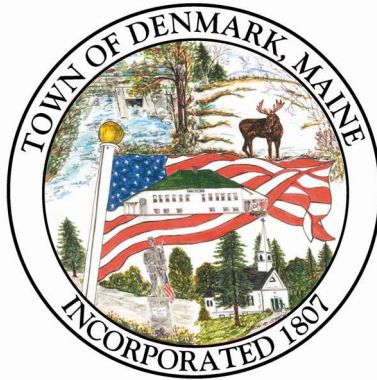


**TOWN OF  
DENMARK, MAINE**  
*“Beautiful by Nature”*



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**ZONING ORDINANCE  
OF THE MUNICIPALITY OF  
DENMARK, MAINE  
ENACTED JUNE 10, 1974**

**AMENDED JUNE 03, 2023**

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## **CHAPTER 1 - GENERAL**

### **1.1. Short Title.**

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Municipality of Denmark, Maine,” and will be referred to herein as “this Ordinance.”

### **1.2. Purpose.**

To further the maintenance of safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, regulate building sites, placement of structures and land uses, conserve shore cover, visual as well as actual points of access to waters and natural beauty, to protect buildings and lands from flooding and accelerated erosion, to protect archaeological and historic resources, and to anticipate and respond to the impacts of development in shoreland areas.

To ensure orderly growth and development, encourage sound forest management practices, protect air and water quality, preserve wetlands, maintain open space, help ensure long-term preservation of Denmark’s rural character and natural beauty, and enhance conditions for quality living of its inhabitants.

To be continually updated and revised to remain compatible with and supportive of Denmark’s policies, goals, and objectives as reflected in the Denmark Comprehensive Plan.

This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon, or injure the property of another; it does not excuse any person of the necessity of complying with other applicable laws and regulations.

### **1.3. Basic Requirements.**

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in the Municipality of Denmark shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land, or water area is located.

### **1.4. Non-Conformance.**

#### **1.4.1. Purpose.**

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1.4. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

#### **1.4.2. General.**

##### **1.4.2.1. Continuance, Enlargement, Reconstruction.**

Any non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

#### 1.4.2.2. Transfer of Ownership.

Non-conforming structures, non-conforming lots of record, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

#### 1.4.2.3. Restoration or Replacement.

This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and the value of which is less than 25% of the market value of the structure before the repair is started; and such other changes in a non-conforming use or structure as Federal, State, or Local building and safety codes may require.

### 1.4.3. Non-Conforming Use.

#### 1.4.3.1. Resumption Prohibited.

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

#### 1.4.3.2. A Structure Non-Conforming as to Use.

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

#### 1.4.3.3. Change of Use.

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the District than the existing non-conforming use, and the impact on the subject adjacent properties and resources is less adverse than the impact of the former use as determined by the Planning Board. The case shall be heard as an administrative appeal. The determination of appropriateness shall require written findings on the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Chapter 5 of this Ordinance shall apply to such requests to establish new non-conforming uses.

#### 1.4.3.4. Use of Land.

A non-conforming use of land may not be extended into any part of the remainder of a lot

of land. A non-conforming use of land, which is accessory to a non-conforming use of a building, shall be discontinued at the same time the non-conforming use of the building is discontinued.

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

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

#### 1.4.4. Non-Conforming Structures.

This Section pertains to dimensional requirements. Applications regarding non-conforming uses shall be reviewed under the provisions above.

##### 1.4.4.1. Structures.

All new additions or expansions of principal and accessory structures, excluding functionally water dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 1.4.4.1.2.

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs Section 1.4.4.1.2.1., and Section 1.4.4.1.2.3, below.

1.4.4.1.2. Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

1.4.4.1.2.1. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

1.4.4.1.2.2. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

1.4.4.1.2.3. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within



75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

1.4.4.1.2.4. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of Section 1.4.4.1.2.

1.4.4.1.2.4.1. For the purposes of Section 1.4.4.1.2., a basement is not counted toward floor area.

#### 1.4.4.2. Principal and Accessory Structures.

All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance from the normal high-water line of great pond classified GPA and rivers that flow to great ponds classified GPA, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

#### 1.4.4.3. Foundations.

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 1.4.4.7., Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

#### 1.4.4.4. Filing and reporting requirements.

Written plans required pursuant to Section 1.4.4.1. must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this Section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.

#### 1.4.4.5. Discontinuance and Abandonment of Use.

1.4.4.5.1. Discontinuance of the use of a legally existing non-conforming structure caused by the military service of the proprietor, or accident, or adverse circumstances shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

1.4.4.5.2. Abandonment of use depends upon the concurrence of two factors:

- (1.) an intention to abandon or relinquish use, and
- (2.) some overt act or failure to act which carries the implication that the owner neither claims nor retains any interest in the use.

#### 1.4.4.6. Lack of Required Parking or Loading Space.

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

#### 1.4.4.7. Relocation.

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback 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 non-conforming.

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.

#### 1.4.4.8. Reconstruction or Replacement.

Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph Section 1.4.4.7\_ above, the physical condition and type of foundation present, if any.

#### 1.4.5. Non-Conforming Lots of Record.

##### 1.4.5.1. Vacant Lots.

A vacant non-conforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. On a non-conforming lot of record, which has less than 75 percent of the required lot width, the required setback from lot lines and setback from center of road, or right of way may not be reduced by more than 25 percent. Variance of setback or other requirements not involving area or width may be obtained only by action of the Board of Appeals.

##### 1.4.5.2. Built Lots.

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

##### 1.4.5.3. Contiguous Built Lots.

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. If two or more principal uses existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

##### 1.4.5.4. Contiguous Lots - Vacant or Partially Built.

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if two or more of the lots are vacant or contain only an accessory structure, except in the Shoreland District, where this requirement shall apply if one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards, except where rights have vested, or the lots have frontage on parallel streets and state laws are complied with.

##### 1.4.5.5. Vested Rights.

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures and development infrastructure improvements for town approved subdivisions began prior to or within 12 months of the adoption of this Ordinance, or in the case of then pending applications, when the review process on an application commences. Such construction must be legal

at the time it is commenced, and the owner must be in possession of and in compliance with all validly issued permits, both state and local. Otherwise, non-conforming use rights arise only in conformance with the provisions of this Ordinance.

#### **1.5. Validity and Severability.**

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

#### **1.6. 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, by-law, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures the provisions of this Ordinance shall control.

#### **1.7. Amendments.**

##### **1.7.1. Initiation of amendment.**

An amendment to this Ordinance may be initiated by:

1.7.1.1. The Planning Board provided a majority of the board has so voted;

1.7.1.2. Request of the Municipal Officers to the Planning Board; or

1.7.1.3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Municipality at the last gubernatorial election.

##### **1.7.2. Adoption of amendment.**

An amendment to this Ordinance may be adopted by a majority vote of the Governing Body who are present and voting. (The Governing Body consists of the voters of the town.)

1.7.3. The Planning Board shall hold a public hearing on the proposed amendment at least 30 days prior to the meeting of the Governing Body. Notice of the hearing shall be posted at least 7 days in advance in a newspaper of general circulation in the area.

1.7.4. Copies of amendments to any provision which affects the Shoreland District shall be attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment if such amendment is approved by the Department.

#### **1.8. Repetitive Petitions.**

No proposed change in this Ordinance which has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within one (1) year after the date of such unfavorable action unless adoption of the proposed change is recommended by unanimous vote of the Planning Board.

#### **1.9. Effective Date.**

Except as specified in Section 1.7.4 above, the effective date of this Ordinance is the date of enactment.

## CHAPTER 2 - ESTABLISHMENT OF DISTRICTS

### 2.1. Zoning Districts.

To implement the provisions of this Ordinance, the Municipality of Denmark is hereby divided into the following Districts:

Aquifer Protection District

Resource Protection District

Rural District

Shoreland District

Village District

#### 2.1.1. Village District.

To provide an opportunity for compact development in a village setting but protect existing residences in the more densely developed parts of town from the adverse impacts frequently associated with various types of commercial development.

#### 2.1.2. Rural District.

To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing minimum controls on those uses which by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

#### 2.1.3. Aquifer Protection District.

To protect those ground water resources which are most vulnerable to contamination from certain adverse land use activities and thereby to preserve the quantity and quality of this resource for present and future use. This protection shall be afforded by decreased densities and restrictions on land uses which can be expected to pose increased risks to ground water quality.

### 2.2. Location of Districts.

Said Districts are located and bounded as shown on the latest edition of the Official Zoning Map, entitled "Zoning Map of Denmark, Maine", and on file in the office of the Municipal Clerk. The Official Map shall be signed by the Municipal Clerk and the Chairperson of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this map may be seen in the office of the Municipal Officers.

A copy of said map should be consulted by any person or party intending to apply for a building permit, land use authorization, subdivision approval, zoning variance, or other similar permit or relief under this Ordinance prior to filing for same. Use of, reference to, or reliance upon any previous version of the Town zoning maps shall be at applicant's sole risk.

### **2.3. Uncertainty of Boundary Location.**

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules shall apply:

2.3.1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

2.3.2. Boundaries indicated as approximately following well established lot lines shall be construed to follow such lot lines;

2.3.3. Boundaries indicated as approximately following municipal limits shall be construed to follow such municipal limits;

2.3.4. Boundaries indicated as following railroad lines shall be construed to follow such lines;

2.3.5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

2.3.6. Boundaries indicated as being parallel to or extensions of features indicated in sub-Sections 2.3.1. – 2.3.5. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Boundaries which are parallel to the upland edge of a wetland shall be the distance indicated from the upland edge of a wetland regardless of the location to the boundary depicted on the map and

2.3.7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 2.3.1. – 2.3.6. above, the Board of Appeals shall interpret the District boundaries.

## CHAPTER 3 - LAND USE DISTRICT REQUIREMENTS *(Amended 6.3.23)*

### 3.1. General requirements.

3.1.1. A Plumbing Permit and Building or Use permit shall be required for all buildings, uses and sanitary facilities, according to the provisions of Chapter 5 of this Ordinance.

3.1.2. If more than one principal building or dwelling unit is constructed on a single lot, the minimum lot area requirements shall be met for each principal building or dwelling unit.

3.1.3 No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

3.1.4. All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along the intersecting street lines.

3.1.5. No structure shall exceed 40 feet in height with a habitable floor height not to exceed 30 feet except that structures and features of buildings usually erected at a height greater than the main roofs of buildings and not intended for human occupancy, such as chimneys, towers, ventilators, flagpoles, tanks, and spires may exceed 40 feet in height, but no more than 75 feet, and shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. However, within the Shoreland District no structure shall exceed 35 feet in height as defined in the State of Maine Shoreland Zoning Guide.

### 3.2. Land Use Controls. *(6.3.23)*

Permitted and Conditional Uses shall conform to the performance standards delineated in Article 5 of this Ordinance as Applicable. Uses permitted and allowed as conditional uses in each District shall be only those uses designated in the table below:

- Y - Permitted use, no permit required
- P - Permitted use, Code Enforcement Officer permit required
- C - Conditional use, Planning Board permit required
- N - Prohibited use
- N/A - Not Applicable
- \* - See performance standards in Chapters 4 or 5
- \*\* - See separate ordinance

	<b>Resource Protection</b>	<b>Shoreland</b>	<b>Village</b>	<b>Rural</b>	<b>Aquifer Protection</b>
Open space use	Y	Y	Y	Y	Y
Clearing of Vegetation for approved construction and other allowed uses	P	P	Y	Y	Y
Animal husbandry*	N	P	P	Y	Y

	<b>Resource Protection</b>	<b>Shoreland</b>	<b>Village</b>	<b>Rural</b>	<b>Aquifer Protection</b>
Agriculture*	P	P	Y	Y	Y
Single family dwelling	N	P	P	P	P
Two family dwelling	N	P	P	P	P
Multi-family dwelling	N	C	C	C	C
Planned unit development*	N	N	N	C	C
Cluster development*	N	C	C	C	C
Mobile Homes not in a mobile home park	N	P	N	P	P
Conversion of seasonal residences to year-round residences	N	P	Y	Y	Y
Home occupations*	N	P	P	Y	C
Boathouse*	N	P	P	P	P
Piers and Docks*					
In the water for 7 months or more per year	C	C	N/A	N/A	N/A
In the water for less than 7 months per year	P	Y	N/A	N/A	N/A
Signs*	P	P	Y	Y	Y
Filling, grading, or other earth moving activity involving the removal or filling of less than 250 cubic yards of material from or onto any lot in any one year*	N	P	P	Y	P
Removal or filling of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental to construction, alteration or repair of a road or driveway or essential services	P	P	Y	Y	Y
Sale of produce and plants raised on the premises, or seasonal sales of produce and plants not raised on the premises	Y	Y	Y	Y	Y
Boat Launching Facilities and Marinas	N	C	N/A	N/A	N/A
Public or private recreational facilities including parks, play- grounds, golf courses, driving- ranges, and swimming pools	N	C	C	P	P
Campgrounds*	N	C	N	C	C
Individual Private Campsites*	N	P	P	P	P



	<b>Resource Protection</b>	<b>Shoreland</b>	<b>Village</b>	<b>Rural</b>	<b>Aquifer Protection</b>
Church or other place of worship, parish house, rectory, convent, and other religious institutions	N	C <sup>1</sup>	C	C	C
Public buildings such as libraries, museums, civic centers	N	C <sup>1</sup>	C	C	C
Utilities, including sewage collection and treatment facilities, not including solar energy systems	N	C	C	C	N
Personal Scale Solar Energy Systems - Minor	P	P	P	P	P
Personal Scale Solar Energy Systems - Major	P	P	P	P	P
Large Scale Solar Energy Systems	N	N	C	C	N
Public, private and parochial schools	N	N	C	C	C
Bed & Breakfast/Inn*	N	C	C	C	C
Hotel/Motel*	N	N	N	N	N
Hospital	N	N	C	C	N
Day Care Center	N	C	P	P	N
Automobile Repair Garage	N	N	C	C	N
Automobile Service Station	N	N	C	C	N
Auto Washing Facility	N	N	N	N	N
Camp	N	C	C	C	C
Chemical and bacteriological laboratory	N	N	N	N	N
Club*	N	C	C	C	N
Commercial Recreation*	N	N	C	C	N
Commercial painting, wood preserving, and furniture stripping	N	N	N	C	N
Communication Tower	C	C	C	C	C
Dry Cleaning establishment	N	N	C	C	N
Flea Market	N	C <sup>1</sup>	C	C	C
Kennel*	N	N	C	C	N
Laundromat	N	N	C	C	N
Manufacturing less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift	N	N	C	C	N
2,500 sq. ft. or more of floor space or more than 6 employees on any shift	N	N	N	C	N
Mechanized Recreation*	N	N	N	C	N
Neighborhood Convenience Store	N	N	C	C	C

	<b>Resource Protection</b>	<b>Shoreland</b>	<b>Village</b>	<b>Rural</b>	<b>Aquifer Protection</b>
Nursing Home	N	N	C	C	N
Personal Services	N	N	C	C	C
Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas	N	N	C	C	N
Photographic processing	N	N	N	N	N
Printing	N	N	C	C	N
Professional Offices	N	C <sup>1</sup>	C	C	N
Restaurant, Standard*	N	C <sup>1</sup>	C	C	N
Restaurant, Fast food*	N	N	N	C	N
Retail use, not elsewhere listed less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift	N	C <sup>1</sup>	C	C	N
2,500 sq. ft. or more of floor space or more than 6 employees on any shift	N	N	N	C	N
Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms	N	N	N	N	N
Sale of Vehicles	N	N	N	C	N
Veterinary Hospital*	N	N	C	C	N
Warehouse, Distribution Center	N	N	N	C	N
Wind Energy Facility Type 1A	N	P	P	P	P
Wind Energy Facility Type 1B	N	C	C	C	C
Wind Energy Facility Type 2	N	N	N	N	N
Wind Energy Facility Type 3	N	N	N	N	N
Wireless Communication Facility <sup>2</sup>	C	C	C	C	C
Cemeteries	N	N	P	P	N
Automobile graveyards with three or more vehicles operated in accordance with State laws	N	N	N	C	N
Automobile graveyards with One or two vehicles*	N	N	P	P	N
Junkyards	N	N	N	N	N
Waste processing or disposal facilities	N	N	N	C	N
Non-Metallic Mineral Extraction*	N	C	N	C	C
Non-Metallic Mineral Exploration (6.3.23)	N	P	N	Y	Y
Metallic Mineral Exploration(6.3.23)	N	N	N	C	N

	<b>Resource Protection</b>	<b>Shoreland</b>	<b>Village</b>	<b>Rural</b>	<b>Aquifer Protection</b>
Metallic Mineral Mining and Extraction (6.3.23)	N	N	N	C	N
Blasting Associated with Metallic Mineral Exploration And Extraction	N	N	N	P	N
Water Extraction**					
Structures accessory to permitted structures or uses	P	P	P	P	P
Structures accessory to structures or uses permitted as conditional uses	C	C	C	C	C
Uses accessory to permitted structures or uses	Y	Y	Y	Y	Y
Uses accessory to structures or uses which require a permit	P	P	P	P	P
Uses accessory to structures or uses permitted as conditional uses	C	C	C	C	C
Uses similar to permitted uses	Y	Y	Y	Y	Y
Uses similar to uses which require a permit	P	P	P	P	P
Uses similar to conditional uses	C	C	C	C	C
Uses similar to prohibited uses	N	N	N	N	N

<sup>1</sup> - Limited to that portion of the Shoreland Zoning District in the Village District

<sup>2</sup> - See Section 5.15.1.

### 3.3. Dimensional Requirements.

3.3.1. All lots created, and buildings or structures erected after the effective date of this Section shall meet the dimensional requirements of the following table. No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure is in existence on the effective date of adoption or amendment of this Ordinance, no lot containing such structure shall be created which does not meet the dimensional requirements of the District in which it is created.

	<u>Shoreland</u>	<u>Village</u>	<u>Rural</u>	<u>Aquifer Protection</u>
Minimum lot area (sq. ft.)	80,000 <sup>1</sup>	40,000*	80,000	80,000
Minimum lot width (ft.)	200	150	250	250
Minimum shore frontage (ft.)	200 <sup>1</sup>	150	250	250
Minimum setbacks (ft.)				
<u>Front</u>				
From right-of-way line of private road	50	35	50	50
From centerline of public road	75	60	75	75
<u>Side</u>	20	20	20	20
<u>Rear</u>	20	20	20	20
From the normal high-water elevation of a waterbody	100	100	100	100
From the upland edge of a wetland	100	100	100	100
Maximum lot coverage (%)	15	35	20	10

Governmental, Institutional, Commercial uses shall require a minimum lot area of 60,000 sq. ft. with a minimum shore frontage of 300 feet.

\*Village Shoreland will remain at 40,000 sq. ft. minimum.

#### 3.3.2. Additional Requirements for Subdivisions.

Due to the increased potential for erosion and sedimentation, for nutrient transport to vulnerable lakes, and for contamination of ground water resources due to concentrated development, the following additional requirements shall apply to subdivisions, as defined in accordance with the Maine Revised Statutes Annotated.

3.3.2.1. The maximum number of lots or dwelling units shall be determined by dividing the minimum lot area of the District in which the parcel is located into the net lot area of the parcel to be subdivided. If the parcel to be subdivided is located in more than one zoning District, the net lot area of each portion of the parcel in each District shall be divided by the minimum lot area of the District.

3.3.2.2. No structure within a subdivision shall be located in an area identified as a very poorly drained soil.

## **CHAPTER 4 - GENERAL PERFORMANCE STANDARDS**

The following standards shall apply to all uses, both conditional and permitted, as appropriate in the various Districts.

### **4.1. Access to Lots.**

No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of fifty feet in width. The access road shall be constructed to a minimum width of twelve feet if serving one dwelling unit, and fifteen feet if serving two dwelling units. The access road shall contain a minimum depth of fifteen inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two dwelling units. Any access road serving between three and eight dwelling units shall meet the road design and construction standards of the Denmark Planning Board Standards for Reviewing Land Subdivisions but need not be paved. Any access road serving more than eight dwelling units shall meet the road design and construction standards of the Subdivision Regulations, Town of Denmark.

### **4.2. Accessory Buildings.**

No garage or other accessory building shall be located in a required front yard. When located to the rear of the main building, the accessory building shall be set back at least 20 feet from the side or rear lot lines, provided that all accessory buildings shall be set back at least 100 feet from the normal high-water elevation of a waterbody.

### **4.3. Archaeological Sites.**

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

### **4.4. Buffer Areas.**

When an industrial or commercial building or use is established abutting a residential use a landscaped buffer strip shall be provided to visually screen the use from adjacent dwellings. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation, as necessary, replaced to insure continuous year-round screening. For Large Scale Solar Energy Systems, see additional and superseding buffer standards under Section 5.16.

### **4.5. Erosion and Sediment Control.**

4.5.1. On any site with a slope of 10% or more, and within the Shoreland District all activities which involve filling, grading, excavation, or other similar activities which result in un-stabilized soil conditions and which require a Planning Board permit shall require a written soil erosion and sediment control plan. The plan shall include, where applicable, provisions for:

4.5.1.1. Mulching and revegetation of disturbed soil.

4.5.1.2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

4.5.1.3. Permanent stabilization structures such as retaining walls or riprap.

4.5.2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible. The top or bottom of a cut or fill shall not be closer than ten feet to a property line unless otherwise mutually agreed to by the affected landowner and town but in no instance shall the cut or fill exceed a 2:1 slope.

4.5.3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

4.5.4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

4.5.4.1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

4.5.4.2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

4.5.4.3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of stacked hay bales and/or silt fences.

