions to existing buildings exceeds 30 percent of the total floor area of existing buildings, and in the case of uses in any buildings that are permitted with Site Plan Review, no building permit shall be issued until an application for Site Plan Review under Article 7 has been approved, provided that such review shall be limited to a review of the compliance of the new building or addition with the provisions of this Zoning Ordinance, including Article 7 and, except as otherwise set forth in Section 4.4.11, Section 5.1, and the Planning Board shall have no authority to review or approve the proposed use of such new buildings or additions so long as such use is permitted under this Section 4.4.11.
8. Notwithstanding the foregoing, an applicant may elect to request Site Plan Review before construction of any new building, addition to any building, road, parking area or essential service for which Site Plan Review is not required under the provisions of this Section.
9. For the purposes of determining, under subparagraphs 6 and 7 of this Subsection E, whether at any time the total combined floor area of new buildings then constructed to date and additions to existing buildings then constructed to date exceeds 30 percent of the total floor area of existing buildings, floor areas of the following structures shall be excluded from the calculation: (i) barns, greenhouses, maintenance sheds and other structures in connection with any agricultural uses; and (ii) any buildings for which the applicant has obtained Site Plan Review under subparagraph 8 of this Subsection E.
10. Any application for a building permit not subject to Site Plan Review under Article 7 of this Ordinance shall be subject to the provisions of Sections 7.6 and 7.7 regarding outside consulting and fees, and performance guarantees and project inspections. In such case, any reference in said sections to "board or Planning Board" shall be replaced by the following: "any one or more of the Town Representatives".

11. In the PDDA, the noise regulations set forth in the Department of Environmental Protection No Adverse Environmental Effect Standard of the Site Location Law, codified at CMR 375.10 shall apply in place of Section 5.1.
12. If any two of the Town Representatives deem any application described in Subsection E.6 to be of a significant nature, the Town Representatives shall have the right, in their discretion, to hold a project informational meeting at the Meeting House for the purpose of allowing public comment or questions in advance of the issuance of the permit. Town Staff members involved in the review of such application shall attend. The Code Enforcement Officer, at the expense of the applicant and after approval by the applicant of the wording to be used, shall place notice of the meeting in summary form in a newspaper of general circulation in the Town of New Gloucester at least seven (7) days prior to the meeting, the meeting to be held no later than ten (10) business days after the date of the application for the permit. The Code Enforcement Officer is responsible for notifying, at the applicant's expense, individual landowners within 250 feet of the improvement for which the permit is sought. No such meeting may be held if a delay in the grant of a permit may jeopardize use or development of the Pineland Development Districts or where the nature of the permit concerns construction of barns, greenhouses, maintenance sheds or other accessory structures or inconsequential or strictly technical matters for reuse or redevelopment provided that public health, safety, and welfare are protected. The sole purpose of this provision is to provide notice and information to the public regarding the use or development the Pineland Development Districts in connection with the issuance of any building permit for which Site Plan Review is not required under Subsection E.6 and the requirements of this provision shall not bear upon or affect the grant of any permit.
13. If any provision of this Section is declared by a court of competent jurisdiction to be invalid illegal or of no force or effect, such decision shall have no effect on the validity, legality, force or effect of any other provision of this Section.
14. Special Performance Standards for this Ordinance
 - A. The number of rooms in a dormitory in any Pineland sub-district shall be limited to one (1) bed for every three (3) acres of land within each Pineland sub-district, after deduction of the land area (footprint) occupied by buildings.

F. Additional Provisions

Article 8 of this Zoning Ordinance and Sections 3.1.4, 3.1.6, 3.2.2.D, E and F, and 5.1.2 are not applicable in the Pineland Development Districts. **(Approved June 20, 1996 Special Town Meeting) (Revised April 26, 2000 Special Town Meeting)**

Not more frequently than quarterly during each calendar year commencing on the effective date of the adoption of these amendments and continuing through the end of calendar year 2002, the purchaser, or the agent of the purchaser, of the property comprising the Pineland Campus and the PDDB from the State of Maine shall, if requested by any two of the Town Representatives, hold project informational meetings in the Town of New Gloucester for the purposes of providing information on the progress of the development of the PDDA, PDDB and the PDDC, and for the purpose of allowing public comment or questions. The Code Enforcement Officer, at the expense of such property owner and after approval of such property owner of the wording to be used, shall notice the meeting in summary form in a newspaper of general circulation in the Town of New Gloucester at least seven (7) days prior to the meeting.

Conveyance by the State of Maine. The amendments contained herein shall be null and void if the conveyance by the State of Maine pursuant to the Option Agreement dated January 10,2000 does not occur.

TABLE 1

Submittals for Building Permits/Certificate of Occupancy

Application form for building permit, identifying the proposed use.

Plan depicting the proposed improvements.

Identification of location of outdoor storage areas to be used in connection with the portion of the premises for which the permit is sought

Demonstration of compliance with State Plumbing Code

Demonstration of compliance with NFPA Life Safety Code

Demonstration of adequate treatment of sanitary and solid waste

Demonstration of compliance with state or federal regulations or issuance of federal or state permits

(Adopted April 26, 2000 Special Town Meeting; Amended June 11, 2001 Special Town Meeting)

ARTICLE 5

PERFORMANCE STANDARDS

5.1 Townwide Standards

The following minimum standards of performance govern structures, uses and activities within the Town of New Gloucester, including those areas defined as shoreland areas under M.R.S.A., Title 38, Sections 435-447, unless preempted by more restrictive standards in other provisions of this or any other local, state or federal ordinance.

5.1.1 Accessory Apartments - Accessory apartments shall adhere to the following standards. It shall be the responsibility of the property owner to demonstrate to the Planning Board or Code Enforcement Officer, as applicable, that the standards have been met.

- A. The owner of the principal structure must reside in either the principal structure or the accessory unit.
- B. One of the occupants of the accessory unit must be a member of the extended family of the owner of the principal structure. Extended family shall include father, mother, son, daughter, sister, brother, grandparent, aunt and uncle.
- C. The number of occupants of the accessory unit is limited to two.
- D. The accessory unit shall contain up to a maximum of 540 square feet of living space, and shall be limited to no more than (2) two bedrooms.
- E. The septic system on the property in question shall be functioning properly at the time of application for site plan review. In addition, the applicant shall submit a new HHE-200 form as documentation that another area of suitable soils exists on the property to be used for replacement subsurface wastewater disposal system in the event of failure of the original system. A copy of the HHE-200 form shall be recorded at the Cumberland County Registry of Deeds.
- F. The parking requirements of the performance standards contained herein or those of the applicable zoning district apply.
- G. Proper ingress and egress shall be provided to the accessory unit.
- H. Upon approval of the addition of an accessory unit by the Planning Board, or the CEO as applicable, a deed restriction shall be placed on the property in question, and recorded at the Cumberland County Registry of Deeds. The deed restriction shall limit the approval of the accessory unit as a non-market rental subject to the standards of Section 5.1.1.
- I. Should the owners of the principal structure be found in non-compliance with the standards contained in this section, the accessory unit shall be discontinued and the structure shall revert to single-family use.

5.1.2 Access to Lots

- A. All entrance and exit driveways shall be located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.

- B. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.
- C. Where topographic and other conditions allow, provision shall be made for common driveways and for interior connections between adjoining lots of similar existing or potential use. The purpose of such connection is to allow the public to travel between two uses, without the need to travel upon a street.
- D. A lot in non-residential use shall be limited to two 2-way accesses or two 1-way accesses. An additional access may be dedicated for residential use on the same lot. The provision for the additional access shall not apply to home occupations. If site topography, the nature of the non-residential use or the complexity of internal circulation necessitates additional accesses for the non-residential use, additional accesses may be allowed at the discretion of, or required by, the Planning Board pursuant to Site Plan Review. Within the Site Plan Review process, the Planning Board has the authority to review, move and/or close any existing accesses to the lot to maintain or improve public safety. The minimum distance between two non-residential accesses shall be 100 feet. (revised 5/4/96 town meeting)

5.1.3 Affordable Housing Density Bonus

There shall be a density bonus for any development of housing built for the purposes of housing for low or moderate income families or elderly persons including units subsidized by the Federal or State government, as follows: for each such affordable unit built within a subdivision or project, an additional unit may be built, provided that: 1) the total number of units in such development shall not exceed the maximum allowable density otherwise permitted by this ordinance by more than ten percent (10%) and 2) adequate wastewater treatment can be provided to the site without causing groundwater pollution according to the standards contained in Section 4.4.7 of this ordinance.

To obtain the density bonus described herein, the developer must show:

1. evidence that sales or rents will be meet the criteria for affordability established in Article 2 of this Ordinance; and
2. that future sales or rents will be maintained as affordable.

When a development is in the Receiving Zone and involves the transfer of development rights, the TDR Density Bonus shall be applied first. The affordable housing density bonus shall then be applied to the allowed density after the transfer of development rights. [Amended 12/14/2004 Special Town Meeting]

5.1.4 Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the Soil Testing Handbook for professional Agriculturalists; Second Edition 1989.

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance, all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the five (5) year period.
3. Agriculture activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies nor; within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provision, may continue provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

5.1.5 Buffers and Landscaped Areas

- A. No nonresidential building shall be erected or any nonresidential use permitted which abuts a residential use unless the following side and rear yard requirements are satisfied:
 1. All such side and rear yards abutting residential uses shall maintain the site boundary in its natural state to provide a visual screen between the two types of uses of at least 50 feet unless waived by the Planning Board.
 2. Where no natural buffering exists, all such side and rear yards abutting residential uses shall be landscaped to provide a visual screen between the two types of uses. Because of varying site conditions, landscaping for the purposes of this section may include tree plantings, hedges, fencing, walling and combinations thereof.
- B. In addition to the requirements for buffers where non-residential uses meet residential uses, buffers shall be required for the following areas and purposes:

1. along property lines, to shield incompatible uses from each other.
2. parking areas, garbage collection areas and loading and unloading areas.
3. around property boundaries of all parking areas, and at representative points throughout large parking lots.

C. Guidelines for Buffers and Landscaped Areas

1. Natural buffers shall be preserved wherever possible to provide a buffer between the proposed development and noncompatible abutting properties and public roadways. When natural features, such as topography, gullies, stands of trees, shrubbing and/or rock outcrops do not exist or are insufficient to screen structures and uses from the view of noncompatible abutting properties and public roadways, other types of buffers shall be provided to supplement the existing features.
2. Fencing and screening shall be durable and properly maintained at all times by the owner. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
3. All buffers that contain vegetation shall provide for a variety and mixture of landscaping. The variety should consider susceptibility to disease, hardiness for specific site location, colors, season, textures, shapes, sizes, blossoms and foliage.
4. Unless otherwise indicated by the Planning Board, all plant materials required by the Planning Board under this Ordinance shall meet the following minimum size standards:

<u>Type</u>	<u>Size</u>
Canopy Tree	
Single Stem	2 1/3 - 3 inch caliper
Multi-stem Clump	10 feet (height)
Understory Tree	1 1/2 - 2 inch caliper
Evergreen Tree	5-7 feet (height)
<u>Shrub</u>	
Deciduous	24 inches
Evergreen	18 inches

D. Maintenance of Buffer Areas

1. All landscaped buffer areas shall be maintained in a healthy, neat and attractive condition by the owner. Maintenance shall include, but not be limited to, watering, fertilizing, weeding, cleaning, pruning, trimming, spraying and cultivating.
2. Vegetation which dies shall be replaced as quickly as possible and within one growing

season. Replacement plantings shall conform to the original intent of the landscape design.

5.1.6 Campgrounds

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

- A. Each campground shall contain a minimum of 5 acres.
- B. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.
- C. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:
 - 1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways, wetlands or submerged lands, not to exceed 8 units per acre of land.
 - 2. In addition to the above, a minimum of 200 sq. ft. of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. The campground shall also provide one (1) parking space for each employee and one (1) visitors' parking space for every four (4) camping sites. These spaces shall be a minimum of 200 square feet plus maneuvering space.
- D. Recreational vehicle and tenting areas without approved water-carried sewage facilities shall meet the following criteria:
 - 1. A minimum of 20,000 sq. ft., not including roads and driveways, shall be provided for each recreational vehicle, tent or shelter site. The parking requirements of Article 5 shall be adhered to.
- E. Campgrounds shall be operated strictly on a seasonal basis. They shall not be open for business, nor shall they be occupied other than for the use of the owner or the owner's relatives before May 1 or after November 1.
- F. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet, horizontal distance, from the normal high water elevation of any water body.
- G. All campgrounds shall be screened from adjacent land areas and from adjacent road frontage by a continuous landscaped area not less than 100 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

5.1.7 OPEN SPACE SUBDIVISIONS

A. Open Space Subdivisions

- 1. Policy

It is the policy of the Town of New Gloucester to encourage the use of open space subdivisions in order to preserve a sense of space, provide for sustainable agriculture and forestry as well as recreational land, preserve other resources identified in the Town of New Gloucester Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural, rural and village landscapes of the Town.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road frontage requirements and by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this Zoning Ordinance and the Subdivision Regulations if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

2. Purposes

To qualify as an open space subdivision, a subdivision must achieve those of the following purposes that are applicable to its specific circumstances:

- a. Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan, the Subdivision Regulations, and the Zoning Ordinance including but not limited to:
 - 1) State-defined critical areas, and unique natural features located on the parcel to be subdivided such as the black gum trees, the sink hole, and the red pines;
 - 2) Historic land use patterns and historic structures;
 - 3) Points of visual access to or from water bodies, scenic vistas, and points of access to water bodies;
 - 4) Contiguous stands of mature trees;
- b. Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as defined by the Comprehensive Plan;
- c. Provision of adequate buffers for adjoining properties where needed;
- d. Contribution to Town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the Town, and by encouraging linkages between open space areas;

- e. Conservation of land suitable or actively used for agriculture and forestry uses, particularly where the open space subdivision borders active agricultural or forestry land or land suitable for the same;
- f. Conservation of traditional land uses;
- g. Creation of choices in the type of environment (business or residential) and type of housing available that will be a long-term asset to New Gloucester;
- h. Construction of affordable housing;
- i. Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard; and
- j. Attainment of planned variety and coordination in the location of structures, architectural styles, and building forms and relationships.

3. Types of Open Space Subdivisions

There are two types of open space subdivisions, which may be used separately or in combination:

a. Cluster Subdivisions.

A cluster subdivision achieves the purposes of this performance standard by reducing the lot size and frontage and setback requirements in the Zoning Ordinance, modifying the road design standards contained in the Subdivision Regulations, and clustering housing or business structures and uses in those areas where they will have the least impact on identified environmental and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions and/or conservation easements that run with the land. The cluster principle can be applied to subdivisions of any size.

b. Conservation Density Subdivisions.

A conservation density subdivision achieves the purposes of this performance standard through the creation of significantly lower lot densities than what would be allowed in the applicable zoning district. In no event may the density of such a subdivision average less than ten (10) acres, including the land placed in open space for the parcel or portion of the parcel to be developed. This low density is maintained in perpetuity through the use of permanent conservation easements or covenants and restrictions running with the land. To encourage the establishment of these permanent low densities, the Planning Board may expedite the review process, provided that certain conditions are met.

4. Grouping Contiguous Parcels

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping will benefit the Town and will help to achieve the purposes set forth in subparagraph A.2.a-j.

B. Planning Board Review

An individual may apply for approval of an open-space subdivision either after pre-application review of a conventional subdivision or by initially filing an application for an open space subdivision. In either case, the Planning Board shall review the application in accordance with the Subdivision Regulations as modified by the provisions of this performance standard.

1. Pre-application Procedure

- a. Any applicant for an open space subdivision including a multiplex development is encouraged but not required to submit at the pre-application stage, a complete build-out plan for the entire parcel.
- b. After review of the pre-application, if the Planning Board determines that an open space subdivision may meet the purposes set forth in subparagraph A.2.a-j. that are applicable to the proposed subdivision as well as other applicable provisions of this performance standard, this Zoning Ordinance, the Subdivision Regulations, and the Comprehensive Plan, the Board shall encourage or permit, as appropriate, the applicant may proceed with an application for an open space subdivision.
- c. If a complete build-out plan for the parcel has been submitted, the Planning Board shall encourage, if appropriate, consideration of long-range planning to make the most effective use of the design standards and timing mechanisms available to accomplish the purposes set forth in subparagraph A.2.a-j. and to maximize the economic benefits to the applicant and the Town over time.
- d. In order to determine the maximum number of lots which would be allowed in a cluster subdivision, the applicant shall submit a sketch plan showing the number and location of lots realistically achievable with a standard subdivision given the parcel's topographic and environmental characteristics. In the event the planning board feels the sketch plan does not realistically portray on site conditions, a revised sketch based upon the accurate location of on site wetland areas of soils suitable for septic systems, topographical constraints, and other such conditions may be required.