4.5.4.4. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater and shall be stabilized with vegetation or lined with rip-rap.

4.5.5. Where these erosion and sediment control standards conflict with or parallel erosion and sediment control standards within the Stormwater Management Section of this Ordinance, the more restrictive shall apply.

#### **4.6. Landscaping.**

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.

#### **4.7. Off Street Parking and Loading Requirements.**

4.7.1. Basic Requirements.

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 three hundred (300) feet

of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space. No required parking space shall, for the purposes of this Ordinance, serve more than one use. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width. Parking areas with more than two (2) parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

#### 4.7.2. Schedule of Minimum Off-Street Parking Requirements.

4.7.2.1. Two (2) spaces per dwelling unit.

4.7.2.2. One (1) space for each sleeping room in a bed and breakfast, inn, tourist home, boarding or lodging house.

4.7.2.3. One (1) space for each recreational vehicle, tent or shelter site in a campground.

4.7.2.4. One (1) space for each two (2) beds in a hospital or sanitarium.

4.7.2.5. One (1) space for each four (4) beds for other institutions devoted to the board, care, or treatment of persons.

4.7.2.6. One (1) space for each one hundred fifty (150) square feet or fraction thereof, of floor area of any retail, wholesale, or service establishment, office or professional building.

4.7.2.7. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums, and other places of amusement or assemble.

4.7.2.8. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted uses.

4.7.2.9. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open air retail businesses and amusements and other permitted uses not specifically enumerated.

4.7.2.10. The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that the parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.

#### 4.7.3. Off-Street Loading.

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located 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.

#### 4.7.4. 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 and entering and leaving. Parking lots larger than 20,000 square feet in area shall provide a 2 1/2" caliper shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot.

4.7.5. Within the Shoreland District the following additional regulations shall apply.

4.7.5.1. Parking areas shall meet the shoreline setback requirements for structures. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

4.7.5.2. Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

#### **4.8. Protection of Drinking Water Supplies.**

4.8.1. Before locating any well within 100 feet of any public road or any existing septic system, the landowner must sign a waiver of liability absolving the Town of Denmark from liability for any contamination of the well.

4.8.2. Prior to the issuance of any occupancy permit for any structure with a potable water supply system, a water quality analysis demonstrating that the Maine Rules Related To Drinking Water are met shall be submitted to the code enforcement officer.

#### **4.9. Roads and Driveways.**

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

4.9.1. Roads and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a water body 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 Appeals 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.

4.9.1.1. On grades 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.

4.9.1.2. 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.

4.9.2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.

4.9.3. 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 Section 4.5.3.



4.9.4. Grades.

4.9.4.1. Proposed road grades are limited to those specified in the Town of Denmark Subdivision Regulations, Street Design Guidelines.

4.9.4.2. Driveway grades shall be no greater than twenty (20) percent.

4.9.5. In order to prevent road or driveway surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an un-scarified 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 and driveway surface drainage which is directed to an un-scarified 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.

4.9.6. 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, driveway, or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

4.9.6.1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Road or Driveway Grade (Percent)	Spacing (Feet)
0-2	250
>2-5	200-135
>5-10	100-80
>10-15	80-60
>15-20	60-45

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

4.9.6.3. On road or driveway sections having slopes greater than ten (10) percent, 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 or driveway.

4.9.6.4. 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

4.9.7. Ditches, culverts, bridges, drainage dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**4.10. Septic Waste Disposal.**

Sewerage disposal shall meet all requirements of the Maine Subsurface Wastewater Disposal Rules.

4.10.1. The approval of building permit applications shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate site conditions for wastewater disposal.

4.10.2. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association.

Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

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

a) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than one hundred (100) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and

b) A holding tank is not allowed for a first-time residential use in the Shoreland District.

4.10.4. The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

#### **4.11. Signs.**

4.11.1. General.

Billboards are prohibited. The following provisions shall apply to signs in all districts where permitted.

4.11.2. Size, Location and Illumination.

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

4.11.2.2. Flashing, moving or animated signs are prohibited.

4.11.2.3. No sign shall exceed twenty (20) feet in height.

4.11.2.4. No sign shall be located within three (3) feet of a street line or other lot line.

4.11.2.5. Signs may be illuminated only by shielded, non-flashing lights.

4.11.3. Types of Signs.

4.11.3.1. Public traffic and directional signs designating public or semi-public activities shall be permitted.

4.11.3.2. Name signs shall be permitted, provided such signs shall not exceed 2 square feet in area, and shall not exceed two signs per premises.

4.11.3.3. Residential users may display a single sign not over 6 square feet in area relating to goods or services rendered on the premises, or to the sale, rental, or lease of the premises.

4.11.3.4. Signs relating to trespassing and hunting shall be permitted.

4.11.3.5. Commercial uses may display a single sign that may be lettered on two sides not to exceed 16 square feet per side, relating to goods and services sold on the premises shall be permitted except in the Shoreland District. In the Shoreland District such signs shall not exceed six square feet in area.

#### **4.12. Soils.**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### **4.13. Storage of Materials.**

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

#### **4.14. Stormwater Management.**

4.14.1. This stormwater Section is applicable to any new construction, development, and site work, and to any expansions of existing construction, development, and site work that disturb an acre of soil / land or more (known as Project(s) for this Section). Though for stormwater management measures applicable to land subdivisions, see "Subdivision Regulations of the Town of Denmark, Maine" under separate cover.

4.14.1.1. All projects shall be designed such that peak stormwater runoff from the site does not exceed the natural predevelopment conditions.

4.14.1.2. Where possible and practical, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.

4.14.1.3. Stormwater management evaluations and designs shall be based on a 24-hour, 25-year recurrence interval storm.

4.14.1.4. Project construction may not begin until required Maine Department of Environmental Protection (DEP) and Planning Board approvals have been received.

4.14.1.5. Construction of required stormwater management measures shall be satisfactorily complete, as determined by the Town of Denmark Code Enforcement Officer, prior to any changes in ownership of any Project land or buildings, unless waived by the Planning Board after applicant written request and posting of satisfactory bond.

4.14.2. Projects shall require the installation of stormwater management facilities as designed and provided for under the latest version of the Maine Stormwater Best Practices Manual and Chapter 500 Stormwater Management by the DEP except that the use of rain gardens shall not be permitted to be included as an integral part of stormwater management or low impact strategies.

Rain gardens may be included in a Project as a peripheral feature(s) provided they are not included in, nor relied upon, to support the overall stormwater management system(s). In addition to the application submission requirements found elsewhere in this Ordinance, at least the following shall also be submitted for Project approval by the Planning Board:

4.14.2.1. A comprehensive stormwater management plan / report.

4.14.2.2. Inspection and maintenance plan of temporary and permanent erosion and sediment control measures.

4.14.2.3. List of erosion control measures and stormwater management measures to be inspected and maintained.

4.14.2.4. List of inspection and maintenance tasks specific to each erosion control measure or stormwater management measure including:

4.14.2.4.1. Required frequency for each inspection and maintenance task.

4.14.2.4.2. Contact information for inspection and maintenance responsible parties.

4.14.2.4.3. Statement(s) that applicant complied with or will comply with DEP terms and conditions of any approval.

4.14.3. The applicant, or in the case of another entity approved by the Town of Denmark Municipal Officers, shall be known as the "Responsible Party" and shall submit simultaneously to the Town of Denmark Code Enforcement Officer all submissions made to the Maine DEP, including applications, application materials, and related correspondence back and forth. Additionally, this includes all post-approval and post-construction DEP applications, application materials, and all correspondence back and forth.

4.14.4. The Responsible Party shall ensure that all post-approval and post-construction activities and requirements are adhered to as required by this Ordinance, the DEP and all permits received.

4.14.4.1. Changes in Responsible Party will require the approval of the Town of Denmark Municipal Officers.

4.14.4.2. In a timely manner, the Responsible Party shall submit to the Town of Denmark Code Enforcement Officer the following:

4.14.4.2.1. Stormwater management system maintenance and erosion control inspection logs and maintenance performance reports.

4.14.4.2.2. Certification to the DEP that all work will comply with any DEP permit(s) issued, if so required by the DEP.

4.14.4.2.3. Notice to DEP of stormwater management system maintenance responsibility transfer to another entity.

4.14.4.2.4. All approvals, notices, and documents provided from the DEP to the Responsible Party.

4.14.5. During Construction

4.14.5.1. The Responsible Party shall timely perform the following:

4.14.5.1.1. Inspection: Inspect disturbed areas and erosion control measures weekly and just before and after rainfall events by a qualified person with knowledge of

permit(s) requirements. A qualified individual may be found in Maine DEP Site Law list of third-party inspectors.

4.14.5.1.2. Maintenance: Repair Best Management Practice facilities immediately upon problem discovery, and the more significant problems within seven days and prior to any rainfall event.

4.14.5.1.3. Documentation: Keep logs summarizing inspections and any corrective actions taken. Submit logs monthly to the Town of Denmark Code Enforcement Officer.

#### 4.14.6. Post-Construction

4.14.6.1. The Responsible Party shall timely perform the following:

4.14.6.1.1. Carry out the approved inspection and maintenance plans.

4.14.6.1.2. Maintain all measures in effective operating condition. A person with knowledge of erosion and stormwater control, including the standards and conditions of any permit issued, shall conduct the inspections per the approved inspection and maintenance plans.

4.14.6.1.3. Keep documentation logs summarizing inspections and any corrective actions taken. All such logs shall be submitted monthly to the Town of Denmark Code Enforcement Officer.

#### 4.14.7. Recertification.

4.14.7.1. Within three months of the expiration of each five-year interval from the date of the earlier of DEP permit issuance or Planning Board approval, and as provided for and required by the DEP, the Responsible Party shall certify to the DEP and shall submit copies simultaneously to the Town of Denmark Code Enforcement Officer, all required recertification documentation submissions to and from the Maine DEP, including at least:

4.14.7.1.1. That all areas of the Project have been inspected for erosion and stabilized where necessary.

4.14.7.1.2. That all aspects of the stormwater management system are operating as approved or have been repaired as necessary.

4.14.7.1.3. That the stormwater maintenance plan is being implemented as approved and the maintenance log is being maintained.

### **4.15. Traffic Impacts and Road Access Control.**

#### 4.15.1. General.

Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the road and within the development, to avoid traffic congestion on any road and to provide safe and convenient circulation on any road and within the development. More specifically, for uses other than single family dwellings, access and circulation shall also conform to the following standards and the design criteria below.

Where a lot has frontage on two or more road, the access to the lot shall be provided to the lot across the frontage and to the road where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

#### 4.15.2. Driveway Design.

The following provisions shall apply to the design and construction of driveways and other vehicular accesses onto roads, except in the Village District.

4.15.2.1. Sight Distances. Driveways shall be designed in plan, profile and grading and located to provide the required sight distance as measured and specified in the Subdivision Regulations of the Town of Denmark.

4.15.2.2. Minimum Corner Clearance. A minimum corner clearance of 50 feet shall be provided from any intersection. Corner clearance shall be measured from the near right-of-way line or edge of pavement point of tangency (PT) for the corner to the edge of pavement point of tangency for the driveway. In general, the maximum corner clearance should be provided as practical based on-site constraints.

4.15.2.2.1. Where the minimum standard cannot be met, only a special case driveway where turning is limited to right turn in and out shall be permitted. If based on the above criteria, full access to the site cannot be provided on either Arterial, Collector, Industrial, Commercial, or Minor Residential Streets (all as defined in the Town of Denmark Subdivision Regulations), the site shall be restricted to partial access. Alternately, construction of a shared driveway with an adjacent parcel is recommended.

4.15.2.3. Driveway Spacing. Driveways on the same side of the road shall be separated from adjacent driveways a minimum of 75 feet and from property lines a minimum of ten feet, in order to allow roads to effectively serve their primary function of conducting through traffic.

#### 4.15.3. Number of Driveways.

The maximum number of driveways onto a single road is controlled by the available site frontage and the requirements above. In addition, no lot shall have more than two driveways onto a single road.

### **4.16. Village District Design Standards.**

Within the Village District all new structures and additions to existing structures shall meet the following standards:

4.16.1. Exterior siding of the structure shall be clapboards, shingles, shakes, log, board and batting, brick, including synthetic or metal siding manufactured to match exterior finished siding of existing building.

4.16.2. Roofs shall be either peaked or mansard in design.

### **4.17. Water Quality Protection.**

4.17.1. No activity shall locate, 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 that 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.

4.17.2. The washing, bathing, or cleaning of humans, animals or objects with soaps, detergents, or cleaning agents shall be prohibited in surface waters or in areas adjacent to surface waters if wash water can reach surface waters without treatment or absorption into the soils.

4.17.3. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on an impervious surface, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the impervious storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding 330 gallons in size, are exempt from this requirement unless located in the Aquifer Protection District.

4.17.4. Phosphorus Protection.

The increase in the concentration of phosphorus dissolved or suspended in surface water runoff presents a threat to the quality of lake waters. Therefore, this Section is designed to protect long-term lake water quality by minimizing increases in phosphorus run-off. The provisions of this Section shall apply only to development activity in the watershed of a great pond.

4.17.4.1. All land uses requiring Planning Board or Code Officer approval shall limit phosphorus export from the site based on approval of one of the following methods of phosphorus control:

4.17.4.1.1. Point System.

The Planning Board or Code Enforcement Officer may issue a permit if the applicant meets or exceeds thirty (30) points based on the following schedule:

4.17.4.1.1.1. Ten (10) points for correcting an existing erosion problem on the site.

4.17.4.1.1.2. Ten (10) points for a clearing limitation of 15,000 square feet and less.

4.17.4.1.1.3. Fifteen (15) points for a clearing limitation of 10,000 square feet and less.

4.17.4.1.1.4. Fifteen (15) points for the installment of rock-lined drip edges or other infiltration systems to serve the new construction.

4.17.4.1.1.5. Twenty (20) points for a 50-foot-wide buffer located downslope of the developed area.

4.17.4.1.1.6. Twenty-five (25) points for a 75-foot-wide buffer located downslope of the developed area.

4.17.4.1.1.7. Thirty (30) points for a 100-foot-wide buffer located downslope of the developed area.

4.17.4.1.1.8. Special Exemptions: Additions to non-conforming structures must meet or exceed a total of twenty-five (25) points and conform with Section 4.17.4.3., of this Ordinance.

4.17.4.2. Developments which do not meet the criteria for the simplified review shall prepare a phosphorus export analysis in accordance with the methodology contained in. Maine Stormwater Best Practices Manual: Maine Stormwater Management Design Manual: Phosphorus Control Manual: Volume II; March, 2016 edition. (<https://www.maine.gov/dep/land/stormwater/stormwaterbmps/>) An applicant for a development which qualifies for the simplified review, but who chooses to not meet the buffer strip requirements contained in Appendix A may, instead, use the methodology in the *Technical Guide* to show that the proposed development will meet the phosphorus export standards of Section 5.18.D.1.

4.17.4.3. Occupants and property owners shall maintain vegetated buffer strips and, if applicable, other phosphorus control measures in accordance with the buffer maintenance requirements contained in Section 5.3 of the *Technical Guide*.

4.17.4.3.1. One of the following methods of phosphorus mitigation must be employed if the footprint of any structure is enlarged within the setback area adjacent to a Great Pond.

4.17.4.3.1.1. The existing undisturbed natural wooded buffer strip between the structure and the water body shall be at least 50 feet in depth; or

4.17.4.3.1.2. A 50-foot natural wooded buffer strip shall be created by allowing a 50-foot strip to revert to natural vegetation. Woody vegetation shall be planted if lacking; or

4.17.4.3.1.3. An infiltration system designed to accommodate the runoff from the entire structure that would be generated by a 24-hour two-inch rainfall and approved by the Code Enforcement Officer shall be constructed.



## **CHAPTER 5 - PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES *(Amended 6.3.23)***

### **5.1. Agriculture and Animal Husbandry.**

5.1.1. All spreading, or disposal of manure shall be accomplished in conformance with the "Manure Utilization Guidelines" published by MAINE DEPARTMENT OF AGRICULTURE FOOD AND RURAL RESOURCES in November, 2001.

5.1.2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, from:

5.1.2.1. The nearest dwelling other than the applicant's, or

5.1.2.2. Any drinking water supply wells.

5.1.2.3. Within five (5) years of the effective date of this Ordinance all manure storage areas within the Shoreland District 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 above five (5) year period.

5.1.3. Animal husbandry shall meet the following standards:

5.1.3.1. When located on a lot smaller than three acres, all pasture, barns, barnyards, and other areas where the livestock, animals, or fowl are kept, housed, fed, or cared for shall be a minimum of 20 feet from all lot lines and 100 feet from a drinking water supply wells except the well which supplies the owner of the lot on which the animals are kept.

5.1.3.2. All feed and grain shall be stored in rodent proof containers.

5.1.3.3. All paddocks, pastures, barnyards or other enclosures must be adequately fenced to contain livestock, animals or fowl.

### **5.2. Automobile Graveyards and Junkyards.**

Automobile graveyards with three or more unserviceable, discarded, worn-out or junked motor vehicles shall meet the following standards:

5.2.1. Prior to issuance of the municipal permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.

5.2.2. Site Considerations.

5.2.2.1. No motor vehicles or material shall be located on a sand and gravel aquifer or on an aquifer recharge area as mapped by the Maine Geological Survey or a licensed geologist.

5.2.2.2. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines.

5.2.2.3. No motor vehicles or material shall be stored within 500 feet of any dwelling or school.

### 5.2.3. Operational Considerations.

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

5.2.3.2. Within 30 days of receiving a motor vehicle, the vehicle shall be disassembled and those parts which are to be retained for resale shall be stored within a building. Parts which are not to be resold shall be removed from the site within 30 days of disassembly.

### 5.3. Bed & Breakfast/Inn.

5.3.1. The application for approval shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.

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

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

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

### 5.4. Campgrounds.

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

5.4.1. Campgrounds shall contain a minimum of 5000 square feet, not including roads and driveways for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

5.4.2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

5.4.3. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table trash receptacle, and fireplace.

5.4.4. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, tree, fences, walls, or any combination of which forms an effective visual barrier of not less than six (6) feet in height.

### 5.5. Individual Private Campsites/Recreational Vehicles.

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

5.5.1. One campsite/recreational vehicle per lot.

5.5.2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a water body or the upland edge of a wetland, must meet all necessary set back requirements. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.

5.5.3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, the wheels must remain on the ground, and no structure(s) except canopies shall be attached to the recreational vehicle.

5.5.4. The recreational vehicle shall be utilized in a temporary recreational manner, consistent with its design, and in no way as a permanently located dwelling, occupied or unoccupied; and will be removed from the town, (unless stored at a primary residence) upon completion of a temporary occupancy period.

5.5.5. If located in the town of Denmark (except for storage at a primary residence) for a period in excess of thirty (30) days per year, recreational vehicles shall require a permit issued by the Code Enforcement Officer in accordance with the provisions of this Ordinance, Section 8.4.

5.5.6. The recreational vehicle, in order to be considered a vehicle and not a structure subject to Building Code or Federal Manufactured Housing Standards, must be roadworthy and possess a current registration from any State Department of Motor Vehicles, as appropriate.

5.5.7. The campsite or recreational vehicle shall not be permanently connected to any type of subsurface waste disposal system; sewage must be dumped at a facility specifically designed and legally authorized for receipt of such sewage.

5.5.8. The campsite or recreational vehicle shall not be permanently connected to any form of public utility.

5.5.8.1. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.

5.5.8.2 When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules.

## **5.6. Ordinance Related To Recreational Vehicle Permits.**

Unless in storage at a primary residence, Recreational Vehicles located in the Town of Denmark, for a period in excess of thirty (30) days per year shall require a permit issued by the Code Enforcement Officer (CEO). The minimum Building Permit fee shall be waived. Maximum duration of the permit will be 90 days per calendar year and may be subdivided in increments of 30 consecutive days only.

## **5.7. Home Occupations.**

5.7.1. Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.

5.7.2. Not more than two persons outside the family shall be employed in the home occupation.

5.7.3. There shall be no exterior display, no exterior sign (except as permitted by the provisions of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal buildings.

5.7.4. No nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, or radiation shall be generated.

5.7.5. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises, to catalog items ordered off the premises by customers, to items which are accessory and incidental to a service which is provided on the premises, and to antiques and other collectibles.

## **5.8. Non-Metallic Mineral Exploration and Mineral Extraction. (Amended 6.23.23)**

Topsoil, loam, rock, peat, and, gravel and similar earth materials

5.8.1. The provisions of this Section 5.8. concern exploration and extraction of sand, fill, gravel, clay, topsoil, peat, silt, rock or like materials that are not associated with metallic mineral exploration and mining operations. Provisions for metallic mineral exploration and mining operations are included under Section 5.18. and other Sections of this Ordinance.

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

5.8.3. Mineral extraction may be permitted under the following conditions:

### **5.8.3.1. Submission Requirements.**

In addition to the requirements for a conditional use application, the applicant shall submit plans of the proposed extraction site:

5.8.3.1.1. The property lines and names of abutting owners and ways, indicating not greater than five foot contour intervals; the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.

5.8.3.1.2. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

### **5.8.3.2. Design and Performance Standards.**

5.8.3.2.1. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a water body or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

5.8.3.2.2. Excavation may not occur within 3 feet of the seasonal high-water table, except in the Aquifer Protection District where excavation may not occur within 5 feet of the seasonal high-water table. If the application for conditional use approval does not include the determination of the elevation of the seasonal high-water table,

the elevation shall be estimated from nearby waterbodies and wetlands, and drinking water wells and the operator shall, at the request of the Code Enforcement Officer, dig a test pit at least required separation depth to demonstrate compliance with this standard. The bottom of the excavated area shall be no less than one foot above the elevation of the 100-year flood plain and not less than 200 feet from the normal high-water line of any body of water.