2. Application Procedure

a. Required Plans

The submissions for an open space subdivision shall include, as appropriate unless any of the same are waived, all plans and materials required for a conventional subdivision under the Subdivision Regulations and for Site Plan Review under Article 7 of this Zoning Ordinance.

b. Waiver of Submission and Review Requirements

The Planning Board may grant appropriate waivers of submission requirements for an open space subdivision in order to expedite and make more efficient the review process where the number of lots proposed for development in a parcel, is five or fewer within any five-year period, or the proposed open space subdivision is a conservation density subdivision.

C. General Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Zoning Ordinance or the Subdivision Regulations:

1. Use and District Requirements

All open space subdivisions shall meet the use standards of the Districts in which they are located.

2. Allowable Density

- a. Except as modified in section C.2.g below, in the case of a proposed development of five or fewer lots within any five-year period of a parcel of land under one ownership or a grouping of contiguous parcels as described in section A.4. above, the allowable density shall be determined by the gross lot area of the portion of each parcel proposed for development without reference to net residential acreage, divided by the minimum lot size of the applicable district without reference to net residential acreage.
- b. Nothing in this performance standard shall prevent this performance standard from applying to a development consisting of a single lot where the purposes set forth in subparagraph A.2.a-j. will be served and which may provide effective long range planning for a larger parcel of land, than sought to be developed, when used in conjunction with the flexible open space and substitution, timing, or phasing provisions of this performance standard. In such cases, sufficient open space to accommodate the single lot shall be permanently preserved as set forth in subparagraph 5.1.7.D. below.
- c. Except as provided in subparagraph C.2.a. above, allowable density shall be based on net residential density, and shall be calculated in the following manner: 1) Determine the buildable area of the parcel according to the definition of "net residential area" contained in Article 2; then 2) for single-family and multi-family cluster developments,

divide the net residential area by the minimum lot size required in the District to obtain the net residential density allowable.

- d. A lot for a dwelling unit created as part of an open space subdivision shall not be further subdivided.
- e. A lot for a dwelling unit created as part of an open space subdivision where such lot shall have within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.
- f. The affordable housing density bonus provision contained in Paragraph 5.1.3 of the performance standards shall also apply within clustered residential projects.
- g. In a conservation density subdivision, where all other requirements of this performance standard are met, the Planning Board may include up to 50% of land in Resource Protection zones and wetland areas for purposes of calculating density.
- h. The TDR Density Bonus contained in Article 9 shall also apply within clustered residential subdivisions. [Amended 12/14/2004 Special Town Meeting]

3. Layout and Siting Standards

In planning the location and siting of residential or business structures in an open space subdivision, lot dimension and frontage should not be the primary considerations. Priority should be given to the preservation of the open space for its natural resource value, with human habitation and business activity located and sited on the lower valued natural resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residences and business structures shall be sited so as to maximize the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

- a. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved.
- b. In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways.
- c. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;

- d. In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
- e. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development;
- f. In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the District;
- g. In locations such that diversity and originality in lot layout and individual building, street, parking layout is encouraged.
- h. So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, to improve the view from and of buildings.

4. Space Standards

- a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the zoning district.
- b. Distances between residential structures in multi-family cluster or conservation density developments shall be a minimum of the height of the tallest structure.
- c. The required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in cluster or conservation density subdivision developments to no less than one-half acre. If in either a single family or multi-family cluster development the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the zoning district as modified, if any, by subparagraph C.2. above of this performance standard.
- d. Minimum road frontage requirements of the Zoning Ordinance and Subdivision Regulations may be waived or modified by the Planning Board provided that:
 - (1) Any applicable provisions regarding Roads in subparagraph C.6. below are satisfied; and,
 - (2) Adequate access and turnaround to and from all parcels by fire trucks, ambulances,

police cars and other emergency vehicles can be ensured by private roads and /or common driveways; and,

- (3) No common driveway shall provide access to more than three (3) lots, except as provided in C.6. below; and,
 - (4) For conservation density subdivisions, the maximum number of lots with frontage or direct access on an existing public road shall be determined by dividing total available public road frontage by the minimum frontage in the applicable district.
 - (5) For cluster subdivisions, not more than two lots with frontage or direct access on an existing public road may be created.
 - (6) Any limitations on future development created by the use of the provisions of paragraphs (4) or (5), above shall be so noted as a restriction on the deed of the property from which such lots are derived and recorded in the Cumberland County Registry of Deeds.
- e. A reduction of required setback distances may be allowed at the discretion of the Board, provided that the front, side and rear setbacks shall be no less than twenty-five feet or that required for the applicable zoning district, whichever shall be less. For the perimeter of a multi-family cluster development, site setback shall not be reduced below the minimum front, side and rear setbacks required in the zoning district unless the Planning Board determines a more effective design of the project can better accomplish the purposes of this performance standard.

5. Utilities

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located on designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for open space subdivision.

- a. The Planning Board may waive or modify hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
 - (1) adequate groundwater is available at all locations proposed for individual water systems; and that
 - (2) there is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 5mg/l of nitrates.

This waiver shall not be available for cluster subdivisions that include the transfer of development rights pursuant to Article 9. [Amended 12/14/2004 Special Town Meeting]

Notwithstanding other provisions of this Zoning Ordinance or the Subdivision Regulations, the Planning Board may determine contaminant concentration in groundwater at only the subdivision boundary line of an open space subdivision meeting the other requirements of this performance standard, from a potential contaminant source, without reference to interior lot lines or points 1000' from such source.

- b. If a private collection septic system is proposed for a single family clustered development or a multiplex cluster development, the applicant must show either that at least one (1) designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Main State Plumbing Code, and that a second designated site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed.
- c. If a private central collection system is proposed, the system shall be maintained by an homeowners association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by an HOA or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board.

6. Roads

The Planning Board may grant a modification to otherwise applicable private road design standards and specifications and approve private roads or rights of way and/or common driveways to provide access to lots in open space subdivisions provided that:

- a. The maximum number of lots within the subdivision using the private road or way shall be ten (10).
- b. The applicant shall submit to the Planning Board as part of the application for approval, a registered professional engineer's plan and profile of the proposed road, including all information required in section 12 of the subdivision regulations.
- c. The subdivision plan shall show the road clearly labeled "private road."
- d. Whenever possible and as far as practicable the roads and common driveways shall:
 - (1) Follow natural contours in an effort to limit phosphorous export;
 - (2) Be limited in width, curvilinear in design, and without suburban or commercial sprawl to keep within the rural character of the Town;
 - (3) Shall turn away from the front access to public roads.

D. OPEN SPACE REQUIREMENTS

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Zoning Ordinance or the Subdivision Regulations.

Open space set aside in a cluster subdivision or a conservation density subdivision shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same, or where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to subparagraph D.3. below and provided that the Planning Board approves such configuration of the open space.

1. Open Space Uses

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- a. On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as forestry, recreation (active or passive), and resource conservation.
- b. When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
- c. Open space areas, shall be contiguous, where possible, to allow linking of open space areas throughout the Town.
- d. If the open space is to be devoted, at least in part to a productive land use, such as agriculture or forestry, the developer shall submit to the Planning Board a plan of how such use is to be fostered in the future. Such plan may include, for example, a long term timber management plan.
- e. The use of any open space may be limited by the Planning Board at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.

- f. Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in subparagraph D.3. below. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval under the site plan review provisions of Article 7 of this Zoning Ordinance and this performance standard.

2. Notations on Plan

Open space must be clearly labeled on the Final Plan as to its, use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, is subject to a reservation for future development, including those provisions allowed under subparagraph D.5. and 6. below, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

3. Preservation in Perpetuity

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in subparagraph A.2.a-j. are achieved and all other requirements of this performance standard are met subject to the following conditions:

- a. A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the open space plan.
- b. The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the Town, with the approval of the Board of Selectmen, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.
- c. Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.
- d. The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of New Gloucester if the Town is not the holder of the conservation easement or beneficiary of the declarations.
- e. The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use.

- f. The conservation easement or declarations shall be recorded in the Cumberland County Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision final plan in the Cumberland County Registry of Deeds.
- g. Notwithstanding the foregoing, the conservation easement, or the declaration of covenants and restrictions, may allow dwellings to be constructed on portions of parcels that include protected open space land, provided that:
 - (1) The total number of dwellings permitted by the conservation easement, or declaration of covenants and restrictions, in the entire subdivision does not exceed the allowable density established in this performance standard above;
 - (2) The Planning Board grants approval for such lots; and,
 - (3) The applicant has reserved the right to apply for approval for such additional lots.

4. Ownership of Open Space Land

Open space land may be held in private ownership (which is to be preferred) including an appropriate third party not the applicant; or owned in common by a homeowner's association (HOA); dedicated to the Town, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in subparagraph A.2.a.-j. and under the other requirements of this Zoning Ordinance and the Subdivision Regulations.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to subparagraph D.1. above. Unless so determined, or unless deeded to the Town of New Gloucester and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

5. Flexible Open Space and Substitution; Phasing

An applicant for an open space subdivision may at a future time designate other land to serve as the open space for such subdivision if the Planning Board finds that the purposes set forth in subparagraph A.2.a.-j. will better be served by promoting a more innovative design and layout of lots created over time in relation to the area(s) designated as open space if all other requirements under this performance standard may be met and such substitution is specifically allowed in any documentation associated with the open space, conservation easement, or homeowners association. Development that is phased over time, including a schedule over time for either sale of lots or layout of further lots as part of the open space subdivision plan, is encouraged so that more appropriate design of land use and

preservation of greater open space may be achieved.

6. Maintenance Standards

Maintenance standards for open space land, where appropriate, shall be in accordance with other requirements of this Zoning Ordinance and Subdivision Regulations.

5.1.8 Erosion and Sedimentation Control

- A. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such manner as to prevent, to the maximum extent possible, erosion and sedimentation of surface waters.
- B. On slopes greater than twenty-five percent (25%), there shall be no grading or filling within 130 feet, horizontally measured, of the normal high water mark of any pond, river, stream, brook or wetland except where filling or grading is necessary to protect the shoreline and prevent erosion.
- C. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
- D. Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- E. The disturbed area and the duration of exposure shall be kept to a practical minimum and disturbed soils shall be stabilized as quickly as is practicable.
- F. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
- G. The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
- H. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
- I. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- J. It is the responsibility of any person creating any disturbance, whether from development or vehicular travel, on or across a communal stream, watercourse or scale or upon the floodway or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, scale, floodway or right-of-way during the duration of such activity and to return

it to its original or equal condition after such activity is completed.

- K. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

5.1.9 **Flood Hazard Areas**

In all flood hazard areas as identified by the Federal Emergency Management Agency Flood Insurance Rate Maps, all development, including modifications to existing structures shall conform to the requirements of the New Gloucester Floodplain Management Ordinance dated June, 1987 as amended.

5.1.10 **Home Occupations**

Home occupations shall be accessory to a residential use and clearly incidental and secondary to the residential use of the dwelling unit. A home occupation permit must be obtained from the Code Enforcement Officer before such activity commences. Such permit shall be issued only upon compliance with the following requirements:

- A. No more than two (2) persons other than the residents occupying such dwelling shall be employed.
- B. The home occupation shall be incidental and subordinate to the property's use for residential purposes, and shall occupy not more than 25% of the total floor area of the dwelling unit.
- C. The occupation may use one accessory structure. The floor area utilized in the accessory structure shall not exceed 33% of the total floor area of the dwelling unit in the Village District and 50% in all other districts.
- D. In no way shall the appearance of the structure be altered or the occupation be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, or the emission of sounds, noises, smoke, dust, glare, odors, electrical interference, heat or vibrations.
- E. Exterior storage of materials or goods, and any exterior display, with the exception of one nonilluminated sign not exceeding four square feet is prohibited.
- F. No traffic shall be generated by such home occupation that would be considered incompatible in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- G. Provisions must be made for adequate off street parking requirements based on the maximum number of users that the home occupation may attract during peak operating hours, the vehicles of any outside employees, and parking to meet the normal requirements of the dwelling unit.

- H. Evidence shall be provided that the subsurface disposal system on the site can accommodate the wastewater generated by the home occupation.
- I. Any automobile repair or automobile body repair business sought to be allowed as a home occupation shall be subject to Site Plan Review, and the Best Management Practices Plan of Section 4.4.8.J.3 and allowed only in the Rural Residential and Farm and Forest Districts.

5.1.11 Housing for the Elderly

A. Density

1. Nursing Home: the number of beds shall not exceed twenty (20) beds per net residential acre. Net residential acreage shall be calculated in accordance with the formula contained in the "net residential acreage" definition in Article 2.
2. All other forms of attached or detached elderly housing that fall within the definition of "Housing for the Elderly" in Article 2 of the ordinance, shall not exceed 5 one bedroom units per net residential acre. If units with more than one bedroom are proposed, density shall be determined according to the formula contained in the minimum lot size law, M.R.S.A. Title 12, Section 4807-A. 2. In any case, the maximum number of one- or two-bedroom units in any development shall not exceed twenty (20) units and the maximum number of beds shall not exceed forty (40).
3. Attached housing shall contain no more than twenty-five (25) units per building.

B. Site Requirements

1. Minimum lot size: The minimum lot area for housing for the elderly shall be two (2) acres except in Farm and Forest District where it shall be five (5) acres. The intention of this provision is to allow, where feasible, the conversion of existing housing and/or other structures in the Town.
2. There shall not be a maximum lot area that is required to be devoted to Housing for the Elderly but density requirements shall be met.
3. Minimum lot frontage shall be 300 feet, and minimum setbacks and impervious surface limitations shall be determined by the requirements of the underlying zoning district.
4. Required Open Space: At least 25% of the gross site acreage shall be devoted to unpaved, nonvehicular open space, usable for passive recreation purposes.
5. A landscaping plan, including planting locations and details shall be included as part of the project's site plan.

C. Elderly Household Occupancy Guarantee

Any development falling under the definition of "housing for the elderly" shall be restricted to occupancy by elderly individuals or households, unless federal or state grant conditions require that a portion of the units be occupied by non-elderly, handicapped persons. This requirement shall be an automatic condition of approval and shall be included in every resident's written agreement by which residents occupy the units in the development.

D. Community Impact Statement

All applications for housing for the elderly projects shall include an analysis identifying the impacts that the proposed development is expected to have on community facilities and services and demonstrate that all new demands upon facilities and services by a proposed project shall be adequately met by the applicant.

E. Conversion of Housing for the Elderly Facilities

Any housing for the elderly facility that is converted to any other use shall meet the density standards of the existing ordinances in place at the time of the conversion and shall also be subject to site plan review and approval by the Planning Board.

F. Reserved Units

The Planning Board may require that a housing for the elderly project give a priority to New Gloucester residents or immediate family members thereof on any waiting list for entrance to the proposed facility.

5.1.12 Junk Yards and Automobile Graveyards

Before granting approval for a junk yard or automobile graveyard, the Planning Board shall find that the following conditions have been met:

- A. The proposed use is shown to have no detrimental effect on adjacent land uses.
- B. The proposed operation is not visible from a public road or street due to setbacks, fencing and landscaping prescribed in C and D below.
- C. Minimum front yard setbacks of 150 feet from any abutting public or private ways and 100 feet from any side and rear property lines have been established and maintained.
- D. The proposed junkyard or automobile graveyard shall be entirely enclosed by a solid wall or fence with access only through solid gates, and such fence or wall shall be kept in good repair and neatly painted. Fencing may be supplemented by or replaced with landscaping provided that the landscaped buffer is not less than 100 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

- E. The contents of the proposed junkyard or automobile graveyard shall not be placed higher than the fence, wall, or landscaped buffer herein required.
- F. Automobile batteries shall be removed and all fluids such as oil, transmission fluid, and brake fluid shall be drained from vehicles that are being stored. A system of containment shall be utilized to collect such fluids, and fluids shall be properly disposed of or recycled. State law prohibits the disposal of these substances into septic systems or leach fields.
- G. The proposed junkyard or automobile graveyard is in conformance with this Ordinance and any other ordinances of the Town of New Gloucester pertaining to the protection of the quality of surface and ground water.