5.8.3.2.3. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.

5.8.3.2.4. No slopes steeper than 2 feet horizontal to 1-foot vertical shall be permitted at any extraction site unless a fence at least 6 feet is erected to limit access to such locations.

5.8.3.2.5. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.

5.8.3.2.6. Any topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.

5.8.3.2.7. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 200 feet from such public ways. No mud, soil, sand, or other materials shall be allowed to accumulate on a public street from loading or hauling vehicles.

5.8.3.2.8. No equipment debris, junk or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

5.8.3.2.9. Within six months of the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

5.8.3.2.9.1. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

5.8.3.2.9.2. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.

5.8.3.2.9.3. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of

drainage at any point is not significantly increased.

5.8.3.2.9.4. At least four inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a stable condition.

5.8.3.2.9.5. No slope greater than 3 feet horizontal to 1-foot vertical shall be permitted.

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

5.8.4. An excavation of less than 5 acres of land for gravel, clay, topsoil or silt must be conducted and reclaimed as defined in the Planning & Land Use Laws, in accordance with the Maine Revised Statutes Annotated. The excavation must be reclaimed in phases so that the working pit does not exceed 2 acres at any one time.

## **5.9. Mobile Homes and Mobile Home Parks.**

### **5.9.1. Mobile Homes not in a Mobile Home Park.**

Mobile homes not in a mobile home park shall meet all the requirements of this Ordinance for single family dwellings. Any manufactured housing unit manufactured prior to June 15, 1976 shall meet the access, egress and ventilation standards of the National Fire Prevention Association, Life Safety Code 101, 2018 edition.

### **5.9.2. Mobile Home Parks.**

Mobile home parks are subject to review and approval by the Denmark Planning Board. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this Section conflict with specific provisions of the Denmark Subdivision Regulations, the provisions of this Section shall prevail.

#### **5.9.2.1. Lot Area and Lot Width Requirements.**

Notwithstanding the dimensional requirements table located in Section 4.3 of this Ordinance, lots in a mobile home park shall meet or exceed the following minimum lot area and lot width requirements.

##### **5.9.2.1.1. Lots served by individual subsurface wastewater disposal systems:**

Minimum lot area: 20,000 square feet  
Minimum lot width: 100 feet

##### **5.9.2.1.2. Lots served by a central subsurface wastewater disposal system approved by the Maine Department of Human Services:**

Minimum lot area: 12,000 square feet  
Minimum lot width: 75 feet

##### **5.9.2.1.3. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.**

5.9.2.1.4. No part of any lot within a park may be located within any Shoreland District or Resource Protection District.

5.9.2.2. Unit Setback Requirements.

5.9.2.2.1. Structures shall not be located less than 15 feet from any boundary lines of an individual lot.

5.9.2.2.2. On lots which abut a public way either within the park or adjacent to the park, structures shall meet the front setback requirements in the dimensional requirements table in Section 4.3 of this Ordinance.

5.9.2.3. Buffering.

5.9.2.3.1. 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 designed with a continuous landscaped area not less than fifty feet in width which shall contain no structures or streets.

5.9.2.3.2. The buffering standards of Section 6.8.5. shall apply to mobile home parks.

5.9.2.4. Road Design, Circulation, and Traffic Impacts.

5.9.2.4.1. Roads within a park shall be designed by a Professional Engineer, registered in the State of Maine.

5.9.2.4.2. Roads which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Town of Denmark Subdivision Regulations.

5.9.2.4.3. Roads which the applicant proposes to remain private ways shall meet the following minimum geometric design standards.

Minimum right of way width: 23 feet

Minimum width of traveled way: 20 feet

5.9.2.4.4. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two road connections with existing public roads. Any road within a park with an average daily traffic of 200 trips per day or more, shall have at least two road connections leading to existing public roads, other roads within the park, or other roads shown on an approved subdivision plan.

5.9.2.4.5. No individual lot within a park shall have direct vehicular access onto an existing public road.

5.9.2.4.6. The intersection of any road within a park and an existing public road shall meet the following standards.

5.9.2.4.6.1. Angle of intersection.

5.9.2.4.6.1.1. The desired angle of intersection shall be 90°.

The minimum angle of intersection shall be 75°.

5.9.2.4.6.2. Maximum Grade within 75 feet of intersection.

5.9.2.4.6.2.1. The maximum permissible grade within 75' of the

intersection shall be 2%.

5.9.2.4.6.3. Minimum Sight Distance.

5.9.2.4.6.3.1. The minimum sight distance shall be measured and specified in the Subdivision Regulations of the Town of Demark.

5.9.2.4.6.4. Distance from other intersections.

The centerline of any street within a park intersecting an existing public road shall be no less than 125 feet from the centerline of any other street intersecting that public road.

5.9.2.4.7. 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 latest edition Trip Generation Manual published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trips per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

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

5.9.2.5.1. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.

5.9.2.5.2. No dwelling unit other than a manufactured housing unit shall be located within the park.

**5.10. Multi Family Dwelling Units.**

5.10.1. Two-Family Dwelling Units.

Lots for two-family units shall meet all of the dimensional requirements for single-family dwelling units, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of single-family dwelling units, and the road frontage shall exceed by 50% the requirement for a single-family dwelling unit.

5.10.2. Multi-Family Dwelling Units.

Multi-family (3 or more) dwelling units shall meet all of the following criteria:

5.10.2.1. Lot area and shoreline frontage shall be equal to that required for the equivalent number of single-family dwelling units.

5.10.2.2. The minimum road frontage shall be 400 feet.

5.10.2.3. Lots for multifamily dwelling units shall meet all other dimensional requirements for single-family dwellings.

5.10.2.4. No building shall contain more than five (5) dwelling units.

5.10.2.5. All multi-family dwellings shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.



5.10.2.6. Evidence of compliance with the *Maine Subsurface Wastewater Disposal Rules* shall be submitted. If the multifamily development is a change of use or expansion of use of an existing building, the provisions of the Maine Revised Statutes Annotated shall apply.

5.10.2.7. No parking area shall be located within the required yard areas.

5.10.2.8. Multi-family dwelling units shall meet all the requirements for a residential subdivision including Planning Board approval.

## **5.11. Planned Unit Development and Cluster Development.**

### **5.11.1. Purpose.**

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.

### **5.11.2. Basic Requirements.**

Planned unit developments and cluster developments shall meet all of the following criteria:

5.11.2.1. All planned unit developments and cluster developments shall meet all requirements for a residential subdivision including Planning Board approval.

5.11.2.2. The minimum area of land for a planned unit development or cluster development shall be 10 acres.

5.11.2.3. Any lot abutting a public road shall have a frontage no less than that normally required in the District. On other than public roads, road frontage may be reduced by not more than 30% from the requirements of the District in which the proposed development is located, provided that:

5.11.2.3.1. No building lot shall have an area of less than 10,000 square feet.

5.11.2.3.2. All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turn-around may be reduced by 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.

5.11.2.4. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District. No easements for use of shoreline shall be granted except for dwelling units contained within the project.

5.11.2.5. Lots for a planned unit development or cluster development shall meet all other dimensional requirements for the District in which they are located.

5.11.2.6. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.

5.11.2.7. Every building lot that is reduced in area below the amount normally required shall abut such common land for a distance of at least fifty (50) feet.

5.11.2.8. Where a planned unit development or cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land. Each shore lot shall not contain more than one common dock and said dock shall have

its size and shape approved by the Planning Board.

5.11.2.9. All dwelling units in a planned unit development or cluster development shall be connected to common water supply and distribution system, either public or private, at no expense to the Municipality.

5.11.2.10. All structures with required plumbing in a planned unit development, cluster development or motel shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the septic waste disposal provisions of this Ordinance.

5.11.2.11. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

### 5.11.3. Dedication and Maintenance of Common Open Space.

5.11.3.1. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association or trust which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.

5.11.3.2. Further subdivision of the common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and building accessory to non-commercial recreational or conservation uses may be erected on the common land.

5.11.3.3. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

5.11.3.3.1. It shall not be used for future building lots; and

5.11.3.3.2. A part or all the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.

5.11.3.4. If any or all of the common open space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.

5.11.3.5. This neighborhood association shall have the responsibility of maintaining the common open space(s).

5.11.3.6. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.

5.11.3.7. The developer or subdivider shall maintain control of such open spaces(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request by the neighborhood association or trust or the developer or subdivider.

## **5.12. Recreational Facilities.**

All Recreation Facilities shall meet the provisions below:

5.12.1. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.

5.12.2. Containers and facilities for rubbish collection and removal shall be provided.

5.12.3. Adequate screening, buffer area, or landscape provisions shall be built, planted, or maintained to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.

5.12.4. Sanitation facilities meeting the Maine Subsurface Wastewater Disposal Rules shall be provided.

## **5.13. Restaurants.**

5.13.1. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.

5.13.2. All parking and loading facilities shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.

5.13.3. Rest room facilities for the patrons shall be provided on the premises.

## **5.14. Timber Harvesting.**

5.14.1 MANAGED BY THE STATE OF MAINE.

## **5.15. Wireless Communication Facilities and Communications Towers.**

Communication towers and antennas are permitted as a conditional use only as follows:

5.15.1. The placement of antennas and associated equipment onto an existing structure may be allowed without a conditional use permit except in the Shoreland District when they are designed to be incorporated into the architecture of new or existing buildings or into the fabric of other manmade or natural structures or features so as to be inconspicuous when viewed at any point beyond the limits of the host property.

5.15.2. The height of any communication tower shall not exceed the height of the existing vegetation surrounding the base of the tower without a radio frequency analysis prepared by a registered professional engineer indicating the proposed height is the minimum needed to provide reasonable service for the intended purposes. The maximum height of any tower shall not exceed 190 feet. The height of an antenna shall be included in the total height limitation as allowed for a communication tower.

5.15.3. The tower shall be set back from all property lines a minimum of its height.

5.15.4. The tower shall not be lit.

5.15.5. The tower shall remain unpainted galvanized steel or be painted gray or silver.

5.15.6. At its base the tower shall be no wider than four feet. No individual member of the tower may have a diameter or thickness larger than four inches.

5.15.7. The applicant shall present evidence to the Planning Board that there are no existing structures which may be used to support the antenna and associated equipment and provide an equivalent level of service as the proposed facility and tower.

5.15.8. Wireless communications facilities which have been abandoned or which have remained unused for a period of six months shall be removed. The tower owner shall notify the Code Enforcement Officer on an annual basis regarding the status of the use of the tower. The tower, any associated buildings used only for sheltering communications equipment, and any fencing or other appurtenances shall be removed at such time as they have no longer been used for a period longer than six months. Prior to approval, the applicant shall submit a guarantee acceptable to the Town in an amount sufficient to pay for the cost of removal of the facility. The guarantee shall be made available to the town upon a finding, including adequate written notice to the applicant, that the facilities have not been used for a six-month period.

5.15.9. Communications towers owned by agencies of the State or Federal Government, erected for the purpose of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety, may be exempted from the standards of subsections 5.15.6., 5.15.7., and 5.15.8. above, provided the exemption does not result in increased risk to public health, safety or the environment.

## **5.16. Solar Energy Systems.**

### **5.16.1. Purpose.**

5.16.1.1. The purpose of this Section is to regulate the installation of solar energy systems by providing standards for the siting, design, construction, operation, monitoring, modification, and removal of such facilities, and to address public safety.

5.16.1.2. Where conflicts exist between this Section (5.16. Solar Energy Systems) and this Ordinance or other Municipality of Denmark regulations, this Section shall control except for conflicts associated with the Shoreland District or Resource Protection District where the most restrictive provisions shall control.

### **5.16.2. Personal Scale Solar Energy Systems – General.**

5.16.2.1. Personal Scale Solar Energy Systems, both Minor and Major, are accessory to the principal use on the parcel, consist of one or more free-standing ground, or roof or wall mounted solar collector devices or solar related equipment, and are intended to primarily reduce on-site consumption of utility power or fuels and may be used to reduce the on-site consumption of utility power or fuels on immediately adjacent lots except for lots located in the Shoreland District or Resource Protection District where they must be designed for existing or permittable uses within the district. The sale and/or distribution of excess energy to a public utility for distribution shall be incidental to Personal Scale Solar Energy Systems and shall not be its primary purpose.

5.16.2.2. PSSSES constructed prior to the effective date of this Ordinance shall not be required to meet the terms and conditions of this Ordinance except if they are located in the Shoreland District or Resource Protection District they must meet the requirements of those districts. Any physical modification to an existing PSSSES whether or not existing prior to the effective date of this Ordinance that materially alters the PSSSES shall require approval under this Ordinance. Routine maintenance or like-kind replacements do not require a building permit.

5.16.2.3. All PSSES shall be subject to the requirements of this Ordinance and shall require a building permit from the Code Enforcement Officer except as follows for PSSES not located in a Shoreland District or a Resource Protection District:

5.16.2.3.1. PSSES with an aggregate collection and/or focusing area of 100 square feet or less are exempt from this Ordinance except that minimum yard setbacks shall apply and shall be equivalent to the principal structure setback in the underlying zoning District for systems of 10 square feet or more.

5.16.2.3.2. PSSES with an aggregate collection and/or focusing area of 100 square feet or less do not require a building permit.

5.16.3. Personal Scale Solar Energy Systems - Minor (PSSES-Minor).

5.16.3.1. PSSES-Minor are Solar Energy Systems having an aggregate maximum power rating of not more than 20KWdc and an aggregate collection or focusing area of not more than 1,200 square feet on any one lot. PSSES-Minor shall be permitted as a use by right in all zoning Districts except in the Shoreland District or Resource Protection District they shall be permitted as a use subject to the terms and conditions of the Ordinance.

5.16.3.2. All PSSES-Minor shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

5.16.3.3. Any noise produced by any PSSES-Minor shall be inaudible anywhere off site.

5.16.3.4. Roof and Wall Mounted PSSES-Minor:

5.16.3.4.1. A roof mounted or wall mounted PSSES-Minor may be located on a principal or accessory building.

5.16.3.4.2. The total height of a building with a PSSES-Minor shall not exceed the maximum building height specified for principal or accessory buildings within the underlying zoning District.

5.16.3.4.3. Wall mounted PSSES-Minor shall comply with the setbacks for principal and accessory structures in the underlying zoning Districts.

5.16.3.4.4. Solar panels shall not extend beyond any portion of the roof or wall edges.

5.16.3.5. Ground Mounted PSSES – Minor:

5.16.3.5.1. Ground mounted PSSES-Minor shall comply with the setbacks for principal and accessory structures in the underlying zoning Districts.

5.16.3.5.2. The height of ground mounted PSSES-Minor solar panels and related equipment and supports shall not exceed the height requirements of the underlying zoning District.

5.16.3.5.3. The minimum height of ground mounted PSSES-Minor solar panels shall be 4 feet.

5.16.3.5.4. Ground mounted PSSES-Minor shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance

system or in any other manner that would alter or impede storm- water runoff from collecting in a constructed stormwater conveyance system.

#### 5.16.4. Personal Scale Solar Energy Systems - Major (PSSES-Major).

95.16.4.1. PSSES-Major are Solar Energy Systems having have an aggregate maximum power rating of more than 20KWdc and/or an aggregate collection or focusing area of more than 1,200 square feet on any one lot. PSSES-Major are limited to an aggregate maximum power rating of not more than 40KWdc and/or an aggregate collection or focusing area of not more than 2,400 square feet. PSSES having have an aggregate maximum power rating of 40KWdc or more and/or an aggregate collection or focusing area of 2,400 square feet or more shall be processed as LSSES excepting provisions

related to sale and/or distribution of excess energy for distribution off site.

5.16.4.2. All PSSES-Major shall be permitted as a use by right in all zoning Districts except in the Shoreland or Resource Protection District they shall be permitted as a use subject to the terms and conditions of the Ordinance and shall require a building permit from the Code Enforcement Officer.

5.16.4.3. Upon completion of installation, the PSSES-Major shall be maintained in good working order. Failure of the operator or property owner to maintain the PSSES-Major in good working order is grounds for appropriate enforcement actions pursuant to Section 8.1. of this Ordinance. Enforcement may include orders for decommissioning and removal.

5.16.4.4. All on-site utility transmission lines shall be placed underground.

5.16.4.5. The operator or landowner of a PSSES-Major shall provide, as part of the application filed with the Code Enforcement Officer, written confirmation that, if a connection is planned, the utility company to which the PSSES-Major will be connected has been informed of the customer's intent to install a grid connected system and has approved, or conditionally approved of such connection. Off-grid systems shall be exempt from this requirement.

5.16.4.6. No portion of the PSSES-Major shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSSES-Major provided they comply with the prevailing sign regulations.

5.16.4.7. All PSSES-Major shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

5.16.4.8. Any noise produced by any PSSES-Major shall be inaudible anywhere off site.

5.16.4.9. The issuance of a permit under this Ordinance does not create in the property owner, its, his, her or their successors and assigns in title, or create in the property itself the right to remain free of shadows and/or obstructions to solar energy caused by development or growth of any trees or vegetation on other properties.

5.16.4.10. Permit Requirements.

5.16.4.10.1. Zoning and/or building permit applications shall document compliance with this Ordinance and any applicable land use requirements not otherwise covered in this Ordinance and shall be accompanied by drawings showing the location of the

system on the building or property, including property lines. Permits must be kept on the premises where the PSSES-Major is constructed. The PSSES-Major will not have a materially adverse impact on public health and safety and will not have a materially adverse impact on the environment.

5.16.4.10.2. The zoning and/or building permit(s) shall be void if the PSSES-Major, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the PSSES-Major not to be in conformity with this Ordinance.

5.16.4.10.3. The PSSES-Major must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Code Enforcement Officer shall give written notice specifying the violation to the operator or landowner of the PSSES-Major which includes the required remedy.

#### 5.16.4.11. Decommissioning.

5.16.4.11.1. Each PSSES-Major and all solar related equipment shall be removed within 12 months of the date when the use has been discontinued, or abandoned, or upon termination of the useful life of same.

5.16.4.11.2. The PSSES-Major shall be presumed to be discontinued or abandoned if no electricity is generated by such solar collector for a period of 6 continuous months. Also see “Decommissioning, Removal, and Bonding” below for additional decommissioning considerations.

#### 5.16.5. Personal Scale Solar Energy Systems - Major (PSSES-Major) – Roof and Wall Mounted.

5.16.5.1. A roof mounted or wall mounted PSSES-Major may be located on a principal or accessory building.

5.16.5.2. The total height of a building with a PSSES-Major shall not exceed the maximum building height specified for principal or accessory buildings within the underlying zoning District.

5.16.5.3. Wall mounted PSSES-Major shall comply with the setbacks for principal and accessory structures in the underlying zoning Districts.

5.16.5.4. Solar panels shall not extend beyond any portion of the roof or wall edges.

#### 5.16.6. Personal Scale Solar Energy Systems - Major (PSSES-Major) – Ground Mounted.

5.16.6.1. The minimum yard setbacks shall comply with the setbacks for principal and accessory structures in the underlying zoning District.

5.16.6.2. The height of ground mounted PSSES-Major solar panels and related equipment and supports shall not exceed the height requirements of the underlying zoning District.

5.16.6.3. The minimum clearance height of ground mounted PSSES-Major solar panels shall be 4 feet.

5.16.6.4. Impervious Coverage.

5.16.6.4.1. The area beneath the ground mounted PSES-Major is considered pervious cover. However, use of impervious construction materials under the system could cause the area to be considered impervious and subject to the impervious surfaces limitations for the applicable zoning District.

5.16.6.4.2. The surface area of the arrays of a ground mounted PSES-Major, regardless of the mounted angle of any solar panels, shall be considered impervious and calculated in the lot coverage of the lot on which the system is located.

5.16.6.5. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices associated with the PSES-Major shall be locked to prevent unauthorized access or entry.

5.16.6.6. Ground-mounted PSES-Major shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

#### 5.16.7. Large Scale Solar Energy Systems (LSES).

5.16.7.1. LSES are not a permitted use in Shoreland, Resource Protection, and Aquifer Protection Districts. LSES are permitted in all other Districts with a Conditional Use Permit.

5.16.7.2. LSES permitted or constructed prior to the effective date of this Section shall not be required to meet the terms and conditions of this Ordinance. Any physical modification to an existing LSES, whether or not permitted or existing prior to the effective date of this Section that materially alters the LSES and any new LSES or expansion of a LSES shall require a Conditional Use Permit from the Planning Board under this Ordinance. Routine maintenance or like-kind replacements do not require a building permit or Planning Board approval.

5.16.7.3. The LSES layout, design and installation and ongoing maintenance shall conform to applicable industry standard, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), the Institute of Electrical and Electronics Engineers (IEEE) or other similar certifying organizations and shall comply with any applicable building codes and with all other applicable fire and life safety requirements and shall comply with all applicable federal, state, and local codes.

5.16.7.4. All on-site transmission lines shall be placed underground.

5.16.7.5. The solar facility operator or landowner shall provide as part of its application for a Conditional Use Permit, written confirmation from the public utility company to which the LSES will be connected noting that it has been informed of the solar facility operator or land owner's intent to install a grid connected system and that it has approved, or conditionally approved of such connection.

5.16.7.6. No portion of the LSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be



allowed on any equipment of the LSES provided they comply with the prevailing sign regulations.

5.16.7.7. All LSES shall be placed such that concentrated solar radiation or glare does not project anywhere off site.

5.16.7.8. Noise from a LSES shall be inaudible anywhere off site.

5.16.7.9. The solar facility operator or landowner shall ensure that dust control measures are implemented and maintained, especially during construction and decommissioning of the LSES, such that dust emissions in the air do not travel beyond the property lines.