5.1.13 **Lighting**

Exterior lighting shall be used to serve security, safety and operational needs, but shall not directly or indirectly produce deleterious effects on abutting properties and shall not 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.

5.1.14 **Manufactured Housing**

The following standards, except where noted, shall apply to all manufactured housing.

- A. All bulk and space standards of the appropriate zoning district shall be met.
- B. Wheels on the undercarriage shall be removed and the Manufactured Home shall be placed on a concrete pad (slab on grade) or on a permanent and continuous masonry foundation securely fastened upon said foundation or pad. Foundations shall be either poured concrete or building blocks bonded together on a sufficient footing and extend at least below the frost line. The foundation shall be around the entire perimeter of the mobile home, may contain suitable openings for ventilation not to exceed 32" X 16" in area, except that opening for windows or doors in said foundation may be of larger size. (passed 1/2/90 special town meeting)
- C. The manufactured home shall have at least one (1) egress window in each bedroom, except for bedrooms that have an exterior door.
- D. The manufactured home shall have at least two (2) exterior doors. Such doors shall be fully operable.
- E. At least one (1) smoke detector shall be installed on or near the ceiling areas within or giving access to bedrooms. The make and model of the smoke detector must be one which has been approved by the State Fire Marshall and is UL (Underwriters Laboratory) approved.
- F. The manufactured home must be mechanically sound and structurally safe. There shall be no weaknesses or defects in the manufactured home affecting the health and safety, or the

potential health and safety, of its occupants and their guests.

5.1.14.1 **Mobile Home Parks** (passed 1/2/90 special town meeting)

The following standards, except where noted, shall apply to all mobile home parks:

A. Design Standards

1. The lots within any mobile home park shall not all be of the same size and shape if mobile homes of different sizes are to be accommodated and if effective use is to be made of the available space.
2. Placement of mobile homes within a park which appear to be perpendicular to a public road outside of the park is prohibited.
3. The site, including mobile home stand, patio, structures, and all site improvements shall be harmoniously and efficiently organized in relation to topography, the shape of the lot and the shape, size and position of structures. Full attention shall be paid to use, appearance and liveability. Special attention shall be given to new mobile home designs and to common appurtenances that are available.
4. The site shall provide for a desirable residential environment which is an asset to the community. Innovative and imaginative designs shall be encouraged.

B. Buffer Strips

1. If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designated with a continuous landscaped area not less than fifty feet in width which shall contain no structures or streets. The first twenty-five feet of buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, trees, fences, walls, berms or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.
2. Further, no structures, streets or utilities shall be placed in the buffer strip except that utilities may cross a buffer strip to provide services to the park.
3. The buffer strip shall comply with the standards of Article 5 as applicable.

C. Water Quality

1. No mobile home park development shall increase the nitrate nitrogen concentrations at the property line of any mobile home park or any mobile home park lot with its own well to a level in excess of 5 milligrams per liter of water.
2. There shall be no application of de-icing chemicals throughout park streets and ways

except sand with a salt content of no more than 5% except by municipal authority in the event such roads are accepted by the Town. Any salt concentration shall be no greater than that absolutely required under the prevailing conditions.

3. The planning may require chamber or peat septic systems to be used as well as reserve sites to assure replacement in the event of septic system failure.

D. Road design, Circulation, and Traffic Impacts.

1. Roads within mobile home parks which are to be offered for acceptance to the community shall meet the minimum road standards of the subdivision regulations of the Town of New Gloucester.
2. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to the requirements described below. Where the road standards duly promulgated by the State Manufactured Housing Board conflict with the standards described below, the Manufactured Housing Board's standards shall apply.
3. The street system of a mobile home park shall intersect with a public street.
4. Mobile home park roads which intersect with a public street shall meet the intersection requirements of the Subdivision Regulations of the Town of New Gloucester.
5. Mobile home lots shall have vehicular access only to an interior road created for the mobile home park.
6. Right-of-Way and Pavement Width
 - a. Privately owned roads within the park shall have a minimum right-of-way of 23 feet and the Planning Board may require a minimum paved surface of 20 feet. The minimum paved width of a one-way road shall be 14 feet. On-street parking shall be prohibited along 14-foot, one-way streets and 20-foot two-way streets.
 - b. parking lanes shall be a minimum of 8 feet in width, if provided.
 - c. Cul-de-sac turnarounds shall have a minimum radius of 50 feet at the outer edge of the pavement, exclusive of any parking areas.
7. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
8. No individual lot within a park shall have direct vehicular access onto an existing public street.

9. The intersection of any street within a park and an existing public street shall meet the following standards.
 - a. Angle of intersection. The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
 - b. Maximum grade within 75 feet of intersection. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 - c. Minimum Sight Distance. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/2 feet.
10. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

E. Open Space

1. For mobile home parks served by a public sewer, an area amounting to 10% of the total area devoted to individual lots shall be set aside for open space and/or recreation, if required by the Planning Board. Such space shall be accessible to and useable by all residents of the park. Parking spaces, driveways and streets and buffer areas are not considered useable open space, (but community recreation buildings, common storage facilities, pools and outdoor recreational facilities are considered as open space).
2. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted.
3. The developer shall submit, as part of the application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.
4. Open space shall be maintained and used for its stated purpose.

F. Parking

1. For each mobile home lot there shall be provided an maintained at least 2 off-street parking spaces. Each parking space shall contain minimum dimensions of 9 feet by 18 feet.

2. In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of 1 space for each 4 mobile home lots. Such parking spaces shall be reserved for that sole use. This requirement may be waived by the Planning Board if a parking lane is provided and will accommodate all required spaces.

G. Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules, regulations and codes.

Electrical utilities and telephone lines may be located above ground.

Septic systems shall be designed, constructed, and maintained in accordance with state and local laws. Centralized septic systems shall be limited to a maximum of four dwelling units.

H. Sidewalks/walkways

The mobile home park shall contain pedestrian walkways between all units and all service and recreational facilities. Such walkways shall be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is widened accordingly. Walkways shall be a minimum of 3 feet.

I. Lighting

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways.

J. Signs

The following signs shall be permitted: One 12 square foot maximum identification sign at the entrance road for each entrance, which sign may be indirectly lighted; backlit or flashing illumination shall be prohibited.

K. Storage

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

L. Park Administration

The owner and operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites including supervision of each mobile home's placement on its mobile home stand. Park management shall conform to state laws.

Park management shall ensure that the park is kept free of litter, rubbish and other flammable

materials and shall provide for centralized locations for transfer of solid waste. Portable fire extinguishers rated for Classes A, B, and C fires shall be kept in community facility buildings and maintained in good operating condition. Their ratings shall not be less 1A10BC (Underwriter's Laboratory Rating). Smoke alarms shall also be provided in said buildings and shall have approval by the State Fire Marshall's office and shall be rated as UL approved (Underwriter's laboratory).

Park management shall also provide for snow removal on park roads including emergency areas, adequate water supply or reservoirs for fire protections, and school bus stations and structures.

Compliance with this ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state and federal codes and regulations.

M. Responsibilities of Park Occupant

1. The park occupant shall comply with all applicable requirements of this ordinance and shall maintain their mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
2. The park occupant shall be responsible for proper placement of their mobile home and accessory structures on its mobile home stand and proper installation of all utility connections in accordance with the instructions of the park management and State and Town regulations and codes.

N. Inspections of Mobile Home Parks and Permits

1. The Code Enforcement Officer or his agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this Ordinance and shall have the power to enter at a reasonable time upon any mobile home park property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance.
2. It shall be the duty of park management to give access to the park register and to all lots during normal business hours to the Code Enforcement Officer or his agent for the purpose of inspection.
3. Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that certain action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provision of this Ordinance, such order shall be effective immediately. Any per to whom such an order is directed shall comply immediately, but shall be afforded an opportunity to appeal the decision or action of the Code Enforcement Officer under the provisions for appeals contained in Section 6.3.2 of this Ordinance. The provisions of this Ordinance shall be applicable to such hearing and the order issued thereafter.

4. A building permit shall be required for each manufactured housing unit placed in a mobile home park. The Code Enforcement Officer shall review permit applications and inspect the premises to determine that the same complies ;with this ordinance and any other applicable codes and ordinances relative to location, construction, arrangement, safety, and sanitary facilities of the unit. (passed 1/2/90 special town meeting)

5.1.15 Multiplex Development

The construction of any new multi-family dwelling or the conversion of an existing single-family or two-family dwelling into a multi-family dwelling shall be done in accordance with the following standards:

1. The number of dwelling units permitted on the site shall be determined by dividing the net residential acreage by the minimum lot area required per dwelling unit.
2. Multi-family dwellings in developed areas shall retain and respect the character of the existing neighborhood. This shall include the size and massing of structures, the relationship of buildings to the street and the use and treatment of front yard areas.
3. For new construction, utilities shall either be placed underground or, if above the ground, designed so as to be visually compatible with the overall development.
4. All required yard areas (front, side, rear) shall be retained as open, landscaped areas which are not occupied by buildings, structures, parking lots, storage or similar uses. Access roads, drives, sidewalks and paths may be located in required yard areas.
5. A buffer shall be established between the multi-family housing and any abutting single-family or two-family dwellings. The buffering shall be sufficient to minimize any kind of potential nuisance, such as but not limited to, headlights, noise, storage areas or waste collection and disposal areas. The buffering shall meet the standards established in Section 5.1.5 of this Article.
6. All private access roads shall be located within a 60 foot dedicated right-of-way. No off-street parking shall be located within this right-of-way.
7. At a minimum, 250 square feet of private, outdoor space shall be provided for the individual use of each dwelling unit.
8. At a minimum, 250 square feet of common, outdoor space for each dwelling unit shall be provided by the developer with appropriate recreational facilities. When the multiplex development is a condominium, the construction of recreational facilities may be left to the discretion and expense of an established condominium owners association.
9. All roads that will be dedicated to the Town for public use shall meet the standards for public roads contained in the subdivision regulations. All private roads, drives, or accessways shall

also meet the standards for public roads contained in the subdivision regulations.

10. Parking areas shall be adequately screened according to the standards established in Sections 5.1.5 and 5.1.18 of this Article.

11. Exterior lighting shall meet the standard established in Section 5.1.13 of this Article.

5.1.16 Noise

A. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity shall be limited by the time period and land use district listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary. Where zoning district boundaries meet, the maximum permissible sound pressure level shall be that of the less intensive zoning district.

Sound Pressure Level Limits by type of Zoning District
(Measured in dB (a) scale)

<u>Time Period</u>	<u>Residential & Mixed Use</u>	<u>Commercial</u>	<u>Industrial</u>
6 a.m. - 8 p.m.	55	---	---
8 p.m. - 6 a.m.	45	---	---
6 a.m. - 10 p.m.	---	60	60
10 p.m.- 6 a.m.	---	50	50

B. The levels specified above may be exceeded by 10 d.b.a. for a single fifteen (15) minute period per day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".

C. No person shall engage in construction activities, on a site abutting any residential use between the hours of 8:00 p.m. and 6:00 a.m. which exceed those limits established for residential districts. Otherwise, the following activities shall be exempt from these regulations:

- (1) Sounds emanating from construction and maintenance activities conducted between 6 a.m. and 8 p.m.
- (2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.
- (3) Sounds emanating from traffic on public transportation facilities.

5.1.17 Off-Street Loading

A. In any district where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely off public ways and entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located

for loading or storage upon any public way.

- B. Off-street loading areas shall be logically and conveniently located for bulk pick-ups and deliveries, and accessible to expected vehicles when required off-street parking spaces are filled. Off-street loading space shall not be included as off-street parking space in computation of required off-street parking space.

5.1.18 Off-Street Parking Requirements

A.

1. In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off street automobile parking space within 300 feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements.
 2. Additional parking spaces need not be provided if a proposed change in building occupancy would result in less than a 20% increase in the number of required parking spaces, as determined by the Code Enforcement Officer utilizing the Schedule of Minimum Parking Requirements, compared to the number of existing parking spaces on the site. If the increase in the number of required parking spaces for a proposed change in building occupancy is 20% or greater, all such parking spaces shall be provided unless modified as described in Section 1.2 below. (adopted May 4, 1996 town meeting)
- B. An area of 162 sq. ft., (9 ft. by 18 ft.) exclusive of maneuvering space, shall be considered as one off-street parking space, provided that the Planning Board may prescribe larger required spaces for vehicles other than cars as part of the site plan review process.
 - C. No required parking space shall for the purpose of this Ordinance, serve more than one use.
 - D. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and entrances or exits shall be reasonably limited in width sufficient to accommodate its intended traffic.
 - E. Parking areas with more than two (2) parking spaces shall be so arranged that vehicles can maneuver within such areas and exit onto the street in a forward motion.
 - F. Except for detached single-family dwellings and detached manufactured housing units, no off-street parking or loading areas shall be located in a required front setback area.
 - G. No parking lot shall be constructed closer than five (5) feet from any property line unless a common parking area is planned between lots.
 - H. A system of surface drainage shall be provided in such a way that the water runoff shall not run across any public sidewalk or street.

I. Schedule of Minimum Parking Spaces

Minimum parking requirements shall be calculated according to the following formulas:

<u>Use</u>	<u>Minimum Parking Spaces Required</u>
Single Family Residential	2 per dwelling unit
MultiFamily Residential;	1 per 1000 s.f. of gross area or part thereof
Lodging	1 for each sleeping room in a bed and breakfast establishment, inn, or lodging house, motel or hotel and 1 for each employee on the largest shift
Church	1 per 3 seats or part thereof in principal assembly room
School	1 per 3 seats in principal assembly room or 2 per classroom, whichever is greater
Private club or lodge	1 per 4 members or part thereof
Nursing Homes	1 per 3 beds or thereof and 1 for each employee of the largest average shift
Hospitals	2 per bed
Other Institutions Devoted to Board, Care or Treatment of Persons	1 per 4 beds or part thereof and 1 for each employee on the largest average shift
Medical Clinic; Medical, Research or Testing Laboratories	1 per 500 s.f. of gross floor area or part thereof
Museums; Libraries; Personal Services; Art and Photo Studios	1 per 200 s.f. gross floor area or part thereof
Warehousing; Distribution; Light Industrial; Storage	1 per 1000 s.f. of gross floor area or part thereof
Retail Trade	1 per 300 s.f. of gross floor area of part thereof
Business; Professional; Medical Offices; Telemarketing, Communication and Computer Operations; Governmental Services	1 per 300 s.f. of gross floor area or part thereof

Wholesale Trade	1 per 1000 s.f. of gross floor area or part thereof
Eating, Drinking, Amusement	1 for every 3 seats or part and Recreation Establishments thereof and 1 for each employee
Auto Service Station and Auto Repair Garage	1 for each regular employee plus 1 for each 50 s.f. of floor area or part thereof used for service work
Funeral Homes	1 for every 75 s.f. of floor space or part thereof in parlors and individuals service rooms
Commercial Daycare	1 per 350 s.f. of gross floor area or part thereof
Public Utilities, Truck Facility; Construction and Contractor Services	1 for each employee, based on the largest and average shift plus one for each vehicle used in the conduct of the enterprise
Printing; Laundry; Bakery	1 per 500 s.f. of gross floor area or part thereof
Nursery; Wholesale and Retail Greenhouses	1 per 1000 s.f. of gross floor area of structures or part thereof

- Adequate spaces shall be provided to accommodate residents, customers, patrons and employees of all other uses not specifically listed above. If it is demonstrated that, due to unique or unusual circumstances, a proposed use requires fewer parking spaces than indicated above, a reduction in parking spaces may be approved by the Planning Board pursuant to Site Plan Review. (revised 5/4/96 town meeting)

J. Size of Aisles

The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. One-way traffic shall be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

<u>Parking Angle</u> (degrees)	<u>Aisle Width</u> (feet)
0 (parallel parking)	12
30	12
45	13
60	18
90 (perpendicular parking)	25

K. Landscaping

Required parking and loading spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

L. Parking and Maneuvering Areas

Parking and maneuvering areas shall meet the shoreline setback requirements of the applicable district.

5.1.19 Signs

1. Purpose. The purposes of these standards are to encourage the effective use of signs as a means of communication, to maintain and enhance the aesthetic environment of the Town of New Gloucester, to create and maintain an attractive business climate, to improve and maintain pedestrian and traffic safety and to minimize the possible adverse effect of signs on nearby public and private property.

2. Except as provided below and on Section 3.a-s, no sign may be erected, enlarged, illuminated or substantially altered without a Sign Permit issued by the Code Enforcement Officer after finding that the sign is in accordance with the provisions of this Section.

The Planning Board may, pursuant to Site Plan Review, approve a modification of the provisions of this Section if an applicant can demonstrate to the satisfaction of the Board that, due to special or unique characteristics associated with a particular site, a variation in the size, height, number or location of signs is necessary and furthers the purposes of the application zoning district by more than twenty-five percent (25%).

3. The following types of signs are permitted, except where otherwise prohibited by law, and shall not require a Permit by the Code Enforcement Officer.
 - a. All permanent on-premise signs erected prior to the effective date of this Ordinance (ordinary maintenance and upkeep shall be allowed).
 - b. Any sign approved by the Planning Board, as an element of Site Plan Review, prior to the effective date of this Ordinance or as proposed in a pending application.
 - c. One sign not exceeding two (2) square feet used to display to street number and/or name of the occupants of the premises.
 - d. One non-illuminated, non-internally lit sign not exceeding six (6) square feet used to describe a home occupation.
 - e. One sign not exceeding thirty-two (32) square feet on the premises of public or semi-public buildings, and charitable or religious institutions. These signs may incorporate a bulletin

- board.
- f. Temporary signs displayed for thirty (30) days or less to advertise school, non-profit, civic, church and like events and garage sales, auctions and like events. If such signs are to be displayed for more than thirty (30) days, approval by the Planning Board pursuant to Site Plan Review is required.
 - g. One real estate sign not exceeding sixteen (16) square feet relating to the sale, rental or lease of the premises. Such sign shall be removed within one (1) week after the property transaction.
 - h. One sign each for a building contractor, architect or engineer, each sign shall not exceed sixteen (16) square feet, relating to construction projects. Such sign shall be removed within one (1) week after construction is complete.
 - i. One sign not exceeding thirty-two (32) square feet, identifying the name of a farm.
 - j. Sign(s) not exceeding thirty-two (32) square feet in total describing farm products for sale on the premises.
 - k. Signs erected by growers of fresh fruit and vegetable crops advertising those fresh fruits and vegetable crops when crops are offered for sale on premises where those crops are grown. Signs may advertise only those fruits and vegetables that are available for immediate purchase. A grower may not erect more than 4 such signs. A sign may not exceed 8 square feet in size and must be located within 5 miles of the farm stand. The signs must be erected within but at the edge of the rights-of-way of highways that receive no federal aid.
 - l. Political signs, not exceeding thirty-two (32) square feet in total area for single faced signs, or sixteen (16) square feet on each side of double-faced signs, provided that:
 - 1) Such signs shall not be erected more than thirty (30) days prior to the election to which they pertain; and
 - 2) Such signs are removed within seven (7) days after the election to which they refer.
 - m. Subdivisions may have one non-internally lit sign at each public entrance to the development not to exceed thirty-two (32) square feet per sign.
 - n. Any sign(s) placed by the State or Federal Governments or the Town of New Gloucester that comply with the Department of Transportation standards.
 - o. Outdoor signs identifying rest rooms, parking, entrance and similar information.
 - p. Four (4) or fewer flags or insignias per commercial lot or business. Flags or insignias in excess of four per commercial lot or use shall comply with the provisions of Section 6.
 - q. Memorial signs or tablets, names of buildings and date of construction, or historic markers when cut into masonry, bronze or other permanent material affixed to the structure or placed on the property.
 - r. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
 - s. Signs not exceeding eight (8) square feet per sign, which identify entrances and exits to parking and service areas.
4. Prohibited Signs: The following signs are prohibited in all areas of the Town of New Gloucester.

- a. Signs, other than barber poles, time and weather devices that have visible moving parts or blinking, moving or glaring illuminations.
- b. No permanent sign except traffic and similar public safety signs, official business directional signs shall be located in the public right-of-way of any street or highway except as may be provided for in Section 5.1.19.3.
- c. No sign shall protrude beyond the property line of the lot on which it is placed.
- d. No sign shall be located so that it interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit public streets or private roads.
- e. Signs painted on or attached to stationary vehicles except for signs relating to the sale of the vehicle. For the purpose of this section, a stationary vehicle means any vehicle not registered and inspected as required by Maine law.
- f. Inflatable signs, tethered balloons and pennants except associated with special events or sales for a duration not to exceed seven (7) days in any calendar year.
- g. Signs relating to any business which have been out of business for more than 365 days. The owner of the property or his agent shall be responsible for removing such signs.
- h. Temporary movable signs are not permitted except for the following uses with the issuance by the Code Enforcement Officer of a no fee temporary sign permit.
 - 1) To call attention to and/or to advertise the name of a new business and the products sold or activities to be carried on in connection with a new business. In such cases, no sign shall remain at a premises for more than ninety (90) days in any twelve (12) month period.
 - 2) To advertise a special sale or sales. In such cases, such signage shall be allowed for a period not to exceed ninety (90) days in any twelve (12) month period.
 - 3) To promote community or civic activities. In such cases, no sign shall remain in place for more than ninety (90) days in any twelve (12) month period.

The time limitations described in subsections 1, 2 and 3, above, apply to signs not exceeding sixteen (16) square feet in sign area. For temporary movable signs exceeding sixteen (16) square feet in sign area, the time limitations described in subsections 1, 2 and 3, above, shall be reduced to no more than fourteen (14) days in any twelve (12) month period.

- 5. Non conforming Signs. Non conforming signs that were otherwise lawful on the effective date of this Ordinance may continue except as provided below.
 - a. No non-conforming sign may be enlarged or altered in such a manner as to aggravate the non-conforming condition.
 - b. No illumination may be added to any non-conforming sign except if such illumination complies with the provisions of this section.
 - c. A non-conforming sign may not be moved except for maintenance, change in message or repair or be replaced except to bring the sign into conformity with this section.
 - d. The message of a non-conforming sign may be changed so long as this does not create any new non-conformities.

6. General Provisions

- a. Signs must be kept clean, legible and free from all hazards such as, but not limited to, faulty wiring, loose fastenings, or deterioration, and must be maintained at all times in such condition so as not to be detrimental to the public health or safety, detract from the physical appearance and the natural beauty of the community, or constitute a distraction or obstruction that may impair traffic safety.
- b. Except for banners, flags, temporary signs and window signs conforming in all respects with the requirements of this Ordinance, all signs shall be constructed of permanent materials, and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure.
- c. All signs shall meet the following setback standards:
 - 1) A minimum of twenty (20) feet from the outside edge of the paved portion of any public way with more than two travel lanes and/or a total paved portion in excess of twenty-four (24) feet in width.
 - 2) A minimum of five (5) feet from the right-of-way of any public or private street.
 - 3) All signs shall be set back a minimum of five (5) feet from side and rear lot lines.
- d. Area and height of signs shall be computed as follows.
 - 1) Computation of area of individual signs. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself.
 - 2) Computation of area of multi-faced signs. The sign area for a sign with more than one face shall be computed by adding together the area of all signs faces visible from any one point. When two identical sign faces are placed back to back, so that both are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces.
 - 3) Computation of height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be constructed to be the lower of (i) existing grade prior to construction or (ii) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the same lot, whichever is lower.

7. Specific Standards

a. Residential B and Residential C Districts.

- 1) In the case of a multi-tenant or condominium development, it shall be the responsibility of the owner or property manager of such premises to allocate sign space upon the premises, under the terms of this section.
- 2) On each premise, there shall be allowed one wall or roof sign affixed to the exterior of the structure or for each occupancy under common ownership, operation or control therein. Such signs shall not exceed thirty-two (32) square feet or occupy more than twenty (20) percent of the wall to which it is attached or is above, whichever is larger. For the purpose of this section, wall is defined as the façade of the building up to the roofline excluding windows, doors and architectural features.
- 3) Window and door signs are allowed without regard to the percentage of the window or door in which they are displayed.
- 4) Projecting Signs: One projecting sign is permitted per structure. Such sign shall extend no lower than ten (10) feet above ground level, project from the wall at an angle of ninety (90) degrees and be no nearer than fifteen (15) feet from any property line. No projecting sign shall exceed thirty-two (32) square feet.
- 5) Free Standing Signs:
 - a) One free standing sign per lot is permitted, except for each additional 250 feet of street frontage per lot above the minimum frontage requirement for that district, an additional free standing sign is permitted provided it complies with subsections b) and c) below. No free standing sign shall exceed thirty-two (32) square feet in area, the top edge shall not be higher than twenty (20) feet vertical measure above average ground level from the base.
 - b) Lots fronting on two or more public streets are allowed the permitted signage for each street frontage, but signage cannot be accumulated and used on a single street in excess of that allowed for lots with only one street frontage.
 - c) Multi-tenant or multi-unit commercial development which lacks street frontage and is served by a right-of-way may have one free standing sign not to exceed thirty-two (32) square feet in area for the first commercial tenant and eighteen (18) square feet in area for each additional commercial tenant.
- 6) Illumination: Signs shall be illuminated only by the following means:
 - a) A steady, stationary light(s) of single color shielded and directed solely at the sign and not casting light off the premises;
 - b) Interior, non-exposed, white lights of reasonable intensity; and
 - c) Neon tube illumination may be only used for window signs that do not exceed twenty-five (25) percent of the window area in which they are located.

- 7) Awning and canopy signs: Awning and canopy signs are permitted. Canopies over fuel islands shall only advertise fuel and fuel products.
- b. Village District. The following standards apply to the Village District, except that for those lots with frontage on Route 100 and whose primary sign is located adjacent to Route 100 and whose primary access is from Route 100, signs shall comply with the standards set forth in Section 5.1.19.7.a, above.
- 1) In the case of a multi-tenant or condominium development, it shall be the responsibility of the owner or property manager of such or property manager of such premises to allocate sign space upon the premises, under the terms of this section.
 - 2) On each premise, there shall be allowed one wall or roof sign affixed to the exterior of the structure for each occupancy under common ownership, operation or control therein. Such sign shall not occupy more than four (4) square feet. For the purpose of this section, wall is defined as the façade of the building up to the roofline excluding windows, doors and major architectural features.
 - 3) Window and door signs are allowed without regard to the percentage of the window or door in which they are displayed.
 - 4) Projecting signs: One projecting sign is permitted per structure. Projecting signs shall extend no lower than ten (10) feet above ground level, project from the wall at an angle of ninety (90) degrees and be no nearer than eight (8) feet from any property line. No projecting sign shall exceed four (4) square feet.
 - 5) Free Standing Sign: One freestanding sign is permitted per lot. No freestanding sign shall exceed twelve (12) square feet in area. The top edge shall not be higher than twelve (12) feet vertical measure above average ground level from the base.
 - 6) Awning and canopy signs: Awning and canopy signs are permitted. Canopies over fuel islands shall only advertise fuel and fuel products.
 - 7) Illumination: Signs shall be illuminated only by the following means:
 - a) A steady, stationary light(s) of single color shielded and directed solely at the sign and not casting light off the premises.
 - b) Interior, non-exposed, white lights of reasonable intensity.
 - c) Neon to be illuminated may be only used for window signs that do not exceed twenty-five (25) percent of the window area in which it is located.
- c. Rural Residential and Farm and Forest Districts.
- 1) In the case of a multi-tenant or condominium development, it shall be the responsibility of the owner or property manager of such premises to allocate sign space upon the premises, under the terms of this section.

- 2) All signs shall be mounted flat on the wall or free standing.
 - 3) Illumination: Signs shall be illuminated only by a steady stationary light(s) of single color shielded and directed solely at the sign not casting light off the premises.
 - 4) Total Signage: The permitted total signage shall not exceed twenty-four (24) square feet.
- d. Lake and Resource Protection Districts. The following standards apply to the Lake and Resource Protection Districts, except that for those lots in the Lake District with frontage on Route 26 and whose primary sign is located adjacent to Route 26, signs shall comply with the standards set forth in Section 6.1.19.7.c, above.
- 1) In the case of a multi-tenant or condominium development, it shall be the responsibility of the owner or property manager of such premises to allocate sign space upon the premises, under the terms of this section.
 - 2) On each building, there shall be allowed one wall sign affixed to the exterior of the structure adjacent to the principal entrance. Such sign shall not exceed thirty-two (32) square feet in area. An additional wall sign shall be allowed for each secondary entrance to the structure. Each such sign shall be affixed to the exterior of the structure adjacent to the secondary entrance and shall not exceed sixteen (16) square feet in area. For the purpose of this section, wall is defined as the façade of the building up to the roofline excluding windows, doors and major architectural features.
 - 3) One freestanding sign is permitted per structure. If the building's lot or leasehold area has frontage on two or more roads other than Route 231 or Morse Road, an additional free standing sign is permitted per such road but signage cannot be accumulated and used on a single road. Such signs shall be located between the structure and a road other than Route 231 or Morse Road unless the structure has direct vehicular access to Route 231 or Morse Road. No freestanding sign shall exceed thirty-two (32) square feet in area. The top edge shall not be higher than twelve (12) feet vertical measure above average ground level from the base. All such signs shall be located a minimum of fifty (50) feet from the edge of pavement of Route 231 and Morse Road and 25 feet from the edge of pavement of all other roads.
- e. Pineland Development Districts

One free standing sign identifying Pineland center or its successor, any residential developments and all non-residential building occupants is permitted at the principal entrance from Route 231 and the principal entrance from Morse Road. No such freestanding sign shall exceed ninety-six (96) square feet in area. The top edge shall not be higher than fifteen (15) feet vertical measure above average ground level from the base. Such signs shall be located a minimum of fifty (50) feet from the edge of pavement of Route 231 and Morse Road and 25 feet from the edge of pavement of all other roads. **(adopted May 4, 1998 town meeting). (adopted June 11, 2001 Special Town Meeting).**

5.1.20 **Sight Distance**

- A. Any exit driveway, or any new public or private ways shall be so designed in profile and grading and so located as to provide safe minimum sight distance measured in each direction. For two lane roads, a sight distance of ten feet for each mile per hour of posted speed limit is required.
- B. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of twenty-five (25) feet measured along intersecting street lines in order to provide visibility for entering and exiting vehicles.

5.1.21 **Soils**

All land uses shall be located on soils that are suitable for such proposed uses from the point of view of preventing adverse environmental impacts including erosion, mass soil movement, and water pollution. In cases of proposed development or other similar intensive land uses, the determination of soil conditions may be required by the Planning Board or Code Enforcement Officer to be based on a soils report, identifying soil boundaries and names, prepared by a State-certified soil scientist, geologist, licensed site evaluator or registered professional engineer based on an on-site investigation. Suitability considerations shall be based primarily on suitability as described by the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

5.1.22 **Stormwater Management**

- A. All new construction and development, whether or not served by a storm water collection and transportation system, shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity and location of runoff. Structures and/or methods shall be designed to accommodate the twenty-four (24) hour, twenty-five (25) year storm event, such that the post-development runoff rate does not exceed that of the pre-development condition.
- B. Natural overland flows and open drainage scales shall be the preferred components of a stormwater management system, where the existing natural systems are able to accommodate the runoff.
- C. Stormwater management systems shall be designed to facilitate aquifer recharge when it is necessary to compensate for groundwater withdrawals or reductions in infiltration, but aquifer recharge areas shall be avoided where effects to groundwater might be harmful.

5.1.23 **Temporary Structures**

Temporary structures used in conjunction with construction work shall be permitted during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Code Enforcement Officer for an additional twelve (12) month period.

5.1.24 **Traffic Impacts**

Streets giving access to lots, and neighboring streets which can be expected to carry traffic to and from any proposed development shall have available capacity and shall be suitably improved to accommodate the additional level and types of traffic reasonably anticipated to be generated by a proposed use. A traffic impact analysis performed by a registered traffic engineer shall be the method used by the Planning Board to determine pre- and post-development roadway adequacy regarding both capacity and safety and to identify necessary roadway improvements attributable to the proposed development.

5.1.25 **Water Quality Protection**

No activity shall store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature, such that it will run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

Individual wells and septic systems shall be placed a minimum of 100 ft. apart, including wells and septic systems of neighboring properties.

5.1.26 **Wetlands**

A. Purpose

The purpose of this section is to ensure that wetlands are protected from detrimental impacts and that wetland alteration activities do not threaten public safety or welfare, cause nuisances or otherwise negatively alter natural wetland ecology. In establishing these requirements, it is recognized that wetlands have value for wildlife habitat, pollution control, storage and passage of flood waters, aquifer recharge, and control of sedimentation, and can be used for education and scientific study, and for recreation and open space use.