5.16.7.10. No trees or other landscaping, other than that provided for in the application or as a condition of approval of any plan, application, or permit, may be removed or altered for the installation or operation of a LSES.

5.16.7.11. Proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary. Unless waived by the Planning Board, any topsoil that must be removed shall be stored and stabilized on-site for future use, especially for Decommissioning.

5.16.7.12. At no time will there be any use of herbicides or pesticides without the prior written approval of the Code Enforcement Officer.

5.16.7.13. No fuel, storage batteries, or other hazardous material will be stored on site.

5.16.7.14. The solar facility operator or landowner shall maintain a phone number and identify a person responsible for the public to contact throughout the life of the project and provide this information to the Municipality of Denmark and to immediate abutters.

5.16.7.15. The issuance of a permit under this Ordinance does not create in the land- owner, its, his, her or their successors and assigns in title or create in the property itself the right to remain free of shadows and/or obstructions to solar energy caused by development or growth of any trees or vegetation on other properties.

5.16.7.16. Permit Requirements.

5.16.7.16.1. The installation of LSES shall be in compliance with all applicable permit requirements, codes, and regulations and this Ordinance.

5.16.7.16.2. The solar facility operator or landowner shall repair, maintain and replace the LSES and related solar equipment during the term of the permit in a manner consistent with industry standards as needed to keep the LSES in good repair and operating condition.

5.16.7.17. LSES Size, Lot Size and Lot Coverage.

5.16.7.17.1. The maximum land area encompassed within the Required LSES Security Fencing shall be 20 acres.

5.16.7.17.2. The minimum lot size of a LSES shall meet the requirements of the underlying zoning District.

5.16.7.17.3. The maximum lot coverage for LSES shall meet the requirements of the underlying zoning District.

5.16.7.17.4. Lot coverage for LSSSES shall be defined as the percentage of the lot covered by all buildings, driveways, parking areas, other areas where vegetation is removed, and all of the area enclosed within the Required LSSSES Security Fencing.

5.16.7.18. Setbacks, and Buffers, and Visibility For LSSSES.

5.16.7.18.1. The minimum yard setbacks shall be the greater of the principal structure setbacks in the zoning District, or of the minimum buffer requirements for LSSSES.

5.16.7.18.2. Buffers for LSSSES are land areas used to visibly separate LSSSES installations from adjacent properties through screening and distance.

5.16.7.18.3. A minimum 100-foot deep natural, undisturbed buffer shall be maintained along all exterior property lines.

5.16.7.18.4. The buffer shall include a minimum of 25 trees exceeding 2" in caliper at 4 feet above the ground in any 100-foot buffer length as measured at the property line. Where a buffer exceeds 100 feet in depth, the 25 trees standard may be met by including those trees within the first 200 feet of buffer depth.

5.16.7.18.5. Additional trees shall be provided where necessary to achieve the 25 trees standard. Such additional trees shall be of the same species as existing trees in the immediate area, shall be 1½" minimum caliper 4 feet up, and shall be placed to fill in the gaps.

5.16.7.18.6. The buffer requirements shall not apply at project vehicular entrance(s), utility rights-of-way, and similar required openings.

5.16.7.18.7. LSSSES Visibility

5.16.7.18.7.1. LSSSES shall be sited so that no portion is visible from any point on a great pond or navigable waterway in Denmark.

5.16.7.18.7.2. LSSSES shall be sited so that no portion is visible from a point five feet above a Public Road in Denmark.

5.16.7.18.7.3. LSSSES may not rely upon off site structures or vegetation to achieve compliance with LSSSES visibility requirements.

5.16.7.19. Ground mounted LSSSES shall not exceed the height specified for principal or accessory buildings within the underlying zoning district.

5.16.7.20. Impervious Cover.

5.16.7.20.1. The area beneath the ground mounted LSSSES is considered pervious cover. However, use of impervious construction materials under the system shall be considered impervious for stormwater management purposes.

5.16.7.20.2. The surface area of the arrays of a ground mounted LSSSES, regardless of the mounted angle of any solar panels, shall be considered impervious for stormwater management purposes.

5.16.7.21. Appropriate safety/warning signage concerning voltage shall be placed at ground mounted electrical devices, equipment, and structures. All electrical control devices

associated with the LSES shall be placed within the Required LSES Security Fencing (to the extent feasible) and locked to prevent unauthorized access or entry.

5.16.7.22. Ground-mounted LSES shall not be placed within any legal easement or right-of-way location or be placed within any stormwater conveyance system or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

5.16.7.23. The applicant shall submit a comprehensive Stormwater Management Plan with its Conditional Use Permit application.

5.16.7.24. Required LSES Security Fencing.

5.16.7.24.1. All ground-mounted LSES including, but not limited to, solar panels, inverters, battery storage facilities, buildings, structures, and all LSES equipment excepting overhead power and communication lines shall be completely enclosed by a minimum 8 foot high, black PVC coated (min. 22 mils.) bonded to the core wire chain link fence (min. wire 8 gauge) with top rail with eight (8) foot high, black PVC coated chain link locking gate(s). The fence shall be elevated an average of 5" for small terrestrial animals. This fence shall be the "Required LSES Security Fencing".

5.16.7.24.2. Clearly visible warning signs shall be placed at all pad-mounted transformers, inverters, and substations and on the Required LSES Security Fencing surrounding the LSES informing individuals of potential voltage hazards.

5.16.7.24.3. Access points through the Required LSES Security Fencing shall be locked to prevent unauthorized access or entry.

5.16.7.25. Access.

5.16.7.25.1. Adequate access, parking, and circulation, as determined by the Planning Board, for service and emergency vehicles shall be provided.

5.16.7.25.2. At a minimum, a 20' wide all-weather road(s) or driveway(s) must be provided from a public road into the site.

5.16.7.25.3. The first 50 feet of the road(s) or driveway(s) shall be paved with 3" minimum thickness bituminous concrete including appropriate turning radii areas at the entrance.

5.16.7.26. Operations and Maintenance Plan.

5.16.7.26.1. The solar facility operator or landowner of the LSES shall provide and maintain, upon Planning Board approval, an Operations and Maintenance plan which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

5.16.7.26.2. The Operations and Maintenance plan shall be submitted to the Code Enforcement Officer and kept on file in his/her office.

5.16.7.27. Before the start of any construction, the solar facility operator shall provide a copy of a Spill Prevention and Control Plan, or similar document, to the Code Enforcement Officer.

5.16.7.28. Prior to activation of the LSES, the solar facility operator shall provide a written manual or guide for the Denmark Fire Department and Code Enforcement Officer providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.

5.16.7.29. Reports.

5.16.7.29.1. LSES reports produced for public agencies or power companies by the solar facility operator or landowner shall be simultaneously submitted to the Code Enforcement Officer.

5.16.7.29.2. The solar facility operator or landowner shall produce an annual report on the status of the LSES operations, output, and maintenance and submit the report to the Code Enforcement Officer.

5.16.7.29.3. Prior to operation of the LSES, the solar facility operator or landowner shall have a letter report prepared by a Maine licensed Professional Engineer certifying that the LSES has been constructed in accordance with any Planning Board approval(s) including conditions of approval, if any, and any accompanying plans and specifications and/or other submitted and approved documentation.

5.16.7.30. The ground mounted LSES shall not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority.

5.16.7.31. Any change in solar facility operator or land ownership shall be reported to the Code Enforcement Officer, in writing, and kept in the CEO's file.

5.16.7.32. Additional Application Submission Requirements.

5.16.7.32.1. In addition to the application submission requirements found elsewhere in this Ordinance, the following shall also be submitted with the Conditional Use Permit application:

5.16.7.32.1.1. Evidence that the solar facility operator owns the subject land or has a satisfactory land purchase agreement or lease agreement for all the land associated with the LSES and, if lease, that the lease agreement remains in effect during the operation of the LSES.

5.16.7.32.1.2. Evidence of financial capacity to construct and operate the proposed LSES.

5.16.7.32.1.3. Comprehensive management report and plans and details.

5.16.7.32.1.4. Erosion control narrative and plans and details.

5.16.7.32.1.5. Study identifying any endangered or protected flora and fauna on site.

5.16.7.32.1.6. Evidence that the project as proposed has been presented to the following agencies, and written responses from those agencies: The Maine Natural Areas Program, the Maine Department of Inland Fisheries and Wildlife, the Maine Historic Preservation Commission, the Maine Department of Transportation, the Maine Department of Agriculture, Conservation & Forestry, and the Maine Department of Environmental Protection. Permit applications to any of the above authorities, or other applicable, significant

agencies holding jurisdiction and requiring a permitting and approval process, and any approvals as issued by any of the above.

5.16.7.32.1.7. Opinion as to whether the project as proposed requires a National Pollutant Discharge Elimination System (NPDES) permit.

5.16.7.32.1.8. Plans showing changes to the landscape of the site, grading, vegetation clearing and planting, screening, lighting, structures, arrays, utilities, BMP's, and all proposed features.

5.16.7.32.1.9. Property line metes and bounds.

5.16.7.32.1.10. Fencing and gate details.

5.16.7.32.1.11. Plan showing water related features including water courses and bodies, wetlands, flood hazard areas, and vernal pools.

5.16.7.32.1.12. Plan showing existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures, and foundations.

5.16.7.32.1.13. Plan showing any existing above or below ground utilities.

5.16.7.32.1.14. Location of any deer wintering areas on site.

5.16.7.32.1.15. A Phase I Environmental Site Assessment report and a response narrative from the solar facility operator or landowner of the LSSSES on next steps, if any.

5.16.7.32.1.16. A table of required and provided zoning dimensional information (e.g. Setbacks, lot coverage, height, etc.)

5.16.7.32.1.17. Documentation of the major solar related equipment to be used including manufacturer's specifications and cut sheets.

5.16.7.32.1.18. An explanation of any transmission or distribution lines access or upgrades required as a result of the project including, but not limited to, route starting and ending points, potential impacts to street trees and rights of ways.

5.16.7.32.1.19. An explanation of any new or proposed upgrades to electrical substations that are related to the LSSSES including, but not limited to, location, screening, setbacks, and noise impacts.

5.16.7.32.1.20. Electrical diagram detailing the arrays installations, associated components, and electrical interconnection.

5.16.7.32.1.21. A description of the amount of energy to be produced.

5.16.7.32.1.22. Listing and status of other expected state and federal permits needed.

5.16.7.32.1.23. A decommissioning plan meeting the requirements of this Ordinance.

5.16.7.32.1.24. Written confirmation from the public utility company to which the LSSSES will be connected noting that it has been informed of the

solar facility operator or landowner's intent to install the proposed grid connected system and that it has conditionally approved of such connection.

5.16.7.32.1.25. A written manual or guide for the Denmark Fire Department providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.

5.16.7.32.1.26. A list of possible or intended dual uses of the property.

5.16.7.32.1.27. Satisfactory evidence that the LSEES will conform to the LSEES Visibility requirements of this Ordinance.

5.16.7.32.2. The Planning Board may waive any of the above submission requirements only when it finds that the required information is not necessary for making a determination.

#### 5.16.7.33. Performance Bond.

5.16.7.33.1. A performance bond, of form and substance acceptable to the Municipal Officers of the Municipality of Denmark shall be prepared and agreed and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Municipality of Denmark, and the procedure for the collection by the Municipality of Denmark. The bond documents shall specifically reference the subject LSEES and must be approved and in force prior to any LSEES construction. The value of the performance bond shall be based on the value of construction as reasonably agreed by the Municipal Officers of the Municipality of Denmark.

5.16.7.33.2. The solar facility operator or landowner shall notify the Code Enforcement Officer in writing if the performance bond is revoked within 30 days of the operator's receipt of notice of same. If the performance bond is revoked for any reason, the operator or landowner shall provide to the Code Enforcement Officer within 90 days a replacement bond that is reasonably acceptable to the Municipal Officers of the Municipality of Denmark. If an acceptable replacement bond is not provided within 90 days, any Conditional Use Permit approval(s) for the LSEES shall be void.

#### 5.16.7.34. As Built Survey and Certification.

5.16.7.34.1. After completion of all LSEES construction and prior to operation of an energized LSEES, the solar facility operator or landowner shall have an As-Built survey prepared by a Maine licensed Professional Land Surveyor and submitted to the Code Enforcement Officer.

5.16.7.34.2. The As-Built survey shall include at least actual locations of any structures and their components, above and underground utilities, roads, swales, ditches, detention/retention facilities, Best Management Practices, grading, land and landscaping alterations, or other infrastructure and facilities after construction has been completed.

5.16.7.34.3. A letter from the Maine licensed Professional Land Surveyor or from a Maine licensed Professional Engineer, shall certify that the solar facility had been constructed in accordance with any Planning Board approvals, including any

conditions of approval and any accompanying plans and specifications, or otherwise the letter shall note the significant differences.

5.16.7.35. Recording.

5.16.7.35.1. If the Planning Board approves, or approves with conditions, a LSES the solar facility operator or landowner shall record in the Oxford County Registry of Deeds, a certificate (approved by the Code Enforcement Officer) indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that such approval was granted, including any conditions of approval, and the date on which the approval was granted. The approval(s) shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.

5.16.7.36. Decommissioning, Removal, and Bonding.

5.16.7.36.1. A LSES shall be considered Decommissioned when:

5.16.7.36.1.1. The LSES has reached the end of its useful life, sustained casualty loss, or other significant damage, is not repaired or used or has reached a point of obsolescence and, after at least six consecutive months after any of these or similar events, the LSES is declared Decommissioned by the Code Enforcement Officer, and/or,

5.16.7.36.1.2. The LSES fails to operate as designed for a period of six or more consecutive months and is declared Decommissioned by the Code Enforcement Officer, and/or,

5.16.7.36.1.3. The solar facility operator or landowner submits a written notice to the Municipality of Denmark declaring a Decommissioning of the LSES and providing a date of Decommissioning, either a past or present date, or future date if the LSES is then operating.

5.16.7.36.2. The Date of Decommissioning shall be the date so declared by the Code Enforcement Officer or so provided in writing by the solar facility operator or landowner. The Code Enforcement Officer shall notify the solar facility operator or landowner by certified mail with signed receipt specifying, at a minimum, the Date of Decommissioning and that the LSES must be removed, and the site be restored to its condition prior to development within 360 days. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Select Board and Planning Board.

5.16.7.36.3. Decommissioning.

5.16.7.36.3.1. The solar facility operator or landowner shall commission a Phase I Environmental Site Assessment prior to any land disturbance. Should contamination be encountered or suspected, a Phase II Environmental Site Assessment shall be conducted. All discovered and encountered hazardous materials shall be removed and disposed of in accordance with all local, state, and federal regulations.

5.16.7.36.3.2. The owner or landowner shall be responsible for determining, applying for, and receiving all necessary Decommissioning permits.

5.16.7.36.4. Decommissioning shall also consist of:

5.16.7.36.4.1. Removal of all LSES facilities materials including, but not limited to, all equipment, barriers, fencing, OH/UG electric wiring and conduits, foundations, auger screws, electrical equipment, panels, inverters, signage, buildings, concrete pads, batteries, and transformers.

5.16.7.36.4.2. Removal of all graveled areas and access ways unless the solar facility operator or landowner requests in writing for such to stay in place.

5.16.7.36.4.3. Removal of all stormwater management and BMP's unless the solar facility operator or landowner requests in writing for such to stay in place.

5.16.7.36.4.4. Stabilization of all disturbed areas as necessary to minimize erosion, including, but not limited to, spreading topsoil, and revegetating with natural grasses and trees (a minimum of 10 - 1½" caliper trees per acre) native to the immediate area. Trees shall have a 90% survival rate after 2 years or be replaced. Replacement trees shall start a new 2-year period.

5.16.7.36.5. Decommissioning Bond.

5.16.7.36.5.1. Before issuance of any building permit for a LSES and/or prior to any LSES construction, the applicant or initial solar facility operator, or other entity approved by the Code Enforcement Officer shall provide a Decommissioning Bond in form and substance approved by the Municipal Officers of the Municipality of Denmark and made payable to the Municipality of Denmark for all costs associated with the Decommissioning of the LSES.

5.16.7.36.5.2. The value of the Decommissioning Bond shall be equal to 125 percent of the estimated cost of Decommissioning the LSES. At the end of the fifth year of operation of the LSES and for each successive 5-year period that the LSES is in operation the solar facility operator or landowner shall be required to submit an updated cost estimate to the Code Enforcement Officer. The Code Enforcement Officer shall have the authority to reasonably accept or not accept the cost estimate value(s). Within 90 days of acceptance, the operator or landowner shall provide the Municipality of Denmark with a new Decommissioning Bond in the amount equal to 125 percent of the new estimate reasonably accepted by the Code Enforcement Officer.

5.16.7.36.5.3. The Decommissioning Bond shall be of form and substance reasonably acceptable to the Municipal Officers of the Municipality of Denmark and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Municipality of Denmark, and the procedure for the collection by the Municipality of Denmark. The bond documents shall specifically reference the subject LSES. The Decommissioning Bond shall include a provision granting and guaranteeing



the Municipality of Denmark the authority to access the funds and property and perform the Decommissioning of the LSES if the solar facility operator or landowner fail to meet their obligations to fully and properly remove the LSES.

5.16.7.36.5.4. The solar facility operator or landowner shall be responsible for notifying the Code Enforcement Officer in writing if the Decommissioning Bond is revoked or is no longer valid or in force within 30 days of the operator's receipt of notice of same. Within 90 days of such an event, the operator or landowner shall provide the Municipality of Denmark with a replacement Decommissioning Bond that is reasonably found acceptable by the Municipal Officers of the Municipality of Denmark. If an acceptable replacement bond is not provided within 90 days, any Conditional Use Permit approval(s) for the LSES shall be void.

5.16.7.36.5.5. The Decommissioning Bond or replacement bond must be kept in effect throughout the lifetime of the LSES. The solar facility operator and landowner may apply to the Municipal Officers of the Municipality of Denmark for the release of the Decommissioning Bond at such time that:

5.16.7.36.5.5.1. A Certification, prepared by a Maine licensed Professional Engineer experienced in such matters, is provided by the solar facility operator or landowner reporting that the LSES has been Decommissioned as required by this Ordinance and as required by any Municipality of Denmark approval or applicable conditions of approval, and

5.16.7.36.5.5.2. The Decommissioning activity is found to be satisfactorily complete by the Code Enforcement Officer and the Municipal Officers of the Municipality of Denmark.

5.16.7.36.5.6. If the solar facility operator or landowner fails to Decommission the LSES as required by this Ordinance and as required by any applicable conditions of approval, the Municipality of Denmark will use reasonable effort to notify the solar facility operator or landowner of its intent to use the Decommissioning Bond and use any and all legal or available means necessary to Decommission the LSES.

5.16.7.36.5.7. Any LSES Decommissioning costs exceeding the proceeds of the Decommissioning Bond and incurred by (and/or to be incurred by) the Municipality of Denmark shall be funded by the solar facility operator or landowner within 30 days of such notice. Failing receipt of such funding, the Municipality of Denmark will use any and all legal or available means necessary to recover the excess costs, and any costs of such recovery, which means may include imposing a Special tax and/or a tax lien on the real estate of the LSES.

#### 5.16.8. Waiver.

5.16.8.1. The Planning Board shall have the authority to waive any provision or requirement of this Solar Energy Systems Section of the Zoning Ordinance of the Municipality of

Denmark, Maine should the Planning Board determine that any requested waiver is in the public interest, is consistent with the purpose and intent of this Section, and will not have a significant, adverse effect upon public safety and the environment. To consider and grant a waiver:

5.16.8.1.1. The applicant must submit a written waiver request to the Planning Board citing the relevant Ordinance provision and stating the relief sought and the reasons for the relief.

5.16.8.1.2. To be approved, the waiver request must receive an affirmative vote from at least five members of the Planning Board.

5.16.8.1.3. The Planning Board shall include in its records a statement of the waiver request and the reasons for the granting of any waiver.

#### 5.16.9. Community Benefit.

5.16.9.1. The solar facility operator and landowner of an approved, or approved with conditions LSSES under this Ordinance shall assist and fully cooperate with the Municipality of Denmark in any pursuit of, or identification of, any sort of benefit from public and private entities that may possibly be available to any segment(s) of the Municipality of Denmark (including municipal, business, and residential interests).

### **5.17. Wind Energy Facility.**

#### 5.17.1. Purpose.

5.17.1.1 The purpose of this Section 5.17. is to provide for the construction and operation of Wind Energy Facilities in Denmark, Maine, subject to reasonable conditions that will protect the public health, safety, and welfare.

#### 5.17.2. Applicability

5.17.2.1. This Section 5.17. applies to any Wind Energy Facility proposed for construction in Denmark, Maine after January 31, 2017. This Section 5.17. does not apply to Associated Facilities unless the Generating Facilities are located within Denmark, Maine, in which case this Section 5.17. applies to both the Generating Facilities and the Associated Facilities.

5.17.2.2. A Wind Energy Facility that is the subject of an application determined to be complete by the Planning Board prior to January 31, 2017, shall not be required to meet the requirements of this Section 5.17. provided that any physical modifications after January 31, 2017, shall be subject to the permitting requirements of Sub-Section "Administration" of this Section 5.17.

#### 5.17.3. Conflict and Severability

5.17.3.1. If there is a conflict between provisions in this Section 5.17, the more stringent shall apply. If there is a conflict between a provision in this Section 5.17 and that of another Denmark, Maine ordinance, the provision of this Section 5.17 shall apply.