B. Applicability

The standards contained herein are applicable to wetland areas and wetland buffers, as defined in Article 2 of this Ordinance, subject to field verification. Wetland areas that meet said definition and are currently zoned Resource Protection on the Town zoning map, shall also be regulated under this section, provided that these lands shall comply with the standards of that district, but shall not be exempt from procedures or standards contained in this section that are more restrictive.

When a project undergoing subdivision review contains wetland areas and wetland buffers, the Planning Board shall conduct a concurrent review of any wetland areas within the subdivision, applying the procedures and standards of this section.

This performance standard shall not apply to a lot or roads in any subdivision approved by the Planning Board after February 24, 1976 and prior to the effective date of this Ordinance. It shall, however, apply to the scales of any such lot.

C. Permitted Uses

If wetland areas meet the criteria for wetlands and wetland buffer areas contained in Article 2 of this ordinance, the following Permitted Uses and uses requiring site plan review shall supersede those listed in Article 4 for the zoning district where they are more restrictive.

Permitted Uses

1. Conservation of soil, water, vegetation, fish and wildlife
2. Wilderness areas, wildlife preserves and refuges
3. Education and scientific research and nature trails
4. Fishing and trapping
5. Outdoor recreational activities including but not limited to hunting where permitted, birdwatching, duck blinds, hiking, horseback riding, and swimming, provided there is no alteration of the wetland.

Uses Permitted Subject to Site Plan Review

1. Damming
2. Public Utilities*
3. Road Construction*
4. Timber harvesting or vegetative clearing subject to the performance standards contained herein.
5. Agriculture, subject to the performance standards contained herein.
6. Catwalks and footbridges
7. Fences, wildlife management structures, observation decks and shelters
8. Filling**
9. Draining**
10. Dredging**
11. Grading**
12. Excavating**
13. Mining or drilling**
14. Piers and boathouses**

* Provided that: (a) the proposed road or structure shall be sited within the designated wetland buffer as far as possible from the established wetland/upland edge, or (b) if siting within the actual wetland area is unavoidable, as close to the wetland/upland edge as possible and (c) the proposed road or structure is sited in such a way that the smallest amount of land area is disturbed.

** Provided that: the affected wetland area is not greater than one-half an acre in size or is

not in a wetland designated as a freshwater wetland of ten (10) acres or more by the Maine Department of Environmental Protection, or is not rated as a moderate or high value wetland by the Maine Department of Inland Fisheries and Wildlife.

D. Submission Requirements

In addition to the submission requirements for site plan review contained in Article 7 of this ordinance, the Code Enforcement Officer or the Planning Board may require the submission of one or more of the following items of information for projects in wetland areas:

1. site plan features be mapped for all land area within 300 ft. of the mapped wetland;
2. topographic maps to show the location and slope for all grades existing and proposed upon completion of the wetland alteration. Wetland area should be mapped at no greater than 1 foot contours, and non-wetland areas at no more than 2 foot contours;
3. a written description of the vegetative cover of the site including dominant species, and a map indicating existing wetland vegetation as defined herein and the wetland/upland edge as defined by wetland vegetation. The map and accompanying materials shall be prepared by a botanist or wetland specialist;
4. a written description of the site's underlying soils and a high intensity soils map with all mapping units being no larger than 1/4 acre, indicating the boundaries of soil types, the location of hydric soils as defined herein and the wetland/upland edge as defined by hydric soils. This map and accompanying map shall be prepared by a soils scientist certified by the State of Maine.
5. in cases where there are no hydric soils or wetland vegetation, a map indicating the wetland/upland edge based on site specific hydrology;
6. location of all standing water present for two or more months each year;
7. delineation of the lot area that is buildable and proposed footprints of buildings and structures.
8. the exact sites and specifications for all proposed draining, filling, grading, dredging, and vegetation removal including the amount and procedures to be used;
9. a written description of the purpose of the project and an explanation of why the proposed activity cannot be located at other sites, including an explanation of how the proposed activity is dependent on wetlands or water-related resources;
10. identification of any mitigation measures taken to offset wetland losses.

E. Review Criteria

In addition to the criteria for site plan approval established in Article 7 of this Ordinance, the following criteria shall be used for evaluating developments involving wetlands alteration:

1. The Planning Board shall grant site plan approval for designated uses, structures and activities within wetland areas and wetland buffers if it makes a positive finding based upon the information presented that the proposed alteration:
 - a. will not materially obstruct the flow of surface or subsurface waters across or from the alteration area;

- b. will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
 - c. will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
 - d. will not result in damage to spawning grounds or habitat for aquatic life, birds or other wildlife, including trees and shrubs;
 - e. will not pose problems related to the support of structures;
 - f. will not be detrimental to aquifer recharge or the quantity or quality of groundwater;
 - g. will maintain or improve ecological and aesthetic values
 - h. will maintain an adequate buffer area between the wetland and adjacent land uses; and
 - i. will be accomplished in conformance with the erosion prevention provisions of "Environmental Quality Handbook Erosion and Sediment Control," published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof.
2. In evaluating the proposed activity, the Planning Board may consult with expert persons or agencies.

F. Wetland Buffers

1. Buffers of 100 ft. in width shall be located around all wetlands as measured from the wetland/upland edge, provided that the Planning Board may reduce the required buffer when:
 - a. critical wetlands are distinctly separated from adjacent areas by topography or other natural features; and
 - b. when it is determined that the reduced buffer will offer the wetland adequate protection.
2. Within the designated buffer, no development or vegetative manipulation other than those uses listed in this Section as permitted uses or uses requiring site plan approval shall be permitted.

G. Verification of Wetland Boundaries

1. The Code Enforcement Officer, upon request, shall make an initial determination of the existence of wetland areas and the location of wetland and buffer boundaries based on

available maps, this Ordinance, documents referenced in this section, and site visits. If a reasonable doubt exists regarding the existence or location of wetlands, the CEO shall refer the request to the Planning Board for its determination. In all cases, the burden of proof shall be on the applicant to show that the site in question is not within a wetland or a required wetland buffer.

2. Applicants that dispute the placement of their proposed use, structure or activity within a wetlands or wetland buffer shall submit the following information, unless otherwise waived by the Planning Board:
 - a. a site plan map showing the proposed use, structure or activity including a map at a scale on one inch equals fifty feet, including any boundaries of wetland areas as scaled from available wetland maps, as well as the outer limits of wetland buffers, if established;
 - b. a topographic map showing the location and slopes for all grades within the site, by not greater than 2-foot contour intervals.
 - c. a high intensity soils map, which shows the wetland/upland edge for the site as defined by wetland soils.
 - d. a description of the vegetative cover of the site, including dominant species and the location of the wetland/upland edge for the site as defined by wetland vegetation.
 - e. a description, supported by necessary documentation, explaining why the site is not within a wetland area or wetland buffer as defined herein, if relevant;
 - f. additional information as deemed necessary by the Planning Board to determine identification of wetland boundaries.
3. The Planning Board shall exempt areas from the requirements of this section if, after a field investigation and review of submitted materials, it determines that the site in question does not meet the criteria for wetland areas or wetland buffers as defined herein.

5.1.27 Wildlife Wintering Areas

Where significant wildlife habitat areas exist according to the most current information available from the Department of Inland Fisheries and Wildlife, the following standards shall apply to any development:

- A. A buffer strip of sufficient area shall be established to provide wildlife with travel lanes between areas of available habitat. Adequate provisions shall be made to ensure maintenance of these travel ways.
- B. Proposed alterations and activities will not adversely affect wildlife and fisheries lifecycles.

- C. There will be no unreasonable disturbance to: important deer wintering areas as rated by the Department of Inland Fisheries and Wildlife and/or habitat of any species declared threatened or endangered by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service.
- D. Development plans submitted within or adjacent to mapped wildlife areas shall include plans for mitigation of adverse impacts through design consideration, pollution abatement practices, and the timing of construction activities.

5.1.28 Timber Harvesting

Timber harvesting shall be regulated by the provisions of Section 5.14 of the New Gloucester Zoning Ordinance, dated September 1986, which is hereby continued in full force and effect.

5.1.29 Mineral Exploration, Excavation and Removal of Lands (repealed 3/89)

5.1.30 Aboveground Oil Storage

All facilities, businesses, and residences that have an aboveground oil storage tank with a capacity in excess of 660 gallons, or an aggregate storage capacity in excess of 1,320 gallons will be required to comply with the following:

1. All applicable Federal and State regulations.
2. As required by 40 CFR 120 a Spill Prevention, Control, and Countermeasures (SPCC) Plan will be required.
3. A copy of the SPCC Plan shall be provided to the Town of New Gloucester Fire Department.

5.1.31 Telecommunications Towers

A. Purpose

The Town of New Gloucester finds that telecommunication towers provide a valuable service to the public. Due to their size, appearance and locational requirements, however, they have the potential for creating visual impacts, environmental impacts, impacts to historically significant areas, health and safety impacts and property value impacts. In order to balance the interests of the residents of New Gloucester with those of telecommunications providers and telecommunications customers and minimize the potential for adverse impacts, all telecommunication towers that exceed one hundred (100) feet in height shall comply with the following performance standard.

This performance standard has the following objectives:

1. To encourage co-location of carriers and minimize the total number of towers within the community.
2. To permit the construction of new towers only where all other reasonable opportunities for use of existing towers have been exhausted.

3. To encourage the users of towers to configure them in a way that minimizes the need for additional towers in the future.
4. To establish minimum dimensional requirements for lots used for towers in order to protect neighboring properties and structures from catastrophic failures.
5. To encourage the use of finishes and colors that minimizes the disharmony between the tower and the surrounding landscape.
6. To provide for the removal of towers and associated structures which are no longer being used for telecommunications purposes.

B. Siting and Design Standards

1. Unless otherwise required by the Federal Aviation Administration, towers shall be unlighted and have a galvanized steel-type finish or be painted a neutral color to reduce visual obtrusiveness.
2. The lot upon which the tower is to be located shall be dimensioned and of sufficient size to completely contain the tower, all guy-wires and other accessory structures in the event of a catastrophic collapse. An analysis shall be prepared and submitted of potential structure failure to insure that this requirement can be fully complied with. In no event shall the lot be less than the minimum size required in the applicable zoning district.
3. With the exception of the access road, all required setbacks shall be maintained as undisturbed vegetated buffers. The Planning Board may require additional plantings to enhance the quantity of such plantings.
4. The design of buildings and related structures shall, to the extent possible, incorporate materials, colors, textures, screening and landscaping that will blend the tower facilities into the natural setting and built environment.
5. The access road to the site shall be the minimum width necessary for maintenance purposes. It shall be laid out and constructed in a curvilinear fashion to visually screen structures from the public way.
6. A security fence or wall, not less than eight (8) feet in height from finished grade, shall be provided around the tower bases. Access to the tower shall be through a locked gate.

C. Alternative Sites and Facilities and Co-Location

1. The applicant shall prepare a map at a suitable scale identifying alternative tower locations investigated by the applicant and all existing and proposed towers located in and within one (1) mile of New Gloucester.
2. The applicant shall submit information on current users, availability of antenna space, and the feasibility of co-locating the applicant's proposed service for each tower identified in section C.1, above.
3. The applicant shall submit a report on the advantages and disadvantages of co-location and of utilizing alternative tower sites and shall demonstrate to the satisfaction of the Board that co-location or utilizing of alternative locations would not result in an adequate level of service for the intended uses.
4. Any tower approved by the Planning Board must include capacity for the co-location of future wireless service carriers using functionally equivalent equipment.

D. Removal of Abandoned and Unused Facilities

1. If a tower has not been used for its design or approved use for a period of twelve (12) consecutive months, it shall be considered abandoned and the tower and all accessory structures shall be removed by its owner. The Planning Board may extend this initial period for an additional twenty-four (24) months if approved under the provisions for Site Plan Review.
2. An applicant for Site Plan Review shall post a performance guarantee with the Town prior to final approval that is equivalent to one hundred twenty five percent (125%) of the cost of removing the tower and accessory structures. The performance guarantee shall be for a minimum term of five (5) years and proof of renewal shall be submitted to the Town three (3) months prior to its expiration. Failure to renew the performance guarantee shall be considered evidence that the tower has been abandoned. The initial performance guarantee shall include a mechanism, satisfactory to the Planning Board, that reevaluates the cost of removal at the time of renewal of the performance guarantee and automatically adjusts the amount of the performance guarantee so that it is maintained at one hundred twenty five percent (125%) of the cost of removal. (Adopted May 4, 1998 Town Meeting)

5.1.32 Fire Protection [added May 1, 2006]

All reliable water supplies shall be constructed to the following standards.

A. Underground Cistern

1. Cistern installation shall be designed by a professional engineer.
2. All underground cisterns shall be constructed of pre-cast concrete or an equivalent material approved by the Fire Department and shall include a statement of fire cistern warranty.
3. Minimum Water Capacity.
 - a. For minor subdivisions, a 15,000 gallon cistern shall be installed by the developer.
 - b. For major subdivisions between five (5) lots/units and 20 lots/units, a 30,000 gallon cistern shall be installed by the developer. For major subdivisions over 20 lots/units, an additional separate 15,000 gallon cistern shall be required for each 10 lots/units above 20 lots/units.
4. Dry hydrants shall be installed per fire department specifications at the time of construction, including any required signs.
5. A shoulder at least 10 feet wide and 60 feet long shall be constructed along the roadway to support the fire trucks while pumping water from the hydrant.
6. Four bollards shall be placed around the hydrant to protect it from damage. Guardrails or other similar forms of protection may be required

B. Fire Pond

1. All proposed fire ponds shall be built to the following standards:
 - a. Newly constructed fire ponds shall be designed by a Registered Professional Engineer with experience in hydrology.
 - b. A minimum water capacity of 120,000 gallons shall be maintained at all times by either a spring, well point, pumping facility or rain and snow runoff.
 - c. A minimum 2 foot thick layer of compacted clay or glacial till shall line the pond.

- d. The pond shall be located adjacent to and have deeded access from a public road, unless otherwise approved by the Fire Chief or his/her designee.
 - e. A shoulder at least 10 feet wide and 60 feet long shall be constructed along the roadway to support fire trucks while pumping water from the hydrant.
 - f. The following dimensional requirements shall apply to all fire ponds:
 1. Minimum depth of water: 8 feet with a 1,000 sq. ft. area at bottom
 2. Maximum slope of bank: 2:1 (horizontal to vertical)
 3. Maximum lift: 15 feet including all piping and fittings.
 - g. Four bollards shall be placed around the hydrant to protect it from damage. Guardrails or other similar forms of protection may be required.
2. Dry hydrants shall be installed per fire department specifications at the time of construction, including any required signs.
 3. Fire Pond Discontinuance. If public water service becomes available to a subdivision or area served by a fire pond, and the Fire Chief certifies that the pond is no longer needed for fire protection, the owner(s) of the land on which the pond is located shall be notified by the Fire Department of the discontinuance of the fire pond. If the pond is located within an approved subdivision and the owner(s) want to close the pond, the owner(s) shall apply to the Planning Board for approval to amend the subdivision plan to delete the pond.

C. Performance Guarantee

1. The developer shall provide the Town with a performance bond in an amount sufficient to construct a replacement water supply either a pond or an underground cistern in the event the underground cistern or pond fails to perform within the first 18 months from completion of construction. The bond shall be held by the Town for the entire 18 months after the constructed was approved by the Fire Chief.

5.1.33 Residential Sprinklers [added May 1, 2006]

1. Any residential sprinkler installations in one and two family homes shall conform to National Fire Protection Association 13D and 13R, as amended, at the time of construction.
2. Upon completion of system installation a certified test shall be conducted by a licensed professional and submitted to the Fire Chief or his/her designee.

5.2 Lake District and Resource Protection District Performance Standards

The following minimum standards of performance govern structures, uses and activities in the Lake and Resource Protection Districts unless preempted by more restrictive standards in other provisions of this or any other local, state or federal ordinance.

5.2.1 Beach Construction

Beach construction on any great pond, river, stream, brook or freshwater wetland shall require a permit from the Department of Environmental Protection.