5.17.3.2. The invalidity of any part of this Section 5.17. shall not invalidate any other part of this Section 5.17.

#### 5.17.4. Effective Date

5.17.4.1. This Section 5.17. became effective on January 1, 2017.

5.17.5. Classification of Wind Energy Facilities

5.17.5.1. All Wind Energy Facilities shall be classified in accordance with Table 1 below:

**Table 5.17.5.: Classification of Wind Energy Facilities and  
Corresponding Local Review and Approval Authority**

<b>Facility Type</b>	<b>Aggregate Capacity</b>	<b>Turbine Height</b>	<b>Max. # of Turbines</b>	<b>DEP Site Location Permit Required</b>	<b>Local Review And Approval</b>
1A	< 10kW	≤ 80'	1	No	Code Enforcement Officer
1B	< 20kW per turbine < 100kW per site	< 100'	NA	No	Planning Board
2	≥ 100kW	NA	NA	Not Allowed	Not Allowed
3	≥ 100kW	NA	NA	Not Allowed	Not Allowed

5.17.6. Administration

5.17.6.1. Review and Approval Authority

5.17.6.1.1. The Code Enforcement Officer shall review all applications for Type 1A Wind Energy Facilities and MET Towers, where permitted, pursuant to Sub-Section “Application Submission Requirements” and Sub-Section “Meteorological Towers” of Section 5.17., and may approve, deny or approve such applications with conditions in accordance with the standards of this Section 5.17.

5.17.6.1.2. Type 1B Wind Energy Facilities, where permitted, require a Conditional Use Permit. The Planning Board may approve, deny or approve such applications with conditions.

5.17.6.1.3. Type 2 and Type 3 Wind Energy Facilities are not allowable within the boundaries of the Town of Denmark.

5.17.6.2. Permit Required

5.17.6.2.1. No Wind Energy Facility shall be constructed or located within Denmark, Maine without a permit issued in accordance with this Section 5.17.

5.17.6.2.2. Any physical modification to an existing Wind Energy Facility that materially alters the location or increases the area of development on the site or that increases the Turbine Height or the level of sound emissions of any Wind Turbine

shall require a permit modification under this Section 5.17. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

#### 5.17.6.3 Permit Applications

5.17.6.3.1. Application components. In addition to the application submission requirements found elsewhere in this Ordinance, the following shall also be submitted with the Code Enforcement Officer and Conditional Use Permit applications: A Wind Energy Facility permit application shall consist of the application form, application fee, and supporting documents, as described below:

5.17.6.3.1.1. Application Forms. The municipality shall provide the application form which shall be signed by:

5.17.6.3.1.1.1. a Person with right, title and interest in the subject property or;

5.17.6.3.1.1.2. a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and the signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the standards of this Section 5.17. and all approval and permit conditions, if any.

5.17.6.3.1.2. Application Fees. The Applicant shall pay the fee for applications and expenses as set forth on the Town of Denmark Fee Schedule.

5.17.6.3.1.3. Supporting Documents. The application shall include all additional documents necessary to satisfy the applicable submission requirements under Sub-Section “Application Submission Requirements” of this Section 5.17.

5.17.6.3.2. Application Submission. The Applicant shall submit its application for a Wind Energy Facility permit to the Code Enforcement Officer who shall note on the application the date on which it was received.

#### 5.17.6.3.3. Changes to a Pending Application

5.17.6.3.3.1. The Applicant shall promptly notify the municipal entity responsible for review and approval of a pending application under Sub-Section “Administration” of this Section 5.17. of any changes the Applicant proposes to make to information contained in the application.

5.17.6.3.3.2. If changes are proposed to a pending application after a public hearing has been held, the Planning Board may consider those changes and continue with the review and approval process without a renewed public hearing if it determines that the changes do not materially alter the application. If the Planning Board determines that the proposed changes do materially alter the application, it shall schedule and conduct another public hearing within 30 days of that determination. In making its determination, the Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

#### 5.17.6.4. Permit Application Procedures

##### 5.17.6.4.1. Type 1A Wind Energy Facility Application

5.17.6.4.1.1. Within 10 days after receiving an application, the Code Enforcement Officer shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Code Enforcement Officer may waive any submission requirement if the Code Enforcement Officer issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Section 5.17.

5.17.6.4.1.2. Within 30 days after determining the application to be complete, the Code Enforcement Officer shall issue a written order:

5.17.6.4.1.2.1. denying approval of the proposed Wind Energy Facility,

5.17.6.4.1.2.2. granting approval of the proposed Wind Energy Facility or,

5.17.6.4.1.2.3. granting approval of the proposed Wind Energy Facility with conditions.

5.17.6.4.1.2.4. In making the decision, the Code Enforcement Officer shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in “Sub-Sections “General Standards” and Special Standards...” of this Section 5.17.

5.17.6.4.1.3. With the agreement of the Applicant, the Code Enforcement Officer may extend the procedural time frames of this Section 5.17.

##### 5.17.6.4.2. Type 1B, Wind Energy Facility Applications

5.17.6.4.2.1. The Applicant is strongly encouraged to meet with the Code Enforcement Officer before submitting an application. At this pre- application meeting, the Code Enforcement Officer will explain the Section 5.17. provisions, application forms, and submission requirements. The Applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot area.

**Table 5.17.6.**

#### **Procedural Time Frames**

<b>Facility Type</b>	<b>Review For Application Completeness</b>	<b>Public Hearing</b>	<b>Final Decision</b>
1A	≤ 10 days <sup>1</sup>	NA	< 30 days <sup>2</sup>
1B	≤ 35 days <sup>1</sup>	< 35 days <sup>2</sup>	≤ 35 days <sup>3</sup>

1 Days after receipt of the application by the Planning Board

Days after the application is determined to be complete

Days after the final Public Hearing

2

3

## 5.17.7. Application Submission Requirements

### 5.17.7.1 General Submission Requirements

5.17.7.1.1. In addition to the application submission requirements found elsewhere in this Ordinance, the following shall also be submitted with the Code Enforcement Officer or Conditional Use Permit application:

5.17.7.1.2. A completed application form including:

5.17.7.1.2.1. The Applicant and Participating Landowner(s) name(s) and contact information.

5.17.7.1.2.2. The address, tax map number, zone and owner(s) of the proposed facility site and any contiguous parcels owned by Participating Landowners.

5.17.7.1.2.3. The tax map number, zone, current use, owner(s) and addresses of owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site (Not required for Type 1A applications).

5.17.7.1.2.4. An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Wind Energy Facility, if approved and built, shall be constructed and operated in accordance with the standards of this Section 5.17. and all conditions of approval, if any

5.17.7.1.3. Receipt showing payment of applicable application fees.

5.17.7.1.4. A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the proposed facility site.

5.17.7.1.5. Location map showing the boundaries of the proposed facility site and all contiguous property under total or partial control of the Applicant or Participating Landowner(s) and any Scenic Resource or Historic Site within 2500 feet of the proposed development.

5.17.7.1.6. Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, the Turbine Height and manufacturer's specifications for each Wind Turbine (including but not limited to the make, model, maximum generating capacity, sound emission levels and types of overspeed controls) and a description of Associated Facilities.

5.17.7.1.7. Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within 1500 feet of any Wind Turbine: parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be regraded or cleared of vegetation.

5.17.7.1.7.1. Site plans for Type 1B Wind Energy Facilities shall show the location and average height of tree cover to be retained and the location,

variety, planting height and mature height of proposed trees, if any.

5.17.7.1.8. For Type 1B Wind Energy Facilities, written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and that the Maine Natural Areas Program (MNAP) have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.

5.17.7.1.9. Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.

5.17.7.1.10. Description of emergency and normal shutdown procedures.

5.17.7.1.11. Photographs of existing conditions at the site.

5.17.7.1.12. An application for a Type 1A or 1B Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system:

5.17.7.1.12.1. prepared by the Wind Turbine or Tower manufacturer,

5.17.7.1.12.2. prepared in accordance with the manufacturer's specifications or,

5.17.7.1.12.3. prepared and stamped by a Maine-licensed professional engineer.

5.17.7.1.13. An application for a Type 1A or Type 1B Wind Energy Facility shall include:

5.17.7.1.13.1. a written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under Sub-Section "Special Standards..." of this Section 5.17. and acknowledges the Applicant's obligation to take remedial action if the Code Enforcement Officer determines those standards are not being met.

5.17.7.1.14. An Application for Type 1B, Wind Energy Facility shall include the following:

5.17.7.1.14.1. Sight Line Representations of each Wind Turbine from the nearest Occupied Buildings. Each Sight Line Representation shall be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as trees, shrubs or fencing, shall be depicted on the drawing along with the sight line as altered by the screening. A current four-inch by six-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Sight Line Representations.

#### 5.17.8. Meteorological Towers (MET Towers)

5.17.8.1. Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Type1A or Type 1B Wind Energy Facility, as applicable, except that a height limitation of 100 feet shall apply. A permit for a MET Tower shall be valid for 2 years and 2 months from the date of issuance. The Code Enforcement Officer may grant one or more one-year extensions of this permit period. Within 30 days following removal of a

MET Tower, the Applicant shall restore the site to its original condition to the extent practicable. The provisions of this paragraph do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Facility applications.

#### 5.17.9. General Standards

##### 5.17.9.1. Safety Setbacks

5.17.9.1.1. Wind Turbines shall be set back a horizontal distance equivalent to 300% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility except that the entity responsible for review and approval of the application may allow a reduced setback if the Applicant submits, in writing:

5.17.9.1.1.1. a waiver of the property boundary setback signed by the pertinent abutting landowner or;

5.17.9.1.1.2. evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise and experience with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate.

##### 5.17.9.2. Natural Resource Protection

5.17.9.2.1. A Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, Significant Wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the municipal entity responsible for review and approval of the permit application under Sub-Section "Administration" of this Section 5.17. shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

##### 5.17.9.3. Building Permit

5.17.9.3.1. All components of the Wind Energy Facility shall conform to relevant and applicable local and state building Code.

##### 5.17.9.4. Overspeed Controls and Brakes

5.17.9.4.1. Each Wind Turbine shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation and a manual service disconnect within reach of the ground.

##### 5.17.9.5. Electrical Components and Interconnections

5.17.9.5.1. All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national Code.

##### 5.17.9.6. Access

5.17.9.6.1. All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A



Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

#### 5.17.9.7. Blade Clearance

5.17.9.7.1. The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

#### 5.17.9.8. Signal Interference

5.17.9.8.1. The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

#### 5.17.9.9 Structure Type

5.17.9.9.1. With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application under Sub-Section "Administration" of this Section 5.17., that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

#### 5.17.9.10. Erosion Control

5.17.9.10.1. Erosion of soil and sedimentation shall be minimized by employing "best management practices" in the "Maine Erosion Control Handbook for Construction: Best Management Practices", latest edition.

#### 5.17.9.11. Building-Mounted Wind Turbines

5.17.9.11.1. Building-mounted Wind Turbines are not permitted.

#### 5.17.9.12. Visual Appearance

5.17.9.12.1. A Wind Turbine shall be a non-obtrusive color such as white, off- white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.

5.17.9.12.2. A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.

5.17.9.12.3. A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

#### 5.17.9.13. Visibility of Wind Turbine

5.17.9.13.1. The following requirements apply, to the extent practicable, to Type 1B Wind Energy Facilities:

5.17.9.13.1.1. To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in

screening views of the Wind Turbine from Occupied Buildings and Scenic Resources.

5.17.9.13.2. When existing features do not screen views of a Wind Turbine from Residences and Scenic Resources, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

#### 5.17.9.14. Performance Bond.

5.17.9.14.1. A performance bond, of form and substance acceptable to the Municipal Officers of the Municipality of Denmark shall be prepared and agreed and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Municipality of Denmark, and the procedure for the collection by the Municipality of Denmark. The bond documents shall specifically reference the subject Wind Energy Facility. The value of the performance bond shall be based on the value of construction as reasonably agreed by the Municipal Officers of the Municipality of Denmark.

5.17.9.14.2. The Wind Energy Facility landowner shall notify the Code Enforcement Officer in writing if the performance bond is revoked within 30 days of the notice of same. If the performance bond is revoked for any reason, the landowner shall provide to the Code Enforcement Officer within 90 days a replacement bond that is reasonably acceptable to the Municipal Officers of the Municipality of Denmark. If an acceptable replacement bond is not provided within 90 days, any Code Enforcement Officer permit or Conditional Use Permit approval(s) for the Wind Energy Facility shall be void.

#### 5.17.10. Special Standards for Type 1A and Type 1B Wind Energy Facilities

##### 5.17.10.1. Sound Levels

5.17.10.1.1. A new Wind Energy Facility shall not exceed 35dBA for any continuous five (5) minute period as measured anywhere beyond the property boundaries of the wind energy facility's owner/ operator or on the adjoining properties, including adjoining property lines and habitable structures, except during short term (12 hours or less) weather events, even if mitigation waivers are in effect for these adjoining properties. This requirement is not subject to waiver.

5.17.10.1.2. A new Wind Energy Facility shall emit no additional dBC (low level) sounds beyond the property boundaries of the wind energy facility's owner/ operator at any time.

5.17.10.1.3. The Applicant shall operate the proposed Wind Energy Facility in conformance with the sound level limits of Sub-Section "Special Standards..." of this Section 5.17. If, based on post-installation measurements taken in accordance with Sub-Section "Special Standards..." of this Section 5.17., the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with this Section 5.17. and in consultation with the Code Enforcement Officer, take remedial action deemed

necessary by the Code Enforcement Officer to ensure compliance with those limits. Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:

5.17.10.1.3.1. modification or limitation of operations during certain hours or wind conditions;

5.17.10.1.3.2. maintenance, repair, modification or replacement of equipment;

5.17.10.1.3.3. relocation of the Wind Turbine(s); and,

5.17.10.1.3.4. removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines that there is no practicable alternative.

#### 5.17.10.2. Written Manual or Guide.

5.17.10.2.1. Prior to activation of the Wind Energy Facility, the landowner shall provide a written manual or guide for the Denmark Fire Department and Code Enforcement Officer providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.

#### 5.17.10.3. As Built Survey and Certification.

5.17.10.3.1. After completion of all Wind Energy Facility construction and prior to operation of an energized Wind Energy Facility, the landowner shall have an As-Built survey prepared by a Maine licensed Professional Land Surveyor and submitted to the Code Enforcement Officer.

5.17.10.3.2. The As-Built survey shall include at least actual locations of any structures and their components, above and underground utilities, roads, swales, ditches, detention/retention facilities, Best Management Practices, grading, land and landscaping alterations, or other infrastructure and facilities after construction has been completed.

5.17.10.3.3. A letter from the Maine licensed Professional Land Surveyor or from a Maine licensed Professional Engineer, shall certify that the Wind Energy Facility had been constructed in accordance with any Code Enforcement Officer or Planning Board approvals, including any conditions of approval and any accompanying plans and specifications, or otherwise the letter shall note the significant differences.

#### 5.17.10.4. Recording.

5.17.10.4.1. If the Code Enforcement Officer or Planning Board approves, or approves with conditions, a Wind Energy Facility the landowner shall record in the Oxford County Registry of Deeds, a certificate (approved by the Code Enforcement Officer) indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that such approval was granted, including any conditions of approval, and the date on which the approval was granted. The approval(s) shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.

5.17.10.5. Decommissioning, Removal, and Bonding.

5.17.10.5.1. A Wind Energy Facility shall be considered Decommissioned when:

5.17.10.5.1.1. The Wind Energy Facility has reached the end of its useful life, sustained casualty loss, or other significant damage, is not repaired or used or has reached a point of obsolescence and, after at least six consecutive months after any of these or similar events, the Wind Energy Facility is declared Decommissioned by the Code Enforcement Officer, and/or,

5.17.10.5.1.2. The Wind Energy Facility fails to operate as designed for a period of six or more consecutive months and is declared Decommissioned by the Code Enforcement Officer, and/or,

5.17.10.5.1.3. The Wind Energy Facility landowner submits a written notice to the Municipality of Denmark declaring a Decommissioning of the Wind Energy Facility and providing a date of Decommissioning, either a past or present date, or future date if the Wind Energy Facility is then operating.

5.17.10.5.2. The Date of Decommissioning shall be the date so declared by the Code Enforcement Officer or so provided in writing by the landowner. The Code Enforcement Officer shall notify the landowner by certified mail with signed receipt specifying, at a minimum, the Date of Decommissioning and that the Wind Energy Facility must be removed, and the site be restored to its condition prior to development within 120 days. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Select Board and Planning Board.

5.17.10.5.3. Decommissioning.

5.17.10.5.3.1. The owner or landowner shall be responsible for determining, applying for, and receiving all necessary Decommissioning permits.

5.17.10.5.4. Decommissioning shall also consist of:

5.17.10.5.4.1. Removal of all Wind Energy Facility materials including, but not limited to, all equipment, barriers, fencing, OH/UG electric wiring and conduits, foundations, electrical equipment, panels, inverters, signage, buildings, concrete pads, batteries, nacelles, turbines, blades, tower structures, gear boxes, generators, and transformers.

5.17.10.5.4.2. Removal of all graveled areas and access ways unless the landowner requests in writing for such to stay in place and the Code Enforcement Officer agrees in writing.

5.17.10.5.4.3. Removal of all stormwater management and BMP's unless the landowner requests in writing for such to stay in place and the Code Enforcement Officer agrees in writing.

5.17.10.5.5. Decommissioning Bond.

5.17.10.5.5.1. Before issuance of any building permit for a Wind Energy Facility, the landowner, or other entity approved by the Code Enforcement Officer, shall provide a Decommissioning Bond in form and substance approved by the Municipal Officers of the Municipality of Denmark and made

payable to the Municipality of Denmark for all costs associated with the Decommissioning of the Wind Energy Facility.

5.17.10.5.5.2. The value of the Decommissioning Bond shall be equal to 125 percent of the estimated cost of Decommissioning the Wind Energy Facility. At the end of the fifth year of operation of the Wind Energy Facility and for each successive 5-year period that the Wind Energy Facility is in operation the landowner shall be required to submit an updated cost estimate to the Code Enforcement Officer. The Code Enforcement Officer shall have the authority to reasonably accept or not accept the cost estimate value(s). Within 90 days of acceptance, the landowner shall provide the Municipality of Denmark with a new Decommissioning Bond in the amount equal to 125 percent of the new estimate reasonably accepted by the Code Enforcement Officer.

5.17.10.5.5.3. The Decommissioning Bond shall be of form and substance reasonably acceptable to the Municipal Officers of the Municipality of Denmark and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Municipality of Denmark, and the procedure for the collection by the Municipality of Denmark. The bond documents shall specifically reference the subject Wind Energy Facility. The Decommissioning Bond shall include a provision granting and guaranteeing the Municipality of Denmark the authority to access the funds and property and perform the Decommissioning of the Wind Energy Facility landowner fail to meet their obligations to fully and properly remove the Wind Energy Facility.

5.17.10.5.5.4. The Wind Energy Facility landowner shall be responsible for notifying the Code Enforcement Officer in writing if the Decommissioning Bond is revoked or is no longer valid or in force within 30 days of notice of same. Within 90 days of such an event, the landowner shall provide the Municipality of Denmark with a replacement Decommissioning Bond that is reasonably found acceptable by the Municipal Officers of the Municipality of Denmark. If an acceptable replacement bond is not provided within 90 days, any Code Enforcement Officer Permit or Conditional Use Permit approval(s) for the Wind Energy Facility shall be void.

5.17.10.5.5.5. The Decommissioning Bond or replacement bond must be kept in effect throughout the lifetime of the Wind Energy Facility. The landowner may apply to the Municipal Officers of the Municipality of Denmark for the release of the Decommissioning Bond at such time that:

5.17.10.5.5.5.1. A Certification, prepared by a Maine licensed Professional Engineer experienced in such matters, is provided by the landowner reporting that the Wind Energy Facility has been Decommissioned as required by this Ordinance and as required by any Municipality of Denmark approval or applicable conditions of approval, or, in the alternative, a Decommissioning Certification from the Code Enforcement Officer, and;

5.17.10.5.5.5.2. The Decommissioning activity is found to be

satisfactorily complete by the Code Enforcement Officer and the Municipal Officers of the Municipality of Denmark.

5.17.10.5.5.6. If the landowner fails to Decommission the Wind Energy Facility as required by this Ordinance and as required by any applicable conditions of approval, the Municipality of Denmark will use reasonable effort to notify the landowner of its intent to use the Decommissioning Bond and use any and all legal or available means necessary to Decommission the Wind Energy Facility.

5.17.10.5.5.7. Any Wind Energy Facility Decommissioning costs exceeding the proceeds of the Decommissioning Bond and incurred by (and/or to be incurred by) the Municipality of Denmark shall be funded by the landowner within 30 days of such notice. Failing receipt of such funding, the Municipality of Denmark will use any and all legal or available means necessary to recover the excess costs, and any costs of such recovery, which means may include imposing a Special tax and/or a tax lien on the real estate of the Wind Energy Facility.

#### 5.17.10.6. Waiver.

5.17.10.6.1. The Planning Board shall have the authority to waive any provision or requirement of this Wind Energy Facility Section of the Zoning Ordinance of the Municipality of Denmark, Maine should the Planning Board determine that any requested waiver is in the public interest, is consistent with the purpose and intent of this Section, and will not have a significant, adverse effect upon public safety and the environment. To consider and grant a waiver:

5.17.10.6.1.1. The applicant must submit a written waiver request to the Planning Board citing the relevant Ordinance provision and stating the relief sought and the reasons for the relief.

5.17.10.6.1.2. To be approved, the waiver request must receive an affirmative vote from at least five members of the Planning Board.

5.17.10.6.1.3. The Planning Board shall include in its records a statement of the waiver request and the reasons for the granting of any waiver.

### **5.18. Metallic Mineral Exploration and Mining *(Revised 6.3.23)***

#### 5.18.1. Purpose.

5.18.1.1. To protect the quality and quantity of the Town's groundwater, spring water, water in aquifers and their recharge areas, and surface waters including lakes, ponds, wetlands, rivers, and streams;

5.18.1.2. To establish an orderly review process for metallic mineral exploration and mining operations in order to ensure the sustainability and quality of groundwater, spring water, and surface waters; prevent the despoliation of drinking water; protect private and public properties from environmental pollution, noise impacts, air pollution, and traffic impacts; protect public roads from degradation; ensure the continuing stability and health of topsoil, and preserve the rural character of the Town in conformance with Town of Denmark Comprehensive Plan provisions;

5.18.1.3. To minimize the effects of ground vibration, dust and noise associated with blasting which may be detrimental to individuals and the community in the enjoyment of life, property, and the conduct of business through the establishment of standards and notice requirements of blasting operations, and;

5.18.1.4. To preserve and protect the health, safety, and welfare of the residents and landowners of and visitors to the Town.

## 5.18.2. Applicability

5.18.2.1 The following activities are exempt from the requirements of this Section 5.18.:

5.18.2.1.1. Excavation of sand, fill, gravel, clay, topsoil, peat, silt, or rock that is not associated with metallic mineral mining operations.

5.18.2.2. The following activities are prohibited by this Ordinance:

5.18.2.2.1. Any exploration or mining activities that do not comply with the requirements of this Ordinance and applicable provisions of the Maine Department of Environmental Protection (MDEP), State and Federal regulations or any activities associated with beneficiation or smelting, and;

5.18.2.2.2. Activities, materials, and facilities related to beneficiation, smelting, tailings, tailings impoundment, ponds, and wet mine wastes are not permitted within the Town of Denmark, Maine.

5.18.2.3. The Effective Date of this Section 5.18. is the date that the voters of the Town of Denmark adopt this Section 5.18. at any regular or special Town Meeting.

5.18.2.3.1. Any physical alteration or change to existing metallic mineral mining operations, whether or not permitted or existing prior to the Effective Date of this Section, that materially alters the metallic mineral mining operation and any new operation or expansion of a metallic mineral mining operation shall require a Conditional Use Permit from the Planning Board under this Ordinance.

5.18.2.4. Any person may operate one metallic mineral mining operation site / parcel / area at any one time. Any such location shall be decommissioned and closed as provided for herein prior to any metallic mining operation in a different location by the same person.

5.18.2.5. Where operator requirements and responsibilities are included herein and within any permit issued by the Town of Denmark, the owner of the subject land, if different than the operator, is also responsible for compliance with requirements and responsibilities included herein and within any permit issued to an operator by the Town of Denmark. This includes but is not limited to all decommissioning financial resources and activities.

## 5.18.3. Metallic Mineral Exploration

5.18.3.1. In differentiation of exploration and advanced exploration, refer to MDEP classifications. An outline follows:

5.18.3.1.1. Exploration excavations limited to a maximum surface opening of

no more than 300 square feet do not require a permit but must instead submit a satisfactory work plan to the Town of Denmark Code Enforcement Officer and meet a number of MDEP performance standards designed to protect natural resources and properly restore the exploration site.

5.18.3.1.2. Advanced exploration requirements include a two-tier permitting process that creates a graduated scale for classifying advanced exploration activities (minimal environmental impact versus a higher level of environmental impact). Advanced exploration activities fall within two general categories:

5.18.3.1.2.1. Tier One advanced exploration activities involve the excavation of up to 2,000 tons of excavated material and is limited to an aggregate total of one acre of land disturbance including the mining area, and;

5.18.3.1.2.2. Tier Two advanced exploration activities involve the excavation of up to 10,000 tons of excavated material and is limited to an aggregate total of three acres of land disturbance including the mining area.

5.18.3.1.3. Excavation limitations are per any 24-month period.

5.18.3.1.4. Either Tier requires a permit issued by the Code Enforcement Officer. Submission materials for an advanced exploration permit shall include at least all the materials submitted to MDEP and shall include any MDEP advanced exploration permit(s).

5.18.3.1.5. Exploration permits expire two years from the date of issuance and may be renewed per the process above.

5.18.3.1.6. No chemical / heat processing of any kind of any excavated materials is permitted within the Town of Denmark.

5.18.3.2. At least thirty days before commencing any metallic mineral exploration activities, the applicant must notify, by certified USPS first class mail, return receipt requested, the Planning Board, Code Enforcement Officer and all owners of property located within, or partially within 1,000 feet of any property line of the exploration activities. The notice must contain a description of the planned exploration activities, including estimated quantities and dates of material that will be removed to obtain samples; a map identifying the exact location (latitude and longitude) of each drill hole, test pit, mud pit, trench, or other site to be used for excavations or bulk sampling; and a statement signed by a Maine licensed qualified professional certifying that exploration activities as proposed shall be conducted in accordance with the requirements of this Ordinance and the Maine Metallic Mineral Mining Rules or successor.

5.18.3.3. Any exploration activities that are occurring in lawful operation within the Town of Denmark as of the Effective Date of this Section 5.18. may continue but the operator must give the notices required by this Section 5.18. within 30 days of the Effective Date of this Section 5.18. Said notices must identify all existing and any new drill holes, test pits, mud pits, trenches, or other sites that, as of the Effective Date, are



or will be used for exploration activities or bulk sampling, and the actual and estimated quantities of material that has been or will be removed to obtain samples along with the actual and estimated dates of removal.

5.18.3.4. Any person may operate one exploration or advanced exploration site / parcel / area at any one time. Any exploration location shall be decommissioned and closed as provided for herein prior to any exploration in a different location by the same person.

#### 5.18.4. Review Procedures, Submission Requirements, and Review Criteria for Metallic Mineral Mining Operations

##### 5.18.4.1 Review Procedures

5.18.4.1.1. Metallic mineral mining operations are permitted only in District(s) as provided for in the use table in Section 3.2. Land Use Controls. In addition to provisions and procedures below, a metallic mineral mining operation requires a Conditional Use Permit from the Town of Denmark Planning Board in accordance with the applicable provisions for Conditional Use Permits provided for in this Ordinance.

5.18.4.1.2. Before applying for a metallic mineral mining operation, the applicant must obtain an advanced exploration permit from MDEP and any applicable mining permit from the MDEP in accordance with the Maine Metallic Mineral Mining Rules or successor.

5.18.4.1.3. At least 20 days prior to the date of the next Planning Board meeting the applicant must submit to the Town of Denmark Planning Board ten copies of an application technical and operational data prepared by Maine-licensed qualified professionals. The applicant must notify, by certified USPS first class mail, return receipt requested, all owners of property located within or partially within 1,000 feet of any property line of the proposed operation. The notice must contain a brief description of the operation, a map identifying the location of the proposed operation, and the date and time of the next Planning Board meeting concerning the application. The applicant must submit copies of such notices and copies of return receipts and a plan of the noticed properties within 7 days of the next Planning Board meeting concerning the application.

##### 5.18.4.2. Submission Requirements

5.18.4.2.1. The application must contain the following materials, at minimum:

5.18.4.2.1.1. A nonrefundable application fee as set forth on the Town of Denmark Fee Schedule

5.18.4.2.1.2. An escrow fee of \$5,000. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Planning Board shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, legal, and similar professional consulting services. Such fees shall be the responsibility of the applicant and shall be subject

to the following limitations:

5.18.4.2.1.2.1. Such consultation shall be limited to reasonable and necessary reviews that exceed the expertise of Town staff or Planning Board members or their ability to review the application materials within the time limits otherwise required by law;

5.18.4.2.1.2.2. Such fees shall be assessed only to recover costs directly associated with review (including reporting, testimony, and expenses) of the application submitted by the applicant;

5.18.4.2.1.2.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;

5.18.4.2.1.2.4. The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and

5.18.4.2.1.2.5. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

5.18.4.2.1.3. A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this Section 5.18. If the balance in the escrow account is, or is anticipated to be, drawn down by 75% or more of the original deposit, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of the anticipated remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% or more of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

5.18.4.2.1.4. Fees and escrow shall be administered by the Town of Denmark. No permit may be issued until all fees assessed hereunder have been paid in full.

#### 5.18.4.2.2. Application Information

5.18.4.2.2.1. The application shall include the following, at a minimum:

5.18.4.2.2.1.1. The name, mailing address, phone number, and email address of the applicant, its principal representative, and all consultants and agents involved in preparing the application;

5.18.4.2.2.1.2. The general organizational structure of the applicant and any parent companies, owners, principal stockholders, partners, and joint ventures;

5.18.4.2.2.1.3. Evidence of the applicant's right, title, or interest in the properties associated with the proposed metallic mineral mining operation, by deed, lease, purchase and sale agreement, option to purchase, or some other legal proof of interest;

5.18.4.2.2.1.4. Evidence of the applicant's ability to undertake the proposed metallic mineral mining operation in compliance with applicable laws, rules, and ordinances, including: (i) a statement of the applicant's prior experience in exploration and mining activities; (ii) the names and qualifications of all key personnel involved with site preparation, extraction, beneficiation, reclamation, closure and post-closure activities; and (iii) a list of all mines controlled or operated, in whole or in part, by the applicant (including its parent companies, subsidiaries, predecessors, or related persons) in the U.S. and abroad;

5.18.4.2.2.1.5. Evidence of sufficient financial capacity to undertake the proposed operation (including site preparation, extraction, beneficiation, reclamation, closure, decommissioning, and post-closure activities) in compliance with applicable laws, rules and this Ordinance;

5.18.4.2.2.1.6. A site plan prepared by a Maine-licensed qualified professional showing existing conditions of the mining area (including property boundaries and abutting landowner information; existing public and private roads, easements and rights of way; existing structures; impervious areas; topography; water bodies and streams; areas of steep slopes; vegetated areas; areas of vegetation clearing; and wetlands and other sensitive environmental features);

5.18.4.2.2.1.7. Photographs of all areas proposed to be disturbed;

5.18.4.2.2.1.8. A written project narrative, with detailed information to describe the existing conditions of the site and a full description of the proposed operation (including site preparation, extraction, beneficiation, reclamation, decommissioning, closure and post-closure activities). The narrative must include detailed information of how the operation will be managed so as to address each of the Review Criteria provided herein below;

5.18.4.2.2.1.9. Copies of applications submitted by the applicant to secure all required state and federal approvals;

5.18.4.2.2.1.10. A study prepared by a Maine licensed engineer with experience in conducting traffic impact analyses, which identifies the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of

service of the street giving access to the site and neighboring streets which may be affected, proposed improvements to maintain the desired level of service on the affected streets, and the anticipated road degradation effects and road maintenance improvement costs attributable to vehicular traffic generated by the operation (including, specifically, the off-site transport of mineral waste). The traffic impact study must separately identify the impacts of exploration activities, mining operations, and closure/post-closure activities;

5.18.4.2.2.1.11. Erosion control narrative and plans and details;

5.18.4.2.2.1.12. Study identifying any endangered or protected flora and fauna on site;

5.18.4.2.2.1.13. Evidence that the project as proposed has been presented to the following agencies, and written responses from those agencies: The Maine Natural Areas Program, the Maine Department of Inland Fisheries and Wildlife, the Maine Historic Preservation Commission, the Maine Department of Transportation, the Maine Department of Agriculture, Conservation & Forestry, and the Maine Department of Environmental Protection. Permit applications to any of the above authorities, or other applicable, significant agencies holding jurisdiction and requiring a permitting and approval process, and any approvals as issued by any of the above;

5.18.4.2.2.1.14. Opinion as to whether the project as proposed requires a National Pollutant Discharge Elimination System (NPDES) permit;

5.18.4.2.2.1.15. Plans showing changes to the landscape of the site, grading, vegetation clearing and planting, screening, lighting, structures, arrays, utilities, BMP's, and all proposed features;

5.18.4.2.2.1.16. Property line metes and bounds;

5.18.4.2.2.1.17. Fencing and gate details;

5.18.4.2.2.1.18. Plan showing water related features including water courses and bodies, wetlands, flood hazard areas, and vernal pools;

5.18.4.2.2.1.19. Plan showing existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures, and foundations;

5.18.4.2.2.1.20. Plan showing any existing above or below ground utilities;

- 5.18.4.2.2.1.21. Location of any deer wintering areas on site;
- 5.18.4.2.2.1.22. A Phase I Environmental Site Assessment report and a response narrative from the metallic mineral mining operator on next steps, if any;
- 5.18.4.2.2.1.23. A table of required and provided zoning dimensional information (e.g. Setbacks, lot coverage, height, etc.);
- 5.18.4.2.2.1.24. Listing and status of other expected state and federal permits needed;
- 5.18.4.2.2.1.25. A decommissioning plan meeting the requirements of this Section 5.18.;
- 5.18.4.2.2.1.26. A written manual or guide for the Denmark Fire Department providing clear response information and instructions, including disconnection locations necessary for fire/emergency response;
- 5.18.4.2.2.1.27. Satisfactory evidence that the metallic mineral mining operations will conform to the visibility requirements of this Section 5.18.;
- 5.18.4.2.2.1.28. Any additional information required to be submitted with a Conditional Use Permit application as provided for in this Ordinance, and;
- 5.18.4.2.2.1.29. Any additional information requested by the Planning Board at any time if the Planning Board concludes that such additional information is necessary to determine whether the proposal complies with the requirements of this Ordinance.

5.18.4.2.2.2. Within 30 days of the receipt of the application, the Planning Board shall vote to determine whether the application is complete. An application is complete upon submission of the required fees and all information required by this Ordinance. If the application is not complete, the Planning Board must notify the applicant of the information necessary to deem the application complete and must set a date by which the additional materials must be submitted. If the information is not submitted by that date, the application must be returned to the applicant.

5.18.4.2.2.3. Upon determining that an application is complete, the Planning Board will establish a file for the project review. All correspondence and submissions regarding the proposed operation must be maintained in the file and must be made available for review by the public.

5.18.4.2.2.4. The Planning Board may retain a technical and legal evaluation of any proposed metallic mineral mining operation to be conducted by one or more qualified, independent firms or consultants, which the Planning Board deems is reasonably necessary

to assist in its review of the proposal. Reviews may include: a hydrogeologic analysis, an environmental impact analysis, a technical analysis of the effects of exploration and mining activities on drinking water and/or on other users or properties, a traffic impact analysis, a road degradation assessment, a noise impact analysis, an analysis of applicable federal and state requirements, legal review, or an analysis of any issues relevant to the Review Criteria provided herein below. Any costs incurred by the Town of Denmark related to such technical and professional services will be borne by the applicant out of the escrow fee.

5.18.4.2.2.5. After a final public hearing, the Planning Board shall deliberate and issue written findings of fact and conclusions of law that set forth the reasons it approves, approves with conditions, or denies the application. Any approval/permit must specify that the permit:

5.18.4.2.2.5.1. Expires two years from the date of issuance;

5.18.4.2.2.5.2. May be renewed in accordance with the requirements of this Ordinance;

5.18.4.2.2.5.3. Authorizes the extraction of an aggregate quantity of mine waste that does not exceed 10,000 tons per any 24 month period, regardless of the number of extraction sources, sites, or facilities used, and;

5.18.4.2.2.5.4. Authorizes a total mining area that does not exceed three acres land disturbance including the mining area.

5.18.4.2.2.6. A Conditional Use Permit issued under this Section 5.18. may be renewed for a two-year period by the Planning Board if, after abutter notice, submission of application materials (per Section 5.18. requirements, completeness review, and public hearing, the Planning Board finds the following:

5.18.4.2.2.6.1. There is no proposed increase in the permit holder's exploration or mining activities;

5.18.4.2.2.6.2. There is no change in the location or configuration of the metallic mineral mining operation;

5.18.4.2.2.6.3. There has been no material failure by the permit holder to comply with any conditions of the permit;

5.18.4.2.2.6.4. There has been no material failure by the permit holder to meet the Review Criteria and;

5.18.4.2.2.6.5. There is credible evidence that the permit holder's continuing operation would continue to meet the Review Criteria and permit conditions during the renewal period.

5.18.4.2.2.7. The application for a Conditional Use Permit renewal must be filed with the Planning Board at least 60 days prior to, and no more

than 180 days prior to the expiration of the prior permit and must include an application fee as set forth on the Town of Denmark Fee Schedule. The Planning Board may extend the expiration date of a prior permit if in the process of reviewing a permit renewal. Extensions shall be made in 60 day increments.

5.18.4.2.2.8. For purposes of assisting the Planning Board in making findings the Code Enforcement Officer and/or Planning Board may inspect or, at the applicant's expense, arrange for an independent firm or consultant to inspect the current operation and all records related thereto and prepare a report to be delivered to the Planning Board setting forth all material facts related to its review. An escrow account funded by the applicant may be required for such outside review as provided for hereinbefore.

#### 5.18.4.3. Review Criteria

5.18.4.3.1. Before issuing a Conditional Use Permit authorizing a metallic mineral mining operation, the Planning Board must affirmatively find that the operation complies with each of the following Review Criteria. The burden of proof rests solely with the applicant:

5.18.4.3.1.1. That the applicant demonstrates that it possesses the necessary technical expertise and financial capacity to design, develop, and operate the mine (including technical expertise and financial capacity to conduct site preparations, exploration activities, mining activities, extraction, beneficiation, reclamation, decommissioning, closure and post- closure activities) in compliance with all state and federal laws and rules and this Ordinance.

#### 5.18.4.3.1.2. Community Impacts

5.18.4.3.1.2.1 That no part of the operation shall be located within one mile of any existing residential dwelling, commercial retail establishment, significant sand and/or gravel aquifer, public water supply, or public property (including parks, public lands, preserves, refuges, conserved lands, municipal buildings and schools).

5.18.4.3.1.2.2. That the operation does not cause any ground subsidence at or beyond the boundary lines of any property associated with the operation.

5.18.4.3.1.2.3. That the operation does not result in unreasonable stormwater runoff, erosion, or sedimentation as determined by the Code Enforcement Officer.

5.18.4.3.1.2.4. That adequate provision is made for safe and convenient pedestrian and vehicular access to the operation and for traffic circulation, loading, and unloading upon the mining

area so as to safeguard against hazards to motorized and pedestrian traffic, traffic congestion, and all other safety risks.

- 5.18.4.3.1.2.5. That any driveways or access roads serving the operation are designed to satisfy all applicable Maine Department of Transportation driveway and entrance rules, as well as all applicable local road and driveway standards per this Ordinance, and applicable state laws.
- 5.18.4.3.1.2.6. That any vehicular demand on existing Town of Denmark roads, public rights-of-way, or public easements occasioned by the operation and associated transport of mine waste does not exceed the vehicular or weight capacity of those roadways or cause the premature failure, aging, or diminished utility of those roadways. In making findings concerning this criterion, the Planning Board may impose conditions on the operation, including conditions on the routes, hours, maximum weight, limits of trucks, and maximum number of truck trips.
- 5.18.4.3.1.2.7. That the operation does not cause any undue adverse impact on adjacent properties, the holders of surface rights, public roadways, nearby communities, or the Town of Denmark as a whole. In making findings concerning this criterion, the Planning Board shall evaluate any increased traffic volume, frequency, and type on public roads attributable to operation of the mine (including site preparations, exploration activities, mining activities, extraction, beneficiation, reclamation, closure, and post- closure activities).
- 5.18.4.3.1.2.8. That the operation does not cause undue adverse impact on:
  - 5.18.4.3.1.2.8.1. Visual impacts on scenic resources;
  - 5.18.4.3.1.2.8.2. Noise and vibrations;
  - 5.18.4.3.1.2.8.3. Air pollution;
  - 5.18.4.3.1.2.8.4. Glare from lights and light pollution (especially in comparison with conditions prior to prior development), and;
  - 5.18.4.3.1.2.8.5. Other nuisance conditions arising from the operation.
- 5.18.4.3.1.2.9. That dust control measures are implemented and maintained especially during construction and decommissioning such that, at all times, dust emissions in the air do not travel beyond the property lines.
- 5.18.4.3.1.2.10 That no trees or other landscaping, other than that provided for in the application or as a condition of approval of any plan, application, or permit, may be removed or altered as part of operations.