5.2.2 Criteria for Issuing Permits for Construction in the Lake and Resource Protection Districts

When reviewing an application for development in the Lake and Resource Protection Districts, the CEO or the Planning Board, in addition to the normal criteria used for the particular type of application, shall grant the application only upon finding that the proposed development:

- a. Will not result in unsafe or unhealthful conditions;
- b. Will not result in erosion or sedimentation;
- c. Will not result in water pollution;
- d. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- e. Will conserve shoreland vegetation;
- f. Will conserve visual points of access to waters as viewed from public facilities;
- g. Will conserve actual points of public access to waters;
- h. Will conserve natural beauty;
- i. Will avoid problems associated with floodplain development and use; and
- j. Will not obstruct navigation or impact functionally water-dependent uses.
- k. Will not adversely impact archaeological and historic districts.

5.2.3 Expansions of Existing Structures

All new principal and accessory structures and substantial expansions of such structures within the shoreland area must meet the 100 foot setback from mean high water (75 feet from those portions of streams and rivers subject to Section 4.4.5) except structures which require direct access to the water as an optional necessity, such as piers, docks and retaining walls. For the purposes of this section, substantial expansion of a building shall be expansion which increases either the volume or floor area of the building by 30% or more. The 30% provision shall not be exceeded in the lifetime of the structure.

5.2.4 Piers, Docks and Other Shoreland Construction

All piers, docks and other shoreland construction shall conform to the following state statutes: Title 38, M.R.S.A., Section 435-437 and Sections 480A-480U as amended. In addition to federal, or state permits which may be required for such structures and uses, they shall conform to the following:

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with developed beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area.
- E. Temporary Structures shall not alter the natural flow or storage capacity of any water body.

5.2.5 Road Construction

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

1. Roads and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New permanent roads are not permitted within the shoreland zone along Significant River Segments except:
 - a. To provide access to structures or facilities within the zone; or
 - b. The applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far

as practicable from the normal high-water line and screened from the river by existing vegetation.

4. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
5. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q.
6. Road grades shall be no greater than ten(10) percent except for short segments of less than two hundred (200) feet.
7. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
8. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (percent)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
- c. On road sections having slopes greater than ten (10), ditch relief culverts shall be placed

across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.

- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
9. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

5.2.6 Sanitary Provisions

- A. In the Lake and Resource Protection Districts, if construction of an accessory building or a modification to an existing structure could result in increased sewage discharge into an existing private sewage disposal system, said sewage disposal system must conform to the Maine State Plumbing Code. Modification that could increase sewage discharge shall include, but not be limited to, addition of a bedroom, bathroom, kitchen, laundry room and conversion of a seasonal dwelling to a year-round dwelling.
- B. All subsurface sewage disposal systems shall be located in areas of suitable soil of at least 1,000 square feet in size.
- C. The minimum setback for subsurface sewage disposal facilities shall be no less than 100 horizontal feet from the normal high water mark of a water body. This requirement shall not be reduced by variance.

5.2.7 Timber Harvesting

1. Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
 - a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - I. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

- II. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
- b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - I. Surface waters are frozen; and
 - II. The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

5.2.8 Variance in the Lake District and Resource Protection District

Applications for variances involving properties in the Lake and Resource Protection Districts shall be forwarded to the Commissioner of the Department of Environmental protection at least 20 days

prior to action on the application by the Zoning Board of Appeals, as outlined in Article 3.

5.2.9 Clearing of Vegetation for Development

1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

2. Except in areas as described in paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, a stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six (6) feet.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet
Above Ground Level (inches) points

<u>2 - 4 in.</u>	<u>1</u>
<u>>4 - 12 in.</u>	<u>2</u>
<u>>12 in.</u>	<u>4</u>

Adjacent to the water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3X1) + (3X2) + (3X4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 12 = 9) may be removed from the plot provided that no cleared openings are created.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA of a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

- 4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- 5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

5.2.10 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by a permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

ARTICLE 6
ADMINISTRATION

6.1 Administration of Permits

This Ordinance shall be administered by a Code Enforcement Officer appointed or reappointed annually by July 1 by the Municipal Officers, except as otherwise provided.

Applications for site plan review shall be referred by the Code Enforcement Officer to the Planning Board heretofore established by the Town of New Gloucester. The Planning Board shall hear and decide upon such applications in accordance with the provisions of Article 7 of this Ordinance.

Administrative and variance appeals from decisions of the Code Enforcement Officer shall be heard and decided upon in accordance with the provisions of this Ordinance by the Board of Appeals established by the Town of New Gloucester on March 11, 1972, to act under Maine Revised Statutes, Title 30, Section 2411 or except as otherwise provided.

6.1.1 Building Permit

- A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Code Enforcement Officer. A permit for a building, structure, or use on any lot shall be issued to the owner of record thereof, or his authorized agent. No building permit shall be issued except in conformity with the provisions of this Ordinance, and all other applicable ordinances of the Town of New Gloucester and any conditions imposed by the Planning Board, Board of Appeals, or other authority pursuant to said ordinances.
- B. The Code Enforcement Officer shall grant or deny the application for a building permit within 15 days after receipt of the application, or within 48 hours after notification of the granting of an appeal by the Board of Appeals or of approval by the Planning Board of a development or use which site plan review under Article 7 is required by this Ordinance.
- C. The decision of the Code Enforcement Officer in granting or denying a building permit shall be in writing on a form designed for the purpose and shall be communicated directly to the applicant.
- D. No building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid plumbing permit has been issued to the applicant or his authorized agent by the local plumbing inspector in conformance with all applicable performance standards contained in Articles 4 and 5 of this ordinance, and all applicable provisions of state law.
- E. The building permit shall be valid for one (1) year from the date of issue. If construction has not been completed within the twelve month period, the permit may be renewed without charge for a second twelve-month period. Thereafter, if construction has not been completed,

a new permit shall be applied for and the fee paid.

6.1.2 Application for Building Permit

All applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building, and the proposed sewage disposal system as required by the Maine State Plumbing Code. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and to provide for the enforcement of this Ordinance.

Applications shall be accompanied by a fee established in the Town Fee Schedule and revised periodically by the Selectmen. Applications for permits, along with their accompanying plans and permits issued, or other decisions, shall be maintained as a permanent record by the Code Enforcement Officer. The issuance of a building or use permit, as a result of Site Plan Review or otherwise, for one or more dwelling units on a back lot, shall in no way be construed to imply acceptance of any accessway for the purpose of maintenance, improvements or snow removal by the Town. Any person who shall commence work for which a building permit is required by this Ordinance without first obtaining a building permit shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by the Town Selectmen in the Town Fee Schedule. This provision shall not apply to emergency work when the applicant can prove to the satisfaction of the Code Enforcement Officer that such work is urgently necessary and that obtaining a permit prior to commencing the work is not practical. In all such cases, a permit must be obtained as soon as it is practical to do so. If there is an unreasonable delay in obtaining such a permit, a double fee as herein provided shall be charged. (adopted 4/2/94)

6.1.3 Home Occupation Permits

A home occupation permit must be obtained from the Code Enforcement Officer before such activity commences. Such permits shall be granted upon determination by the Code Enforcement Officer that the proposed home occupation meets the definition of such uses contained in Article 2 of this Ordinance, and complies with the performance standards contained herein.

6.1.4 Permits for Temporary Structures

Permits for temporary structures shall be issued for a six-month period by the Code Enforcement Officer. The permit may be renewed by the Code Enforcement Officer for an additional twelve (12) month period.

6.1.5 Certificate of Occupancy

It shall be unlawful to use or occupy or permit the use or occupancy of any building or structure hereafter erected, changed, converted, wholly or partly altered, or enlarged in its use or construction, until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer stating that the building or structure conforms with the requirements of this Ordinance, the State Plumbing Code, the NFPA Life Safety Code, and is in compliance with all provisions of this or any other applicable ordinance of the Town of New Gloucester and with any conditions

imposed on the project by the Planning Board or Zoning Board of Appeals. The Certificate of Occupancy shall be issued in conformity with the provisions of this Ordinance upon completion of the work. A Certificate shall not be issued until a copy of the water analysis for the well serving the premises has been received by the CEO for his records.

- B. A temporary Certificate of Occupancy may be issued by the Code Enforcement Officer for a period of six (6) months during construction or alterations for partial occupancy of a building pending its completion, provided that such safeguards as will protect the health, welfare, and safety of the occupants and the public.
- C. The Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.
- D. Occupation or use of any building or structure without a certificate of occupancy required by this Ordinance shall be a violation of this Ordinance.
- E. No certificate of occupancy may be granted to a structure in an approved subdivision until any required fire protection has been installed, in working order, and approved by the Fire Chief or his/her designee. [added May 1, 2006]

6.1.6 Lake District and Resource Protection District

- A. No person shall engage in any use of land requiring a permit in the Lake and Resource Protection Districts in which it would occur, or expand an existing nonconforming structure within the said districts, without first obtaining a permit from the Planning Board or the Code Enforcement Officer as required in this Ordinance.
- B. Application for a permit shall be on a form provided by the Planning Board. The Planning Board or Code Enforcement Officer may require the submission of additional materials needed to determine conformance with the standards of Section 5.2 and other provisions of this Ordinance.

6.2 **Enforcement**

6.2.1 Code Enforcement Officer

- A. Except as provided in paragraph C of this section, it shall be the duty of the Code Enforcement Officer of the Town of New Gloucester to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.
- B. It shall be the duty of the Code Enforcement Officer to enforce the provisions of the New

Gloucester Floodplain Management Ordinance.

- C. Any local plumbing inspector authorized under State Law, and appointed by the Town to administer and enforce the Maine State Plumbing Code in the Town of New Gloucester is authorized to enforce those performance standards contained in Article 5 of this Ordinance relating to soil suitability for wastewater disposal systems, provision of adequate wastewater treatment systems, and water quality, and has all the powers and duties of the Code Enforcement Officer hereunder for the purpose of enforcement of those sections.

6.2.2 Legal Action and Violation

When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer shall notify the Selectmen who shall then initiate any and all actions to be brought in the name of the Town. The Code Enforcement Officer or the Municipal Attorney, upon authorization of the municipal officers, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of New Gloucester.

6.2.3 Fines

Any person, firm or corporation being the owner of or having control of or use of any building, structure or land who violates any of the provisions of this Ordinance, or any condition imposed by the Code Enforcement Officer, Planning Board or Zoning Board of Appeals pursuant to the provisions of this Ordinance, commits a civil violation and shall be liable for a civil penalty of no less than \$100 or no more than \$2,500 for each violation. Each day such a violation is permitted to exist after notification thereof, shall constitute a separate offense. All fines collected hereunder shall inure to the Town of New Gloucester.

6.3 Zoning Board of Appeals

6.3.1 Appointment and Composition

There shall be a Zoning Board of Appeals of five (5) members, all of whom shall be residents of the Town of New Gloucester. The members of the Board shall be appointed by the Selectmen. Terms of members shall be for three (3) years except that initial appointment shall be such that the terms of office of no more than two (2) members shall expire in a single year. The members of the Board shall annually elect a Secretary and Chairman who shall provide for the keeping of the minutes of the proceedings of the Zoning Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum and a majority shall consist of three (3) members.

6.3.2 Powers and Duties

Administrative and variance appeals from the decisions of the Code Enforcement Officer may be appealed to the Zoning Board of Appeals and from the Zoning Board of Appeals to the Superior Court according to law. The Zoning Board of Appeals shall have the following powers and duties.

A. Administrative Appeal

The Zoning Board of Appeals shall hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer in the enforcement of this Ordinance, except a decision referring an application to the Planning Board for decision under Site Plan Review, or a decision granting, granting with conditions, or denying a building permit or use permit pursuant to the decision of the Planning Board on an application for site plan review. The action of the Code Enforcement Officer may be modified or reversed by the Zoning Board of Appeals by concurring vote of at least three (3) members of the Board.

B. Variance Appeals

1. The Zoning Board of Appeals shall hear and decide appeals of the Code Enforcement Officer's denial of a building permit when a variance from the terms of this Ordinance is sought; where variance from the terms of this Ordinance would not be contrary to the public interest and where a literal enforcement of the provisions of this Ordinance would result in undue hardship. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance. The words "undue hardship" as used in this subsection mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.

A financial hardship does not necessarily constitute grounds for granting a variance.

2. The petitioner shall submit specific information to substantiate undue hardship.

This information shall include statements in writing, which may be accompanied by diagrams and/or photographs which shall become part of the record of such petition, demonstrating the following:

- a. The nature of the hardship to the property under appeal and the physical circumstances that allegedly would occasion such unusual difficulty or special hardship.
- b. That such physical circumstances are peculiar to the property under appeal, and are not substantially duplicated on other property adjoining or nearby in the same neighborhood or the same zoning district.

- c. That the relief sought would not adversely affect property adjoining or nearby in the same neighborhood or the same zoning district and would not endanger the public health, safety or convenience and would not impair the integrity of the New Gloucester Zoning Ordinance.
3. Except where specifically limited or prohibited, variances may be authorized only for minimum setbacks, maximum building coverage or impervious surface, minimum frontage, and reconstruction of destroyed nonconforming buildings. Only the minimum variance that will alleviate the hardship shall be granted.
4. In flood hazard areas, any variance issued shall be the minimum necessary, considering the flood hazard, to afford relief. A variance shall not be granted that would result in increased flood heights, additional threats to public safety, extraordinary public expense, or that would create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
5. If the applicant seeking a variance from the Board of Appeals also requires site plan review approval from the Planning Board, the Board of Appeals and the Planning Board may hold a joint public hearing within 30 days of the filing of the appeal, according to the procedure for public hearings herein. A variance must be granted by the Board of Appeals prior to Planning Board decision on the site plan review application.

C. Setback Variance for Single-Family Dwellings.

The Board of Appeals may grant a setback variance for a single-family dwelling only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
2. The granting of a variance will not alter the essential character of the locality;
3. The hardship is not the result of action taken by the applicant or a prior owner;
4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
5. There is no other feasible way to accomplish the goals sought by the petitioner.

The Board of Appeals is strictly limited to permitting a variance from a setback requirement for a single-family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

6.3.3 Conditions Attached to Appeals

In granting an appeal, the Zoning Board of Appeals may attach such condition, in addition to those

required by other provisions of this Ordinance, as it finds necessary to insure compliance with all standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to specifications for type of vegetation, increased setbacks and yards, specified sewage disposal and water supply facilities, retention of natural features and topography, landscaping and planting screens, hours of operation, operation controls, professional inspection and maintenance, sureties, location of piers and docks, parking and signs, lighting and types of construction.

6.3.4 Meetings

The Zoning Board of Appeals shall schedule meetings once a month. The Board shall not be required to hold a meeting if no appeals are pending at the scheduled date.

6.3.5 Appeal Procedure

- A. In all cases where an appeal is permitted under this Ordinance, a person aggrieved by the decision of the Code Enforcement Officer shall commence the appeal within 30 days after a decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board. The application shall be accompanied by a filing fee which shall be established by the Selectmen, a copy of the building permit application and supporting information, and other information required by this section of the Ordinance. The applicant may submit any additional information relevant to the appeal.
- B. Within 30 days following the filing of an appeal, and before taking action on any appeal or application, the Zoning Board of Appeals shall hold a public hearing. The Board of Appeals shall notify the Code Enforcement Officer and the Planning Board at least ten (10) days in advance of the time and place of the hearing, and shall post notice of the hearing in the Town Office at least ten (10) days prior to the hearing. In addition, the applicant at his or her expense and after approval by the Code Enforcement Officer of the wording to be used, shall place notice of the public hearing in summary form in a newspaper of general circulation in the Town of New Gloucester at least seven (7) days prior to the public hearing. The applicant shall notify, at his or her expense, by first class mail, owners of property within 250 feet of the property for which an appeal is taken of the nature of the appeal and of the public hearing thereon. The Board shall be given proof of notification either through certified mail or a certificate of mail.
- C. For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor of Taxes for the Town of New Gloucester as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Zoning Board of Appeals.
- D. At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
- E. The Code Enforcement Officer or designated assistant shall attend all hearings and may present to the Zoning Board of Appeals all plans, photographs or other material deemed

appropriate for an understanding of the appeal.

- F. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, excepting the member who is being challenged.
- G. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair. The Zoning Board of Appeals may adopt additional rules of procedure governing conduct of meetings.
- H. Within 30 days of the public hearing, the Board of Appeals shall reach a decision on an appeal. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, together with the minutes, shall constitute the record. 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, upon all material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be given in writing to the petitioner, his representative or agent, the Planning Board, the Code Enforcement Officer and the Municipal Officers within seven (7) days of the Zoning Board of Appeals decision.
- I. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall, within 48 hours, issue a building permit in accordance with the conditions of the approval, unless further review by the Planning Board is required.
- J. A permit secured by vote of the Zoning Board of Appeals under the provisions of this Ordinance shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years of the date on which such appeal is granted.
- K. If the Zoning Board of Appeals shall deny an application for a variance, a second application of a similar nature for the same property may not be brought before the Board within one (1) year from the date of the denial by the Board of the first application, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error of law or a misunderstanding of facts was made.
- L. An appeal from a decision of the Board of Appeals may be taken to Superior Court in accordance with State law, within thirty (30) days of the decision.
- M. Lake District and Resource Protection District Variances

A copy of all applications for variances involving lands within the Lake and Resource Protection Districts as described herein shall be submitted to the Commissioner of the Maine Department of Environmental Protection at least 20 days prior to the scheduled meeting where the Board will make a decision on the variance. Any comments received by the Board of

Appeals from the Commissioner of DEP shall be taken into consideration during the review and decision on the application.

ARTICLE 7

SITE PLAN REVIEW

7.1 PURPOSE

The purpose of this Article is to provide site plan review of multi-family residential, commercial, industrial, institutional and other projects and uses which by their nature, plan, size, or location may affect the physical and visual environment, the provision of public services, and the value and rights of adjoining properties, and thereby to protect the health, safety and welfare of the citizens of New Gloucester.

7.2 REVIEW OF DEVELOPMENT AND USES

7.2.1 The Planning Board is hereby authorized to review development for conformance with the criteria stated herein and with the performance standards of Articles 4 and 5 of this ordinance, the Floodplain Management Ordinance, and the Subdivision Regulations. A developer or his authorized agent shall be required to obtain Board approval prior to the issuance of a building permit for all development and uses listed in Articles 3 and 4 of this ordinance as requiring site plan review. The following uses shall be exempt from site plan review:

- A. reserved (adopted 4/2/94)
- B. subdivisions already subject to Planning Board review under the Town of New Gloucester Subdivision Regulations.

7.2.2 No person subject to review under this Article shall commence work including site preparation, or convey a development or portion thereof prior to Board approval.

7.3 PROCEDURE

7.3.1 Any person requiring and entitled to review under this article shall submit an application to the Code Enforcement Officer during regular business hours. A complete application shall consist of an application form prescribed by the Board, together with all fees and submissions required under Sections 7.3 and 7.4. Upon the submission of all necessary application materials, the code enforcement officer shall place the application on the next available Board agenda. A determination regarding completeness shall be made by the Planning Board within 45 days of presentation of the application. If the application is determined not to be complete, the Board shall notify the applicant, in writing, of the materials needed to make the application complete. The following standards shall be used in determining application completeness:

- A. The Board may prescribe and use a checklist to reflect the submission requirements in Section 7.4.
- B. The Board may make a physical inspection of the site for the purpose of determining whether additional submissions will be required, in accordance with Section 7.4.3.
- C. The Board may, by formal action, and upon written request of the applicant, waive submission requirements which it may find to be unnecessary for proper review.

- D. The Board may, by general regulation, waive specific submission requirements for particular categories of uses.
- E. Expedited Review

1) Adoption

These provisions for Expedited Review were adopted by the Planning Board pursuant to Section 7.3.1.D of the New Gloucester Zoning Ordinance on February 9, 1994 and amended on April 6, 1999.

2) Purpose

The purpose of these regulations is to expedite the approval process for activities that require Site Plan Review by the Planning Board but which are not expected to generate any significant adverse impacts on natural resources or adjacent properties.

3) Eligible Activities

- A. Residential C, Village and Lake Districts (outside of the Shoreland Zone)
 - Single family homes
 - Additions equivalent to less than 25% of existing building ground floor area if they do not aggravate any existing nonconformity and have no significant impact on:
 - drainage
 - hours of operation
 - traffic
 - potential for erosion
 - potential for conflict with adjacent uses
 - groundwater resources
 - Pools
 - Decks
 - Residential garages
- B. Shoreland Zone and Historic Resource Overlay District
 - Small addition, enclosure or deck (attached to rear of building) of 200 square feet or less
- C. Residential C District
 - Accessory Apartment

4) Procedure

An application for Site Plan Review of an activity eligible for Expedited Review shall be made to the Code Enforcement Officer. The application shall consist of a plot plan, building permit application, tax map and letter describing the proposed activity. The plot plan shall show the location of the proposed activity in relation to existing site improvements and the applicant

shall certify that all measurements shown on the plan, including setbacks, are correct.

The Code Enforcement Officer and the Town Planner shall conduct a site visit to confirm the eligibility of the activity for Expedited Review and determine if any additional information is required. The Town Planner shall prepare a written report of the site visit and the proposed activity and make a recommendation to the Planning Board whether Expedited Review is appropriate and whether the activity should be approved.

The Planning Board may approve the application under the provisions for Expedited Review upon granting of waivers of all other submission requirements and making written findings of fact. If the Planning Board does not approve the application under the provisions for Expedited Review, the applicant shall submit a full application as required under the provisions of Chapter 7 of the New Gloucester Zoning Ordinance.

(Note: the purpose of these changes is to bring the provisions for expedited review into conformance with proposed zoning amendments that will eliminate the need for site plan review for certain permitted uses in the Residential B and C Districts.) (passed 5/3/99 Town Meeting)

- 7.3.2 The application fee for site plan review shall be established by the Board of Selectmen.
- 7.3.3 The applicant shall be notified by mail, once the application is determined by the Board to be complete. The written notice shall include the timetable for review, and any additional requirements or questions associated with the application.
- 7.3.4 At the time of determination that the application is complete, the Board may schedule a public hearing for the next available time on the board's agenda. In addition, the applicant at his or her expense and after approval by the Code Enforcement Officer of the wording to be used, shall place notice of the public hearing in summary form in a newspaper of general circulation in the Town of New Gloucester at least seven (7) days prior to the public hearing. The applicant is responsible for notifying the CEO and all landowners within 250 feet of the subject property at his or her expense. The Board shall be given proof of notification either through certified mail or a certificate of mail.
- 7.3.5 The following rules shall apply to the public hearing:
- A. The board may receive oral or documentary evidence addressing the application, but may exclude evidence which it considers irrelevant, immaterial or unduly repetitious.
 - B. The Chairman shall determine the order of presentation of parties to the hearing. Any party may be represented by agent or attorney.
 - C. The CEO and such other town officers and staff as may have an interest in the application may present evidence before or during the hearing.
 - D. The board may continue the hearing to another time as it deems necessary.
- 7.3.6 The Board shall approve, approve with conditions, or deny approval of a development or use for

which site plan review is required within forty-five (45) days of the closing of the hearing. Written notice of the decision shall be mailed to the applicant within seven (7) days thereafter. The Board may grant an applicant's request for an extension of the time period for the purpose of introducing additional evidence.

7.3.7

- A. Approval by the Board shall take the form of an agreement between the Town of New Gloucester and the applicant, incorporating as elements of the agreement, the application, the Board's findings of fact and conclusions, and such conditions as the Board may impose upon approval. The Board shall acknowledge the agreement in writing by signing and dating the final site plan that has been approved prior to the commencement of work. Only signed site plans shall be considered official copies to be used for construction purposes.
- B. Conditions of the Board's approval shall be intended to ensure conformance with approval criteria. They may include, but are not limited to, increased setbacks and yard space, specifications for type of sewage and water supply facilities, off-site improvements, vegetative or structural buffers and screens, location of buildings, docks or parking, design, type or style of construction, type, style and size of signage, operating requirements for handling of hazardous wastes, deed restrictions, and period of maintenance sureties.
- C. The Board shall send copies of the approval to the CEO and to the Town Manager. The CEO shall issue no occupancy permit until all conditions of the approval have been carried out.
- D. The approval of the Board shall expire if work on the development is not commenced within six (6) months or substantially completed within one (1) year of the date of approval unless approval shall allow a longer period. The Board may, by formal action, grant an extension of the completion deadline for a period of no more than one (1) additional year.

7.3.8 Any party aggrieved by a decision of the Board under this Article may appeal the decision to Superior Court as provided by law within thirty (30) days of the date of decision.

7.4 SUBMISSION REQUIREMENTS

7.4.1 A completed application for site review shall consist of 10 copies of required plans on sheets measuring no smaller than 11" x 17" and no larger than 24" x 36", and 10 sets of attachments. Plans shall be drawn to a scale of no greater than 1"=30' for developments under ten acres, and 1"=50' for all others.

7.4.2 The submission shall contain the following items, unless waived by specific vote of the Board under Section 7.3.1C. or general regulation under Section 7.3.1.D.

- A. A title block in the lower right-hand corner, containing the name and address of the applicant and property owner, the name and address of the preparer of the plan, with professional seal, if applicable, location of the property according to municipal tax maps, and the date of plan preparation or revision.
- B. A standard boundary survey conducted by a surveyor licensed in the State of Maine, with sufficient information to identify and locate interior and exterior boundaries, rights-of-way and

street alignments.

- C. An arrow showing true north and the magnetic declination, a graphic scale, and a signature block for members of the Board.
- D. Location and description of all buildings existing or to be placed on the site, and floor plans and front elevations of principal buildings.
- E. Acreage of the total parcel, of rights-of-way, wetlands, and developed areas.
- F. Zoning information for the site, including required setbacks, density and coverage requirements, and zoning for abutting properties, if different.
- G. Location of physical features such as ledge, wetlands, watercourses, sand and gravel aquifers, agricultural areas and forested areas.
- H. Location and design details of existing and proposed utilities, including power, water, septic system, and drainage structures.
- I. Location of any park, open space or conservation easement.
- J. Location of any permanently installed machinery likely to cause appreciable noise at the lot lines.
- K. Existing and proposed topographic contour lines, drawn at 2 ft. intervals. Where necessary to determine compliance with the performance standards in Section 7.1 and the approval criteria herein, the Board may require finished grade plans for all or a portion of the site.
- L. Proposed landscaping and buffering treatments.
- M. Location and necessary design details of all parking and paved areas, sidewalks, curbing, signs, fencing, and other site improvements.
- N. A location map showing the property in relation to other properties and roads in the general vicinity.
- O. A plan for the control of erosion and sedimentation endorsed by the Cumberland County Soil and Water Conservation District.
- P. A plan for the treatment of stormwaters of a 24 hour, 25-year storm, prepared by a registered professional engineer and endorsed by the Cumberland County Soil and Water Conservation District.
- Q. A copy of the medium intensity soil survey map of the area. Where the map shows soils with severe restrictions for development, a high-intensity soil survey may be required by the Planning Board.
- R. Description of any raw, finished, or waste materials to be stored outside the buildings, and any stored materials of a hazardous nature.

- S. Documentation of the applicant's legal interest in the property.
- T. Text of all encumbrances currently on the property and all encumbrances proposed to be placed on the property.
- U. A map and list containing names and mailing addresses of all owners of record of property abutting the proposed development.
- V. Description of the type and placement of sewage facilities:
 - 1. Where disposal will be accomplished through subsurface waste disposal system, an analysis of test pits prepared by a licensed site evaluator, with at least two passing test pits located on the plan.
 - 2. Where disposal will be by an engineered private system, prior approval by the Department of Human Services.
- W. Indication of water supply sufficient in quantity and quality for both normal use and fire protection.
- X. The location and necessary design details of all public and private roads. Private roads and roads proposed to be accepted by the Town shall be designed and stamped by a professional engineer, registered in the State of Maine.

7.4.3 In its consideration of an application, the Board may require the applicant to submit such additional materials, studies, analyses and proposals as it may deem necessary for a complete understanding of the development. Such material may include, but is not limited to the following categories:

- A. Facilities Analysis: Examination of the impact of the development upon capital facilities of the town, such as schools, water supply, public sewer, recreation facilities or highways.
- B. Transportation: Existing and proposed traffic conditions, including capacity, daily and peak hour levels of service, and the need for street or traffic control improvements.
- C. Environmental: Relationship between the development and affected land and water resources, which may include lake watersheds, aquifer protection or hazardous material storage, or the cumulative impact of subsurface septic waste disposal.

7.5 APPROVAL CRITERIA

7.5.1 Action by the Board shall be based upon written findings of fact and conclusions which certify or waive compliance with those performance standards listed in Article 5, and which certify that the development meets the following criteria:

- A. Maintenance of Traffic Level of Service "D" or above at all intersections receiving five percent or greater increase in traffic from the proposed development and presence of reserve capacity on other affected public streets as defined by the Institute of Transportation Engineers Trip

Generation Standards;

- B. Sufficient parking and traffic circulation on the site of the development to avoid conflicts with adjoining properties and streets;
- C. Building locations or engineering measures to ensure that wetlands and surface water bodies will not be adversely affected by erosion, runoff, or pollutants;
- D. Treatment of all sanitary and solid wastes in a manner approved by qualified professionals, together with written agreements showing the transportation, disposal and storage of hazardous materials according to state and federal requirements;
- E. Design measures to ensure the capability of the land and water systems to sustain the proposed use without long-term degradation;
- F. Protection of natural resources identified in the Comprehensive Plan or related studies, including surface and subsurface water supplies, shoreland areas, wildlife areas, and access thereto;
- G. Showing that public facilities will not exceed their respective capacities, including but not limited to: schools, police and fire services, snowplowing and road maintenance capabilities;
- H. Showing of sufficient financial backing and technical resources of the applicant to complete the proposed development;
- I. Compliance with other local, state or federal regulations as evidenced by Board of Appeals approval (when necessary) and/or final approval of any required state or federal permits; and
- J. Absence of any undue adverse effect on the scenic or natural beauty of a site, aesthetics, historic sites, or rare and irreplaceable natural features or any public rights for physical or visual access to the shoreline.

7.6 OUTSIDE CONSULTING OPINIONS AND FEES

7.6.1 The board may, at any time, determine that it requires legal or technical assistance in addition to regular town staff for proper consideration of the application. The choice of personnel to provide such expertise shall lie entirely with the Board, provided that such expertise shall be recognized as competent. The costs of such assistance shall be borne by the applicant. No building permit or certificate of occupancy may be issued, nor any subdivision plat released for recording until all charges hereunder have been paid in full. The Board's use of outside expertise at the applicant's expense shall be subject to the following limitations.

- A. The proposed development or use must require review which is beyond the expertise of Town Staff members;
- B. The cost of such necessary services must be reasonable in amount based upon the time involved and the complexity of the review;
- C. The results shall be available for public review, but shall be deemed to have been made solely for the benefit of the Town and shall remain its property;

- D. Charges to the applicant shall be assessed for the privilege of review and so shall be payable without regard to their results or the outcome of the application;
- E. The Planning Board or its designated staff shall provide the applicant with an estimate of the costs of any independent consulting review prior to making final arrangements for the analysis to be undertaken, provided however, that such estimate shall not be binding;
- F. Any dispute regarding the amount required to be paid either in advance or upon completion of review may be referred in writing within ten (10) days to the Town Manager who may, after due notice and investigation and for good cause shown, affirm, or reduce the amount assessed. Until the Town Manager has resolved the dispute, no portion of the project review for which the consulting fee is in dispute may go forward unless the applicant has paid or otherwise made satisfactory provision therefore;
- G. When the amount of such costs may exceed one thousand (\$1,000), reasonable provision must be made in advance to guarantee payment and the funds tendered by the applicant shall be placed in a special account. If the balance in the special account shall be drawn down by 75%, the Town shall notify the applicant and require that an additional amount be deposited to cover the remaining work. No portion of the project review, for which the additional funds are required, may go forward unless the applicant has paid or otherwise made satisfactory provision therefore. The Town shall continue to notify the applicant and require that an additional amount be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited in advance shall be promptly refunded after final action on the application.