- 5.18.4.3.1.2.11. That proposed site re-grading shall not be excessive and shall be kept to the minimum amount necessary.
- 5.18.4.3.1.2.12. That unless waived by the Planning Board, any topsoil that must be removed shall be stored and stabilized on-site for future use, especially for Decommissioning.
- 5.18.4.3.1.2.13. That at no time will there be any use of herbicides or pesticides without the prior written approval of the Code Enforcement Officer.
- 5.18.4.3.1.2.14. That the metallic mineral mining operator shall maintain a phone number and identify a person responsible for the public to contact throughout the life of the project and provide this information to the Municipality of Denmark and to immediate abutters.
- 5.18.4.3.1.2.15. That the transport of mine waste does not pose a threat to public health, safety, or welfare.
- 5.18.4.3.1.2.16. That mine waste from anywhere off premise is not imported nor used in or on the project site.
- 5.18.4.3.1.2.17. That the operation does not exceed a sound level of 60 dB at project property lines. The following activities are exempt from this noise requirement: noises of safety signals, warning devices, and emergency pressure relief valves and other emergency activities.
- 5.18.4.3.1.2.18. That the hours of operation may not be before 7:00 AM or after 6:00 PM on any day. However, the Planning Board may impose additional restrictions on hours of operation, including on weekends and holidays and on hours of vehicular traffic and/or equipment operations.
- 5.18.4.3.1.2.19 That buffers for metallic mineral mining operations are provided to visibly separate the operations from adjacent properties through screening and distance as follows:
- 5.18.4.3.1.2.19.1. A minimum 100-foot deep natural, undisturbed buffer shall surround all operations, equipment and structures;
  - 5.18.4.3.1.2.19.2. The buffer shall include a minimum of 25 trees exceeding 2" in caliper at 4 feet above the ground in any 100-foot buffer length as measured along the inner edge of the buffer. Where a buffer exceeds 100 feet in depth, the 25 trees standard may be met by including those trees within the first 200 feet of buffer depth;
  - 5.18.4.3.1.2.19.3. Additional trees shall be provided where necessary to achieve the 25 trees standard. Such additional trees shall be of the same species as

- existing trees in the immediate area, shall be 1½” minimum caliper 4 feet up, and shall be placed to fill in the gaps, and;
- 5.18.4.3.1.2.19.4. The buffer requirements shall not apply at project vehicular entrance(s), utility rights-of-way, and similar required openings.
- 5.18.4.3.1.2.20. That visibility of metallic mineral mining operations conforms to:
- 5.18.4.3.1.2.20.1. Metallic mineral mining operations shall be sited so that no portion is visible from any point on a great pond or navigable waterway in Denmark;
- 5.18.4.3.1.2.20.2. Metallic mineral mining operations shall be sited so that no portion is visible from a point five feet above a Public Road in Denmark, and;
- 5.18.4.3.1.2.20.3. Metallic mineral mining operations may not rely upon off site structures or vegetation to achieve compliance with these visibility requirements.
- 5.18.4.3.1.2.21. That the applicant shall submit a comprehensive Stormwater Management Plan with its Conditional Use Permit application.
- 5.18.4.3.1.2.22. That fencing shall be provided conforming to:
- 5.18.4.3.1.2.22.1. Fencing for all metallic mineral mining operations, excluding along access roads, shall be completely enclosed by a minimum 8 foot high, black PVC coated (min. 22 mils.) bonded to the core wire chain link fence (min. wire 8 gauge) with top rail with eight (8) foot high, black PVC coated chain link locking gate(s). The fence shall be elevated an average of 5” for small terrestrial animals;
- 5.18.4.3.1.2.22.2. These fence/gate requirements may be exceeded where and as determined by the operator to provide proper and safe conditions;
- 5.18.4.3.1.2.22.3. Access points through the required fencing shall be locked to prevent unauthorized access or entry, and;
- 5.18.4.3.1.2.22.4. Appropriate warning signs shall be posted on the fencing and at gates. Signs with operator contact information including operator name, address, constantly monitored phone number and email address shall be placed at every gate.

- 5.18.4.3.1.2.23. That access to and around the metallic mineral mining operations shall conform to the following:
  - 5.18.4.3.1.2.23.1. Adequate access, parking, and circulation, as determined by the Planning Board, for service and emergency vehicles shall be provided;
  - 5.18.4.3.1.2.23.2. At a minimum, a 20' wide all-weather road(s) or driveway must be provided from a public road into the site;
  - 5.18.4.3.1.2.23.3. The first 50 feet of the road(s) or driveway(s) shall be paved with 3" minimum thickness bituminous concrete including appropriate turning radii areas at the entrance, and;
  - 5.18.4.3.1.2.23.4. Mud, soil, sand, and other materials shall not be allowed to accumulate on a public street from project vehicles.
- 5.18.4.3.1.2.24. That metallic mineral mining operations shall not be artificially lighted except to the extent required for safety or by applicable federal, state, or local authority.

#### 5.18.5. Blasting

- 5.18.5.1. A permit shall be required from the Code Enforcement Officer prior to any blasting.
- 5.18.5.2. Blasting and blasting operations must conform to all applicable local and State laws and the following:
- 5.18.5.3. All applications for a permit under this Section 5.18. shall contain the following:
  - 5.18.5.3.1. The name and phone number of the applicant;
  - 5.18.5.3.2. The name of the property owner, if different than above;
  - 5.18.5.3.3. A scaled map denoting the general blasting location(s) and identifying all structures located within two thousand (2,000) feet of the property line of the property containing the blast area;
  - 5.18.5.3.4. A list of all properties within two thousand (2,000) feet of the property line of the property containing the blast area including the current assessed property owner and their mailing address;
  - 5.18.5.3.5. The total number of cubic yards of material estimated to be removed by blasting;
  - 5.18.5.3.6. An estimate of the number of blasts required to remove the specified amount of material;
  - 5.18.5.3.7. Hours and dates of proposed blasting activity;

5.18.5.3.8. A blasting plan (design) demonstrating, with a reasonable degree of certainty, that the blasting activity proposed can be conducted safely and within the bounds of these and the State of Maine's blasting regulations.

5.18.5.3.8. Proof that the entity applying for the Town's blasting permit has a permit to use explosives as issued by the State of Maine Fire Marshal's Office;

5.18.5.3.9. A permit fee as set forth on the Town of Denmark Fee Schedule;

5.18.5.3.10. A valid certificate of liability insurance with a policy limit of not less than \$2,000,000 which includes a statement clearly indicating that blasting and use of explosives is covered under the policy, and;

5.18.5.3.11. A copy of the notice that was provided to abutters.

#### 5.18.5.4. Effective Period.

5.18.5.4.1. Blasting permits shall be effective for no more than ninety (90) days from the date of approval. For blasting operations, the scope of which exceeds ninety (90) days, renewal of the permit shall be accomplished by reapplying in accordance with the procedure for a new permit, except that a public hearing may be held by the Planning Board to review past compliance with the standards contained herein and any effects on existing uses and property owners in the vicinity of such blasting operations.

#### 5.18.5.5. Performance Standards.

5.18.5.5.1. Blast vibration shall be monitored at the blast site, typically at the structure(s) closest to the blast site. Ground vibration at structures not owned or controlled by the operator may not exceed the limits shown in Figure B-1 of Appendix B, U.S. Bureau of Mines Report of Investigations 8507. Vibration limits will closely follow limits described in State of Maine Regulations. Blast designs will be modified as required to stay within these guidelines. Blasting operations will be modified accordingly when approaching buildings and utilities.

5.18.5.5.1.1 Flyrock shall be controlled so as to remain on the site and may not enter a protected resource.

5.18.5.5.1.2. Blast sound shall comply with Title 38 MRSA §490-Z (14)(H).

5.18.5.5.1.3. Blasting shall not include the use of perchlorate.

5.18.5.5.1.4. A calibrated seismograph shall be on-site and operating during all blasts. All data obtained from those measurements must be made available to the Code Enforcement Officer upon request. Seismograph data must be maintained for no less than six (6) years.

5.18.5.5.1.5. The operator shall provide written notification of the proposed blasting to the owners of all abutting properties within two thousand (2,000) feet of the property line of the property containing the blast area, via regular and certified mail, and the written

notification shall include the following:

5.18.5.5.1.5.1. The application information required by this Section 5.18., and;

5.18.5.5.1.5.2. The offer of a professionally prepared pre-blast survey of each structure and pre-blast water quality test of each drinking water source, both at the operator's expense, allowing a minimum of 14 days response time from the date of the original mailing.

5.18.5.5.1.6. Notices Required Following Permit Issuance:

5.18.5.5.1.6.1. Any person or entity intending to detonate explosives shall first notify the Code Enforcement Officer that a blast is planned. Such notification shall be received at least twenty- four (24) hours prior to the planned detonation and shall give the time (within two (2) hours), location where the blasting is to be done, the amount of explosives to be used and the name and business address of the person responsible for the blasting operation. The notification may be given orally over the telephone; however, the burden of proof as to whether the notification was in fact received rests with the person responsible for the blasting operation;

5.18.5.5.1.6.2. The person or entity responsible for a blast shall notify the Code Enforcement Officer in the event of any misfires and the proposed corrective action within five (5) business days of the misfire;

5.18.5.5.1.6.3. The person or entity responsible for the blast shall place warning signs along property lines of the blasting site at least seven (7) days in advance, and;

5.18.5.5.1.6.4. The person or entity responsible for the blast shall also sound the required warning horn prior to each blast as outlined in NFPA 495 Explosive Materials Code.

5.18.6. Enforcement and Penalties.

5.18.6.1. It shall be the duty of the Code Enforcement Officer to administer and enforce the provisions of this Section 5.18. Any person, including but not limited to a landowner, a landowner's agent, or contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452, as may be amended from time to time. For purposes of this Section 5.18., each day that a violation continues shall be considered a separate offense.

5.18.7. Recording.

5.18.7.1. If the Planning Board approves, or approves with conditions, metallic mineral mining operation, the operator shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title,

and indicating that such approval was granted, including any conditions of approval, and the date on which the approval was granted. The approval(s) shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.

5.18.8. Decommissioning, Removal, and Bonding.

5.18.8.1. A metallic mineral exploration or mining operation shall be considered Decommissioned when:

5.18.8.1.1. The operation has reached the end of its useful life, sustained casualty loss, or other significant damage, is not repaired, or used, or has reached a point of obsolescence and, after at least six consecutive months after any of these or similar events, the operation is declared Decommissioned by the Code Enforcement Officer, and/or,

5.18.8.1.2. The operation fails to operate as designed for a period of six or more consecutive months and is declared Decommissioned by the Code Enforcement Officer, and/or,

5.18.8.1.3. The operator submits a written notice to the Municipality of Denmark declaring a Decommissioning and providing a date of Decommissioning, either a past or present date, or future date if the metallic mineral mining operation is then operating.

5.18.8.2. The Date of Decommissioning shall be the date so declared by the Code Enforcement Officer or so provided in writing by the operator. The Code Enforcement Officer shall notify the operator by certified mail with signed receipt specifying, at a minimum, the Date of Decommissioning and that all facilities of the operation must be removed, and the site be restored to a condition approved by the Planning Board within 360 days. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Municipal Officers of the Town of Denmark and Planning Board.

5.18.8.3. Decommissioning.

5.18.8.3.1. The operator shall commission a Phase I Environmental Site Assessment conforming to ASTM standard E1527-21 within 60 days of the Date of Decommissioning. Should contamination be encountered or suspected, a Phase II Environmental Site Assessment conforming to ASTM standard E1903-19 shall be conducted. All discovered and encountered hazardous materials shall be removed and disposed of in accordance with all local, state, and federal regulations.

5.18.8.3.2. The operator shall be responsible for determining, applying for, and receiving all necessary Decommissioning permits.

5.18.8.4. Decommissioning shall also consist of:

5.18.8.4.1. Removal of all facilities and materials including, but not limited to, all equipment, barriers, fencing, OH/UG electric wiring and conduits, foundations, equipment, signage, buildings, and concrete pads;

5.18.8.4.2. Removal of all graveled areas and access ways unless the operator

requests in writing for such to stay in place and receives Planning Board approval;

5.18.8.4.3. Removal of all stormwater management and BMP's unless the operator requests in writing for such to stay in place and receives Planning Board approval;

5.18.8.4.4. Removal of toxic wastes, wastewater, and hazardous materials from the site including ~~surface waters and ponds, soils, and treatment ponds~~ and surface waters and ponds constructed by or resulting from mining activities;

5.18.8.4.5. The implementation of satisfactory, permanent, make-safe provisions to remove dangerous and hazardous conditions, all as determined by the Code Enforcement Officer, and;

5.18.8.4.6. Stabilization of all disturbed areas as necessary to minimize erosion, including, but not limited to, stabilization of slopes, creation of safety benches, planting of forests (a minimum of 10 - 1½" caliper trees per acre native to the immediate area), seeding of grasses and legumes for grazing purposes, planting of crops for harvest and enhancement of wildlife and aquatic resources, spreading topsoil. New trees shall have a 90% survival rate after 2 years or be replaced. Replacement trees shall start a new 2-year period.

#### 5.18.8.5. Decommissioning Bond.

5.18.8.5.1. Before issuance of any building permit for a metallic mineral exploration or mining operation, and/or prior to any related construction, the applicant, or other entity approved by the Code Enforcement Officer shall provide a Decommissioning Bond in form and substance approved by the Municipal Officers of the Town of Denmark and made payable to the Town of Denmark for all costs associated with the Decommissioning of the operation.

5.18.8.5.2. The value of the Decommissioning Bond shall be equal to 125 percent of the estimated cost of Decommissioning the operation. At the end of the second year of operation, and for each successive 2-year period of operation, or upon permit renewal as the case may be, the operator shall be required to submit an updated cost estimate to the Code Enforcement Officer and Municipal Officers of the Town of Denmark. The Municipal Officers of the Town of Denmark shall have the authority to reasonably accept or not accept the cost estimate value(s). Within 90 days of acceptance, the operator or landowner shall provide the Town of Denmark with a new Decommissioning Bond in the amount equal to 125 percent of the new estimate reasonably accepted by the Municipal Officers of the Town of Denmark.

5.18.8.5.3. The Decommissioning Bond shall be of form and substance reasonably acceptable to the Municipal Officers of the Town of Denmark and shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town of Denmark, and the procedure for the collection by the Town of Denmark. The bond documents shall specifically reference the subject operation. The Decommissioning Bond shall include a

provision granting and guaranteeing the Town of Denmark the authority to access the funds and property and perform the Decommissioning of the operation if the operator fails to meet their obligations to fully and properly remove the operation.

5.18.8.5.4. The operator shall be responsible for notifying the Code Enforcement Officer in writing if the Decommissioning Bond is revoked or is no longer valid or in force within 7 calendar days of the operator's receipt of notice of same. Within 30 days of such an event, the operator or landowner shall provide the Town of Denmark with a replacement Decommissioning Bond (or other instrument) that is reasonably found acceptable by the Municipal Officers of the Town of Denmark. If an acceptable replacement bond is not provided within 30 days, any Conditional Use Permit approval(s) for the operation shall be void.

5.18.8.5.5. The Decommissioning Bond or replacement bond must be kept in effect throughout the lifetime of the operation. The operator may apply to the Municipal Officers of the Town of Denmark for the release of the Decommissioning Bond at such time that:

5.18.8.5.5.1. A Certification, prepared by a Maine licensed Professional Engineer experienced in such matters, is provided by the operator reporting that the operation has been Decommissioned as required by this Section 5.18. and as required by any Municipality of Denmark approval or applicable conditions of approval, and;

5.18.8.5.5.2. The Decommissioning activity is found to be satisfactorily complete by the Code Enforcement Officer and the Municipal Officers of the Town of Denmark.

5.18.8.5.6 If the operator fails to Decommission the operation as required by this Section 5.18. and as required by any applicable conditions of approval, the Town of Denmark will use reasonable effort (at least three times by either phone, US mail, and/or email) to notify the operator of its intent to use the Decommissioning Bond and use any and all legal or available means necessary to Decommission the operation.

5.18.8.5.7. Any Decommissioning costs exceeding the proceeds of the Decommissioning Bond and incurred by (and/or to be incurred by) the Town of Denmark shall be funded by the operator within 30 days of such notice. Failing receipt of such funding, the Town of Denmark will use reasonable efforts to recover the excess costs, and any costs of such recovery, which means may include imposing a Special tax and/or a tax lien on the real estate of the operation.

#### 5.18.9. Miscellaneous provisions

5.18.9.1. The applicant must submit all MDEP required submission or monitoring results to the Planning Board on the same timeframe as such results are provided to the MDEP pursuant to the Maine Metallic Mineral Mining Rules or successor.

5.18.9.2. Before the start of any exploration or mining construction, the metallic mineral mining operator shall provide a copy of a proposed Spill Prevention and



Control Plan, or similar document, to the Code Enforcement Officer for their approval.

5.18.9.3. Any change in the metallic mineral mining operator or land ownership shall be reported to the Code Enforcement Officer and Town Manager, in writing, and shall be kept on file by the Code Enforcement Officer. Within 30 days of this written notification, the new operator and/or land owner must provide documentation of all updated, if necessary, financial assurances required by permit and copies of all correspondence approving transfer of applicable permits by regulatory agencies (i.e. MDEP)

5.18.9.4. As provided for in this Section, where professional or legal services are reasonably needed by the Code Enforcement Officer to conduct herein requirements, responsibilities, and actions, those services may be conducted by supportive others at applicant expense.

#### 5.18.10. Enforcement.

5.18.10.1. The following acts or omissions constitute a violation of this Section 5.18: (A) conducting a metallic mineral mining operation or any exploration operation outside of the bulk and dimensional limitations of this Ordinance; (B) conducting a metallic mineral mining operation or any exploration operation without all required permits; (C) conducting a metallic mineral mining operation or any exploration operation not in compliance with all permit conditions; (D) conducting any exploration activities not in compliance with the notice requirements of this Ordinance; (E) any material misstatement of fact in any notice, application, or supporting documentation filed with the Town; (F) failure to comply with the Review Criteria in this Section 5.18. , including exceeding maximum extracted mine waste or bulk sampling thresholds, exceeding maximum mining areas, or operating outside of approved hours of operation; or (G) failure to comply with any provision of this Ordinance. This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Denmark or duly authorized designee(s), and shall be enforceable by and under, and subject to all the terms, fines, and penalties of 30-A M.R.S.A. § 4452.5.18. Inspections. The Code Enforcement Officer, and any supportive others may, at any time, enter any exploration or mining site, take samples, make measurements, locate operations, and conduct tests, and may conduct drone surveillance in order to determine compliance with any provision of this Ordinance. The costs incurred or to be incurred by the Town of Denmark for performing this work shall be the responsibility of the operator.

#### 5.18.11. Appeals.

5.18.11.1. Any person or entity aggrieved by a decision, action, or failure or refusal to take action of the Code Enforcement Officer or the Planning Board may appeal to the Maine Superior Court in accordance with 30-A M.R.S.A. § 2691 and Rule 80B of the Maine Rules of Civil Procedure.

#### 5.18.12. Severability.

5.18.12.1. If any section, part of a section, or any provision of this Section 5.18. is declared by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, such declaration shall not affect the validity or enforceability of this Section 5.18. as a whole, or any part of provision other than that specifically declared to be unconstitutional, invalid, or unenforceable.

5.18.13. Relation to Other Rules and Laws

5.18.13.1. This Section 5.18. does not relieve a person of the obligation to comply with all other applicable state, federal, or local laws, rules, and this Ordinance, including the Maine Metallic Mineral Mining Rules or successor.

5.18.14. Conflicts

5.18.14.1. Whenever a provision of this Section 5.18. conflicts with or is inconsistent with another ordinance, regulation, or rule administered by the Town of Denmark, the more restrictive provision controls.

## **CHAPTER 6 – SHORELAND DISTRICT**

### **6.1. Shoreland District.**

6.1.1. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

6.1.2. To control the use of shoreland and other areas to provide maximum protection to the land and water resources so that:

6.1.2.1. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;

6.1.2.2. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and

6.1.2.3. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.

6.1.3. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation and the exact nature of the effects of shoreland development on that degradation process.

6.1.4. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication.

6.1.5. To minimize expenditures of public moneys for flood control projects.

6.1.6. To minimize rescue and relief efforts undertaken at the expense of the general public.

6.1.7. To minimize flood damage to public facilities such as water mains, sewer lines, streets and bridges.

6.1.8. To protect the storage capacity of flood plains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.

6.1.9. To encourage open space uses such as agriculture and recreation.

6.1.10. To control building sites.

### **6.2. Location of Districts.**

Refer to Section 2.2.

### **6.3. Uncertainty of Boundary Location.**

Refer to Section 2.3.

### **6.4. Division of Lots by District Boundaries.**

6.4.1. Where a Zoning District boundary line other than the Resource Protection and Shoreland Districts divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations 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 the provisions of 6.4.2 below.

6.4.2. Extension of use shall be considered a Conditional Use, subject to the approval of the Planning Board and in accordance with the criteria set forth in Section 8.9., subsection entitled Factors Applicable to Conditional Uses.

## **6.5. Where District Boundaries May Overlap.**

6.5.1. If the District boundaries of the Resource Protection, Aquifer Protection and Shoreland Districts should overlap, the most restrictive provision of the Districts shall control in those areas which may be in applicable Districts. In order to be permitted, a use must be listed as permitted or conditional in all applicable Districts.

## **6.6. General.**

6.6.1. Non-Conformance.

Refer to Section 1.4.

6.6.1.1. Principal and Accessory Structures.

6.6.1.1.1. Refer to Section 1.4.5.

6.6.1.1.2. Non-vegetated surfaces shall not exceed a total of twenty percent of the portion of the lot located within the Shoreland District. This limitation does not apply to public boat launching facilities regardless of the District in which the facility is located.

6.6.1.1.3. For the purposes of calculating lot coverage, non-vegetated surfaces included, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed.

6.6.2. Validity and Severability.

Refer to Section 1.5.

6.6.3. Conflict With Other Ordinances.

Refer to Section 1.6.

6.6.4. Amendments.

Refer to Section 1.7.

6.6.5. Repetitive Petitions.

Refer to Section 1.8.

6.6.6. Effective Date.

Refer to Section 1.9.

## **6.7. Land Use District Requirements.**

6.7.1. General Requirements.

Refer to Section 3.1.

6.7.2. Land Use Controls.

Refer to Section 3.2.

6.7.3. Dimensional Requirements.

Refer to Section 3.3.

6.7.3.1. Dimensional Requirements For Subdivisions.

6.7.3.1.1. Due to the increased potential for erosion and sedimentation, for nutrient transport to vulnerable lakes, and for contamination of ground water resources due to concentrated development, the following additional requirements shall apply to subdivisions, in accordance with Maine Revised Statutes Annotated.

6.7.3.1.1.1. The maximum number of lots or dwelling units shall be determined by dividing the minimum lot area of the District in which the parcel is located into the net lot area of the parcel to be subdivided. If the parcel to be subdivided is located in more than one zoning District, the net lot area of each portion of the parcel in each District shall be divided by the minimum lot area of the District.