7.7 PERFORMANCE GUARANTEES AND PROJECT INSPECTIONS

7.7.1 Performance Guarantees

- A. If applicable, and not waived in whole or in part, the developer shall, prior to the issuance of a building permit, file with the Town a performance guarantee in an amount set by the Planning Board, (after consultation with appropriate staff), to cover the cost of required improvements. Such performance guarantee may be in the form of a certified check payable to the Town of New Gloucester, a performance bond running to the Town of New Gloucester, an irrevocable letter of credit in the name of the Town of New Gloucester or some other form of surety that is acceptable to the Town Manager. For the purposes of this section, "required improvements" shall include but not be limited to improvements for common use of lessees or the general public, all public and private ways, all drainage structures and ditches, all erosion control measures, all utilities, all landscaping and all recreation facilities. Any such performance guarantee shall be satisfactory to the Town Manager and the municipal attorney as to form, sufficiency, manner of execution and surety.
- B. At the discretion of the Planning Board, the applicant may be allowed to submit individual performance guarantees for each phase of a project's development, provided that a phasing plan for the site has been approved by the Planning Board.
- C. A period of one (1) year shall be set forth in the performance guarantee document within which required improvements must be completed. Prior to expiration of the performance guarantee, such time period may be renewed at the discretion of the Town Manager, after consultation with the Planning Board, provided that the developer has shown good cause for such an extension, including, but not limited to severe weather conditions or unforeseen construction

problems.

D. The performance guarantee shall not expire until forty-five (45) days after the expiration of the period for completion of required improvements.

E. Inspection of Required Improvements

1. At least fifteen (15) days prior to commencing construction of required improvements, the applicant shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements so that the Town Manager can cause periodic inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
2. The Town Manager, upon consultation with the field inspector, shall give the applicant an estimated cost of the inspection fee, equal to the total estimated hourly costs of the inspecting individual. At least five (5) days prior to commencing construction of required improvements, the applicant shall pay the estimated inspection fee as defined in (a) above, payable by check to the Town of New Gloucester stating the purpose of the fee. No building permits shall be issued on the project and no work begun until the inspection fee has been paid.
3. If the field inspector shall find, upon inspection of the required Improvements performed before the expiration date of the performance guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Town Manager, the Streets Commissioner and Code Enforcement Officer. The Town Manager shall then notify the applicant and, if necessary, the bonding company or bank, and take all necessary steps to preserve the municipality's rights under the performance guarantee. Concurrently, the Code Enforcement Officer may issue a stop work order.
4. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the field inspector that unforeseen conditions make it necessary or preferable to make a minor modification in the location or design of any required improvement, the field inspector may, upon written approval of the Code Enforcement Officer, authorize such minor modifications, provided these modifications are within the spirit and intent of the Board's approval and do not amount to the waiver or material alteration of the function of any improvements required by the Board. The field inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization immediately to the Town Manager and to the Planning Board at their next meeting. Where the field inspector has authorized such minor modifications, the applicant, prior to the issuance of a certificate of occupancy, shall submit as-built plans, showing all changes from the approved site plan, to the Code Enforcement Officer.
5. Upon completion and final inspection of all required improvements, and submission of a report by the field inspector certifying satisfactory completion of the improvements, any funds remaining in a project's inspection fee account, after all inspection fees have been paid, shall be returned to the applicant. If the total inspections fees exceed the original

estimate provided, the applicant shall be billed for additional costs according to the inspector's hourly rate. No certificates of occupancy shall be issued for the project until the total inspections fees have been paid.

6. The applicant, or a successor approved as to form by the Planning Board, shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance, if ever, of said improvements by the Town.

F. The performance guarantee shall not be released by the Town Manager until:

1. The field inspector has completed his final inspection of the project and has submitted a written report stating that all required improvements as defined above have been completed in accordance with approved plans and specifications, and
2. The Town Manager and Code Enforcement Officer, or designees, have examined the site, have reviewed the field inspector's report and concur with his findings.

G. Performance guarantees collected on phased work segments shall be released in the same manner as outlined above, upon completion of each phase.

ARTICLE 8

STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

8.1 General Requirements.

When the substreets are to be public streets, the provision of the street design and standards in these regulations shall be met. Where the streets remain private roads, the Board may set minimum safety requirements appropriate to the needs of the development if these streets are not arterial or collector streets.

- A. The Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plans shall include the following information:
 - 1. Date, scale, and magnetic or true north point.
 - 2. Intersections of the proposed street with existing streets.
 - 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 - 6. Turning radii at all intersections.
 - 7. Centerline gradients.
 - 8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- C. Upon receipt of plans for a proposed public street, the Board shall forward one copy to the Public Works Director and the Town's consulting engineer, if any, for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Public Works Director for review and comment.

- D. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Public Works Director or the Maine Department of Transportation, as appropriate. If the existing public right-of-way is less than 66' wide, the improved public right-of-way shall include easements widened to a minimum of 60' at the expense of the developer.
- E. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

8.2 Street Design Standards.

In addition to Appendix B of the New Gloucester Zoning Ordinance, the following may be applicable if required by the Board.

- A. These design standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, drainage systems, culverts, and other appurtenances.
- B. Streets shall be designed to discourage through traffic on minor streets within a residential subdivision.
- C. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- D. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- E. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

F. The following design standards apply according to street classification:

Type of Street

Description	Arterial	Collector	Minor	Private Right of way	Industrial Commercial
Minimum Right of Way Width	80'	60'	60'	50'	60'
Minimum Pavement Width	44'	22'	20'	18'	30'
Sidewalk Width	N/A				8'
Minimum Grade	.5%	.5%	.5%	N/A	.5%
Maximum Grade*	5%	6%	8%	10%	5%
Minimum Centerline Radius	500'	230'	150'	N/A	400'
Minimum Tangent between curves of reverse alignment	200'	100'	50'	N/A	200'
Roadway Crown	1/4"/ft.	1/4"/ft.	1/4"/ft.	N/A	
Minimum angle of street intersections**	90°	90°	75°	75°	
Maximum grade within 75 ft. of intersections	2%	2%	2%	N/A	2%
Minimum curb radii at Intersections	30'	20'	15'	N/A	30'***
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'
Minimum width of shoulders (each side)	5'	5'	5'	3'	9'

* Maximum grade may be exceeded for a length of 100 feet or less.

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

*** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

G. The centerline of the roadway shall be the centerline of the right-of-way.

H. Dead End Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a "T" turn-around with the following dimensions:

The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a sixty foot easement in line with the street to provide continuation of the road where future subdivision is possible.

I. Grades, Intersections, and Sight Distances.

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

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

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

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

3. Where new street intersections or driveway curb cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblines or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. Required sight distances may be adjusted by recommendation of the Public Works Director.

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

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

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred feet shall be maintained between centerlines of side streets.
- J. The Planning Board may, where appropriate, require the installation of sidewalks which meet the following minimum requirements.
1. Bituminous Sidewalks.
 - a. The crushed aggregate base course shall be no less than eight inches thick.
 - b. The hot bituminous pavement surface course shall be no less than two inches after compaction.

8.3 Street Construction Standards

- A. Minimum thickness of material after compaction.

<u>Street Materials</u>	<u>Minimum Requirements</u>				
	Arterial	Collector	Minor	Private Right of Way	Industry Commercial
Aggregate Sub-base Course (Max. sized stone 4")	18"	18"	18"	12"	18"
Crushed Aggregate Base Course	4'	3"	3"	3"	4"
Hot Bituminous Pavement Total Thickness	3 1/4"	2 1/2"	2 1/2"		3"

Surface Course	1 1/2"	1"	1"	1/14"
Base Course	1 3/4"	2"	2"	2"

B. Bases and Pavement.

The following requirements do not apply to private rights-of-way.

1. Bases.

- a. The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 6 inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No.40	0-30%
No.200	0-7%

Aggregate for the sub-base shall contain no particles of rock exceeding six inches in any dimension.

- b. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No.40	0-20%
No.200	0-5%

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

- 2. **Pavement Joints.** Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
 - a. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B.
 - b. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C.

8.4 Storm Water Management Design Standards.

- A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water, through a management system of swales, culverts,

underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channelling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.
 2. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
 3. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration, frequencies, based on rainfall data for Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
 4. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
- C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
- D. Catch basins shall be installed where necessary and located at the curb line.
- E. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- F. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

8.5 Storm Drainage Construction Standards.

A. Materials.

1. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.
2. Asbestos Cement Pipe. Asbestos Cement Pipe shall meet the requirements of ASTM Designation C428 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved preformed plastic sleeve type.
3. Corrugated Metal Pipe. Corrugated Metal Pipe shall be galvanized 14GA, M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.
4. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.
5. Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.
6. Manholes. Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.
7. Catch Basins. Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

8.6 Additional Improvements and Requirements.

- A. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- B. Cleanup. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- C. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

- 8.7 Certification of Construction.** "As built" plans shall be submitted to the Municipal Officers. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations.

Article 8 Adopted May 3, 1999

ARTICLE 9

TRANSFER OF DEVELOPMENT RIGHTS

9.1 Purpose and Intent

- 9.1.1 Pursuant to 30-A M.R.S.A. §4328, which allows local governments to establish Transfer of Development Rights programs, this Article establishes a voluntary Transfer of Development Rights program in the Town of New Gloucester. The purposes of this program are as follows:
- A. To permanently preserve agriculture and forestry activities in the Town;
 - B. To permanently preserve large expanses of undeveloped land throughout the Town;
 - C. To direct growth and development into a designated growth area; and
 - D. To provide real incentives for landowners and developers to partner together to achieve these purposes.
- 9.1.2 The Transfer of Development Rights program makes possible the following:
- A. The development rights of an eligible sending site may be sold, donated, or otherwise transferred to a property located in a designated “Receiving Zone”.
 - B. A “Sending Zone” (from which transferable development rights may be sold) may be designated in rural areas where there are agriculture and forestry activities and large expanses of undeveloped land that could benefit from protection.
 - C. A “Receiving Zone” (in which transferable development rights may be redeemed for developing additional units) may be designated in growth areas where development is desirable, feasible and marketable.

9.2 Establishment of Sending and Receiving Zones

The location of sending zones and receiving zones shall be shown on the official zoning map. The sending and receiving zones shall act as overlay zones, such that all of the provisions of the underlying zoning districts shall apply, unless altered by the provisions of the overlay zone.

9.3 Procedure

- A. An application for transfer of development rights shall be made out by the landowner of an eligible sending site. It shall be accompanied by a fee established by the Board of Selectmen. The application shall also include the following:
 1. A plot plan, drawn to scale, of the sending site, indicating boundary lines and dimensions, waterbodies, 100-year floodplains, zoning district boundaries, and wetlands.
 2. A net residential acreage calculation, in accordance with the definition of net residential acreage in Article 2. The land features determining net residential acreage shall be shown on the above mentioned plot plan.
 3. A copy of the deed of the property.
- B. Based on the submitted plot plan, and after reviewing aerial photos, soil maps, and/or conducting a site visit, the Code Enforcement Officer shall determine a preliminary number of transferable development rights for the sending site, in accordance with Section 9.5.2.
- C. If the landowner decides to proceed with TDR, he or she shall submit the following items:
 1. Documentation of a title search on the property, to ensure clear title and marketability of the property.
 2. A draft conservation easement covering the portion of land proportionate to the number of transferable development rights being severed from the land and available for transfer.

3. A survey of the property, prepared by a licensed surveyor, delineating all features which determine net residential acreage, and the location of the proposed conservation easement.
- D. After the Code Enforcement Officer, with consultation from the Town Attorney, if necessary, has approved the language of the conservation easement, and has made a final calculation on the number of transferable development rights based on the survey in accordance with Section 9.5.2, the landowner is then able to file the conservation easement in the Cumberland County Registry of Deeds.
- E. After receipt of evidence of the filing of the conservation easement in the Registry of Deeds, the Code Enforcement Officer shall issue a TDR Certificate in the name of the landowner for the number of transferable development rights severed from the sending site. The landowner is then able to sell, donate or otherwise transfer all or a portion of the transferable development rights to a landowner in a Receiving Zone, to a developer, or to a third party. Upon evidence of a sale of transferable development rights, the Code Enforcement Officer shall issue a new TDR Certificate in the name of the purchaser for the number of transferable development rights purchased.
- F. A developer may redeem the transferable development rights when a subdivision plan for an eligible receiving site has been approved by the Planning Board with the added development from the transferable development rights applied to the plan. The subdivision shall be a cluster subdivision and shall comply with Section 5.1.7 of this Ordinance, except as modified by this Article.

9.4 Sending Site Eligibility

9.4.1 Within a Sending Zone. A property in a sending zone shall meet the following criteria in order to be eligible to sell transferable development rights:

- A. Minimum acreage in common ownership: ten (10) acres
- B. Use of the land shall be one or a combination of the following:
 1. Active agriculture or animal husbandry
 2. Forestry
 3. Undeveloped land
- C. At least one (1) development right exists based on the net residential density for the property.

9.4.2 Outside a Sending Zone. A property outside a sending zone shall meet the following criteria in order to be eligible to sell transferable development rights:

- A. Minimum acreage in common ownership: ten (10) acres
- B. Principal use of the land shall be the following:
 1. Active agriculture or animal husbandry, for a minimum of five (5) years immediately preceding an application for transfer of development rights.
- C. At least one (1) development right exists based on the net residential density for the property.

9.5 Sending Zone Regulations

9.5.1 Development and Transfer Options. The landowner of an eligible sending site has the following development and transfer options:

- A. Option 1: A landowner may develop his or her property in compliance with all applicable provisions of this Ordinance and other Federal, State or local regulations.
- B. Option 2: A landowner may sell or transfer all or part of the transferable development rights associated with the property to the landowner of a property located in a Receiving Zone, to a developer, or to a third party.
 1. If the landowner of the Sending Site intends to sell all the transferable development rights,

he or she shall retain the title to the property but shall be required to attach a permanent conservation easement to the title prohibiting future development, including all residential, commercial, industrial, or public/institutional development.

2. If the landowner of the Sending Site intends to sell a portion of the transferable development rights, he or she shall retain the title to the property but shall be required to attach a permanent conservation easement to the title prohibiting future development, including all residential, commercial, industrial, or public/institutional development, upon a portion of the parcel. The restricted portion shall be equivalent in size to the land area that would have been necessary to accommodate the sold-off transferable development rights. The remaining unrestricted portion of the parcel may still be developed with the remaining development rights, or the remaining transferable development rights may be sold with the remaining land deed restricted in accordance with the provisions of this article.

9.5.2 Calculation of Transferable Development Rights.

- A. For all eligible sending sites, a net residential acreage calculation shall be required to determine the acreage of developable area of the property. This acreage shall then be divided by the applicable TDR Density to determine the total number of transferable development rights on the property. The TDR Density shall be determined as follows:
 1. Where the underlying zoning density is 5 acres per residential unit, the TDR Density shall be 2 acres per transferable development right.
 2. Where the underlying zoning density is 2 acres per residential unit, the TDR Density shall be 1 acre per transferable development right.

9.5.3 Conservation Easement Requirements

- A. The perpetual conservation easement shall prohibit residential, industrial, and commercial uses (except in connection with agriculture, forestry, and recreation) of the portion of land from which development rights were severed, and shall not be amended to permit such uses.
- B. The conservation easement may be granted to a not-for-profit conservation organization, or a third party.
- C. The provisions and restrictions of the conservation easement shall be enforceable by the Town of New Gloucester.

9.6 Receiving Zone Regulations

9.6.1 Receiving Site Eligibility. A property in a receiving zone shall meet the following criteria in order to be eligible to receive transferable development rights:

- A. Minimum acreage in common ownership: ten (10) acres
- B. At least one (1) development right exists based on the net residential density for the property.

9.6.2 Development Options on Receiving Sites

The landowner or developer of a property located in a Receiving Zone shall have the following development options:

- A. Option 1: A landowner may develop his or her property in compliance with all applicable provisions of this Ordinance and other Federal, State or local regulations.
- B. Option 2: A landowner may purchase additional development rights from a Sending Site owner or owner of transferable development rights and apply those transferable development rights to the Receiving Site, through subdivision review pursuant to the New Gloucester Subdivision Regulations.
 1. For each additional transferable development right purchased, the Receiving Site landowner or developer shall be permitted to build one (1) additional housing unit.

2. However, in no case shall the resulting density of the property, after the addition of the purchased transferable development rights, exceed twice the net residential density of the property.
3. Development added to a property in a Receiving Zone through the purchase of development rights shall be:
 - a. Consistent with the list of permitted uses in the underlying zone; and
 - b. Compatible with the existing and/or proposed uses on the property.
4. Transfer of Development Rights shall not be used to increase the allowable density of any existing or proposed mobile home parks.
5. The subdivision application shall indicate the Sending Site from which development rights were purchased or obtained.

9.7 Administration

- A. All instruments implementing the transfer of development rights shall be recorded in the Town Clerk's Office for both Sending Sites and Receiving Sites. The instrument evidencing such transfers shall specify the map and lot numbers of the sites.

Article adopted 12/14/2004; effective 2/12/2005.