6.7.3.1.1.2. No structure within a subdivision shall be located in an area identified as a very poorly drained soil.

6.7.3.2. Additional Requirements for the Shoreland Districts.

In order to further promote the purposes of the Shoreland District, the following additional requirements shall apply within the Shoreland District.

6.7.3.2.1. No structure shall be located on a site with more than 25% slope.

6.7.3.2.2. For lots created after the effective date of this Section, the maximum number of lots or dwelling units permitted shall be determined by dividing the minimum lot area of the District in which the parcel is located into the net lot area of the lot.

6.7.3.2.3. No structure shall be located in an area identified as a very poorly drained soil.

6.7.3.3. Additional Requirements for Lots on the Saco River.

In compliance with the amendments and changes of the 1983 Rivers Act, the following provisions shall apply to all lots within 250 of the normal high-water mark of the Saco River.

6.7.3.4. Frontage and Setback.

Lots created after the effective date of this Section shall have a combined shore frontage and setback from the normal high-water mark of 500 feet. For example, a lot with 200 feet of frontage along the river requires a setback for the structures of 300 feet (200 feet plus 300 feet equals 500 feet). Lot depth therefore has to be approximately 400 feet in order to accommodate the structure, the setback from the river and the setback from the road.

6.7.3.5. Lots without shore frontage.

For lots which are within 250 feet of the Saco River, but do not have shore frontage, the proposed lot shall be reviewed as if it extended to the shore.

6.7.3.6. Consultation with the Saco River Corridor Commission.

It is recommended that the Saco River Corridor Commission be consulted prior to making changes in ownership or use of any property along the Saco River.

Contact Information:

PO Box 283  
Cornish, Maine 04020-0283  
  
Telephone: 207-625-8123  
Fax: 207-625-7050  
Email: [dalyn@srcc-maine.org](mailto:dalyn@srcc-maine.org)  
Website: <http://srcc-maine.org/>

6.7.3.7. Common Areas on the Shorefront for Lots not having Frontage on the Water.

Any lot with shore frontage which is used to grant access to the water body to other lots shall have the minimum shore frontage required for a lot in that District. For each lot or dwelling unit granted use of this common area, 50 feet additional frontage shall be required.

**6.8. General Performance Standards.**

6.8.1. Access to Lots.

Refer to Section 4.1.

6.8.2. Accessory Buildings.

Refer to Section 4.2.

6.8.3. Archaeological Sites.

Refer to Section 4.3.

6.8.4. Buffer Areas.

Refer to Section 4.4.

6.8.5. Clearing and Removal of Vegetation for Activities Other Than Timber Harvesting.

For Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal, see Section 6.8.6.. The following provisions shall apply only within the Shoreland District.

6.8.5.1. Except to remove safety hazards, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

6.8.5.1.1. 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 single footpath not to exceed six (6) 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, or stream flowing to a great pond, the width of the foot path shall be limited to six (6) feet.

6.8.5.1.2. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For

the purposes of Section 6.8.5.1.2. a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

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

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**NOTE:** As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

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The following shall govern in applying this point system:

- 6.8.5.1.2.1. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- 6.8.5.1.2.2. Each successive plot must be adjacent to, but not overlap a previous plot;
- 6.8.5.1.2.3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- 6.8.5.1.2.4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- 6.8.5.1.2.5. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 6.8.5.1.2.5 "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no

woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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.

6.8.5.1.3. Adjacent to other water bodies 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.

6.8.5.1.4. 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.

6.8.5.1.5. A drilled, driven, or dug well is permitted within the 100-foot buffer area provided that a permit is obtained from the Code Enforcement Officer; erosion and sedimentation control practices meeting the requirements of section 7.2.1. are employed and any cleared area in excess of 250 square feet is replanted to trees.

6.8.5.1.6. In order to protect water quality and wildlife habitat, adjacent to great ponds, and streams which flow to great ponds, 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 Sections 6.8.1. and 6.8.1.1. above.

6.8.5.1.7. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

6.8.5.1.8. 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.

6.8.5.1.9. The provisions contained in Section 6.8.1. 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.

6.8.5.2. At distances greater than one hundred (100) feet, horizontal distance, from a water body 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 lesser, including land previously developed.

6.8.5.3. 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.

6.8.5.4. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section.

#### 6.8.6. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

6.8.6.1. Written permission from the Code Enforcement Officer is required prior to the removal of Hazard Trees within the 100' buffer in the Shoreland District. However, Hazard Trees posing an imminent danger in the Shoreland District may be removed prior to written permission provided photographic evidence of the tree(s) is obtained prior to their removal and the Code Enforcement Officer's review is obtained within 5 business days of removal. Additionally, Hazard Trees within the 100' buffer in the Shoreland District may only be removed if the following requirements are met:

6.8.6.1.1. Within the shoreline buffer, of 100 feet, if the removal of a Hazard Tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height and be no less than two (2) inches in diameter. Stumps may not be removed.

6.8.6.1.2. Outside of the shoreline buffer, of 100 feet, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the Shoreland District, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

6.8.6.1.3. The Code Enforcement Officer may require more than a one-for-one replacement for Hazard Trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

6.8.6.2. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

6.8.6.2.1. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland District.

6.8.6.3. Storm-Damaged Trees in the Shoreland District May Be Removed Without a Permit After Consultation With the Code Enforcement Officer if the Following Requirements Are Met:

- 6.8.6.3.1. Within the shoreline buffer, of 100 feet, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
- 6.8.6.3.2. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
- 6.8.6.3.3. Stumps from the storm-damaged trees may not be removed;
- 6.8.6.3.4. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- 6.8.6.3.5. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
- 6.8.6.3.6. Outside of the shoreline buffer, of 100 feet, if the removal of storm-damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the Shoreland District or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis in the affected areas.

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6.8.8. Exemptions to Clearing and Vegetation Removal Requirements.

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 6.8.5., provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- 6.8.8.1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this Section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 6.8.5.
- 6.8.8.2. The removal of non-native invasive vegetation species provided the following minimum requirements are met:
  - 6.8.8.2.1. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

6.8.8.2.2. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

6.8.8.2.3. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

6.8.8.3. The removal of vegetation associated with emergency response activities conducted by the Maine Department of Environmental Protection, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

Note: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:

[https://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](https://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

#### 6.8.9. Revegetation Requirements.

6.8.9.1. When revegetation is required due to the following conditions:

1. Violation of vegetation standards,
2. Removal of non-native, invasive species of vegetation, or
3. As a mechanism to allow for development that may otherwise not be permissible under the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

6.8.9.1.1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

6.8.9.1.2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.

6.8.9.2. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

6.8.9.2.1. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

6.8.9.2.2. A survival rate of at least eighty (80) percent of planted trees or saplings

is required for a minimum five (5) years period.

6.8.10. Erosion and Sedimentation Control.

Refer to Section 4.5.

6.8.11. Landscaping.

Refer to Section 4.6.

6.8.12. Off Street Parking and Loading Requirements.

Refer to Section 4.7.

6.8.13. Protection of Drinking Water Supplies.

Refer to Section 4.8.

6.8.14. Roads and Driveways.

Refer to Section 4.9.

6.8.15. Septic Waste Disposal.

Refer to Section 4.10.

6.8.16. Signs.

Refer to Section 4.11.

6.8.17. Soils.

Refer to Section 4.12.

6.8.18. Storage of Materials.

Refer to Section 4.13.

6.8.19. Stormwater Runoff.

Refer to Section 4.14.

6.8.20. Traffic Impacts and Street Access Control.

Refer to Section 4.15.

6.8.21. Village District.

Refer to Section 4.16.

6.8.22. Water Quality Protection.

Refer to Section 4.17.

**6.9. Performance Standards, Specific Activities and Land Uses.**

6.9.1. Agriculture and Animal Husbandry.

Refer to Section 5.1.

6.9.1.1. Agricultural 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 District shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to

be a violation of this Ordinance.

6.9.1.2. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a water body; nor within twenty-five feet, horizontal distance, of wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

6.9.1.3. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, from:

6.9.1.3.1. A water body or wetlands.

6.9.1.3.2. Within five (5) years of the effective date of this Ordinance all manure storage areas within the Shoreland District 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 above five (5) year period.

6.9.1.4. 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 water body, nor; within twenty-five (25) feet, horizontal distance, of wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

6.9.2. Automobile Graveyards and Junkyards.

Refer to Section 5.2.

6.9.2.1. No motor vehicles or material shall be located within the 100-year flood plain.

6.9.2.2. No motor vehicles or material shall be stored within 300 feet of any water body.

6.9.3. Bed & Breakfast/Inn.

Refer to Section 5.3.

6.9.4. Boathouses.

Boathouses may be located within a shore lot, but shall be set back a minimum of 100 feet from the normal high water elevation of lake, pond, river or stream; shall not exceed one (1) boathouse on the premises for each shore lot; shall not exceed a height of fifteen (15) feet; shall not exceed three hundred (300) square feet in horizontal area covered; and shall be at least twenty (20) feet from any side lot line. All distances shall be measured horizontally.

6.9.5. Campgrounds.

Refer to Section 5.4.

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

6.9.5.1 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 from the normal high-water elevation of any waterbody or the upland edge of a wetland.

6.9.6. Individual Private Campsites/Recreational Vehicles.

Refer to Section 5.5.

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

6.9.6.1. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a water body or the upland edge of a wetland, must meet all necessary set back requirements. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.

6.9.7. Ordinance related to Recreational Vehicle Permits.

Refer to Section 5.6.

6.9.8. Home Occupations.

Refer to Section 5.7.

6.9.9. Mineral Exploration and Mineral Extraction.

Refer to Section 5.8.

6.9.10. Mobile Homes and Mobile Home Parks.

Refer to Section 5.9.

6.9.11. Multi Family Dwelling Units.

Refer to Section 5.10.

6.9.12. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Elevation of a Water Body or Within a Wetland.

6.9.12.1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

6.9.12.2. The location shall not interfere with existing developed or natural beach areas.

6.9.12.3. The facility shall be located so as to minimize adverse effects on fisheries.

6.9.12.4. 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.

6.9.12.5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland.

6.9.12.6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.

6.9.12.7. A structure constructed on a float or floats is prohibited unless it is designed to function as and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

6.9.13. Planned Unit Developments and Cluster Development.

Refer to Section 5.11.

6.9.14. Recreational Facility.

Refer to Section 5.12.

6.9.15. Restaurants.

Refer to Section 5.13.

6.9.16. Timber Harvesting.

Refer to Section 5.14.

6.9.17. Wireless Communication Facilities and Communication Towers.

Refer to Section 5.15.

## CHAPTER 7 – RESOURCE PROTECTION DISTRICT

### 7.1. Resource Protection District.

7.1.1. All areas within the 100-year floodplain are Resource Protection District. The Resource Protection District also includes areas around wetlands which have been rated as high or moderate value habitat for waterfowl by the Department of Inland Fisheries and Wildlife.

7.1.1.1. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

7.1.1.2. To control the use of shoreland and other areas to provide maximum protection to the land and water resources so that:

7.1.1.2.1. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;

7.1.1.2.2. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and,

7.1.1.2.3. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.

7.1.1.3. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation and the exact nature of the effects of shoreland development on that degradation process.

7.1.1.4. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication.

7.1.1.5. To protect the most vulnerable shoreland areas of all waterbodies and other areas in which land uses would adversely affect water quality, productive habitat, biological systems, or scenic and natural values, and discourage development in unsafe or unhealthful areas. Such areas include, but are not limited to:

7.1.1.5.1. Wetlands, swamps, marshes and bogs.

7.1.1.5.2. Significant wildlife habitats.

7.1.2. Location of Districts.

Refer to Section 2.2.

7.1.3. Uncertainty of Boundary Location.

Refer to Section 2.3.

7.1.4. Division of Lots by District Boundaries.

Refer to Section 6.4.

7.1.5. Where District Boundaries May Overlap.



Refer to Section 6.5.

## **7.2. General.**

### 7.2.1. Non-Conformance.

Refer to Sections 1.4. and 6.6.1.

### 7.2.2. Validity and Severability.

Refer to Section 1.5.

### 7.2.3. Conflict With Other Ordinances.

Refer to Section 1.6.

### 7.2.4. Amendments.

Refer to Section 1.7.

### 7.2.5. Repetitive Petitions.

Refer to Section 1.8.

### 7.2.6. Effective Date

Refer to Section 1.9.

## **7.3. Land Use District Requirements.**

### 7.3.1. General Requirements.

Refer to Section 3.1.

### 7.3.2. Land Use Controls.

Refer to Section 3.2.

### 7.3.3. Dimensional Requirements.

Refer to Sections 3.3. and 6.7.3.

## **7.4. General Performance Standards**

### 7.4.1. Access to Lots.

Refer to Section 4.1.

### 7.4.2. Accessory Buildings.

Refer to Section 4.2.

### 7.4.3. Archaeological Sites.

Refer to Section 4.3.

### 7.4.4. Buffer Areas.

Refer to Section 4.4.

### 7.4.5. Clearing And Removal Of Vegetation For Activities Other Than Timber Harvesting.

Refer to Section 6.8.5.

The following provisions shall apply only within the Shoreland District.

7.4.5.1. Within a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 100 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.

7.4.6. Erosion and Sedimentation Control.

Refer to Section 4.5.

7.4.7. Landscaping.

Refer to Section 4.6.

7.4.8. Off Street Parking and Loading Requirements.

Refer to Section 4.7.

7.4.9. Protection of Drinking Water Supplies.

Refer to Section 4.8.

7.4.10. Roads and Driveways.

Refer to Section 4.9.

7.4.10.1. 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 Appeals 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.

7.4.11. Septic Waste Disposal.

Refer to Section 4.10.

7.4.12. Signs.

Refer to Section 4.11.

7.4.13. Soils.

Refer to Section 4.12.

7.4.14. Storage of Materials.

Refer to Section 4.13.

7.4.15. Stormwater Runoff.

Refer to Section 4.14.

7.4.16. Traffic Impacts and Street Access Control.

Refer to Section 4.15.

7.4.17. Village District Design Standards.

Refer to Section 4.16.

7.4.18. Water Quality Protection.

Refer to Section 4.17.

## **7.5. Performance Standards, Specific Activities and Land Uses**

7.5.1. Agriculture and Animal Husbandry.

Refer to Sections 5.1. and 6.9.1.

7.5.2. Automobile Graveyards and Junkyards.

Refer to Sections 5.2. and 6.9.2.

7.5.3. Bed & Breakfast/Inn.

Refer to Section 5.3.

7.5.4. Boathouses.

Refer to Section 6.9.4.

7.5.5. Campgrounds.

Refer to Sections 5.4. and 6.9.5.

7.5.6. Individual Private Campsites/Recreational Vehicles.

Refer to Sections 5.5. and 6.9.6.

7.5.7. Ordinance related to Recreational Vehicle Permits.

Refer to Section 5.6.

7.5.8. Home Occupations.

Refer to Section 5.7.

7.5.9. Mineral Exploration and Mineral Extraction.

Refer to Section 5.8.

7.5.10. Mobile Homes and Mobile Home Parks.

Refer to Section 5.9.

7.5.11. Multi Family Dwelling Units.

Refer to Section 5.10.

7.5.12. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Elevation of a Water Body or Within a Wetland.

Refer to Section 6.9.12.

7.5.13. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal.

Refer to Section 6.8.6.

7.5.14. Storm-Damaged Trees in the Shoreland District May Be Removed Without a Permit After Consultation with the Code Enforcement Officer if the Following Requirements Are Met:

Refer to Section 6.8.7.

7.5.15. Exemptions to Clearing And Vegetation Removal Requirements.

Refer to Section 6.8.8.

7.5.16. Revegetation Requirements.

Refer to Section 6.8.9.

7.5.17. Planned Unit Development and Cluster Development.

Refer to Section 5.11.

7.5.18. Recreational Facility.

Refer to Section 5.12.

7.5.19. Restaurants.

Refer to Section 5.13.

7.5.20. Timber Harvesting.

Refer to Section 5.14.

7.5.21. Wireless Communication Facilities and Communication Towers.

Refer to Section 5.15.

## CHAPTER 8 – ADMINISTRATION *(Amended 6.3.23)*

### 8.1. Enforcement.

8.1.1. The Code Enforcement Officer shall be appointed in accordance with the Town Charter. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The Code Enforcement Officer shall order the removal of illegal buildings, structures, additions or work being done, or shall take any other action authorized by this Ordinance to ensure compliance with, or to prevent violation of, its provisions.

8.1.2. The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.

8.1.3. The Code Enforcement Officer shall have the authority to conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this Section. If consent is denied the Code Enforcement Officer should obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a permit after proper notification and a public hearing if it was issued in error or if based on erroneous information.

8.1.4. The Code Enforcement Officer shall attend the regular meetings of the Planning Board and provide a report of his or her activities since the last meeting.

8.1.5. Suspension or Revocation of Permits.

8.1.5.1. The Code Enforcement Officer may suspend an approval of a permit if it was issued in error or if it was granted based upon incomplete or false information. The Code Enforcement Officer shall provide the applicant with a written notice of suspension stating the reason for the suspension; the corrective measures to be taken and the period of time given to the applicant to correct the violation. A suspension shall cease when corrective measures have been completed and the applicant is provided with a written notice from the Code Enforcement Officer indicating that the suspension has been removed. If the violation has not been corrected or removed within the specified time period, the Code Enforcement Officer shall revoke the approval or permit by furnishing to the applicant a written notice indicating the reason for revocation. Once a permit is revoked, no work shall be resumed until and unless a new approval or permit is obtained by the applicant.

8.1.5.2. During the period of a suspension or revocation, no work shall continue on a project for which an approval or permit was granted except in the interest of securing public safety and protection of the property, with any such work having the written approval of the Code Enforcement Officer.

## **8.2. Building or Use Permit.**

A permit shall be obtained prior to the commencement of construction or placement of any new structure and for any exterior alteration or addition exceeding 80 square feet in area and prior to the establishment of a use or change of use of a premises. In addition, a permit shall be required prior to any use of land indicated as needing one under Section 8.2.

The following construction activities shall not require a permit: any new structure and any exterior alteration or addition of 80 square feet or less in area, repairs, replacement, and/or normal maintenance, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical modifications or changes requiring a permit under this Ordinance. Any structure not requiring a permit must meet all requirements of the Zoning Ordinance.

8.2.1. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose and shall include the following information.

8.2.1.1. Structures to be erected, structures to be moved, and exterior additions to existing structures:

8.2.1.1.1. The shape and location and proposed use or uses of the lot for which application is made.

8.2.1.1.2. The shape, size and location on the lot of the proposed structure, and of any proposed additions to existing structures.

8.2.1.1.3. The shape, size and location of any other existing structures on the lot.

8.2.2. All applications shall also include:

8.2.2.1. The name and address of the property owner.

8.2.2.2. The name, address and telephone number of the person, firm, or firms involved in the construction on the property.

8.2.2.3. The value of any proposed construction.

8.2.2.4. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.

8.2.2.5. For building or use permits in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront.

8.2.2.6. Any other information the applicant wishes to furnish.

8.2.2.7. Any other information requested by the Code Enforcement Officer to make the application intelligible, and to determine whether the proposed construction and/ or uses will conform to this Ordinance, other local ordinances and state law.

8.2.2.8. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.

8.2.3. All applications shall be signed:

8.2.3.1. By the person or firm to do the work; and

8.2.3.2. By the owner of the property or other person authorizing the work.

8.2.4. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.

8.2.5. Upon receipt of a permit application the Code Enforcement Officer shall:

8.2.5.1. Decide whether the information in the application is sufficient to determine whether, under the ordinance, the permit should be issued, or if the application is otherwise inadequate. If the Code Enforcement Officer feels the application is insufficient or inadequate, the Code Enforcement Officer shall at once notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected, it shall be denied.

8.2.5.2. Within seven days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for Conditional Use Permit, all such applications. The Code Enforcement Officer's decision shall be in writing on a form designed for the purpose and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, the Code Enforcement Officer he shall also provide a copy of the decision to the Planning Board.

8.2.6. No Building Permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his or her authorized agent, until the proposed construction or addition of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such a permit shall be accompanied by a plan, showing the actual shape and dimensions of the lot to be built upon.

8.2.7. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.

8.2.8. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date which the permit is granted.

8.2.9. Before construction, alteration, relocation, or replacement of any building or part thereof (requiring a Building Permit by any other provision of this Ordinance) shall commence, the owner or lessee, or the architect, contractor or builder employed by such owner or lessee shall obtain from the Building Inspector a permit covering such proposed work.

8.2.10. Within 20 days of the completion of any construction within any part of a Shoreland District, the applicant shall submit to the Code Enforcement Officer post construction photographs that document conditions after construction. The photographs shall also include the entire Shoreland vegetation.

### **8.3. Plumbing Permit Required.**

8.3.1. Internal Plumbing Permit

No Building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless the applicant or his or her authorized agent obtained an

HHE 211 Internal Plumbing Permit, approved by the Licensed Plumbing Inspector has in conformance with the sanitary provisions of this Ordinance.

#### 8.3.2. Subsurface Wastewater Permit.

No Building Permit shall be issued for any structure or use, which is deemed to generate an increase in subsurface wastewater discharge according to the Maine State Subsurface Wastewater Disposal Code, unless the applicant or his or her authorized agent has obtained an HHE 200 Subsurface Wastewater Permit, approved by the Licensed Plumbing Inspector, in conformance with the sanitary provisions of this Ordinance.

#### **8.4. Fees.**

No building permit shall be issued by the Code Enforcement Officer without payment to the Town of Denmark, of a fee in accordance with the Town of Denmark Fee Schedule.

8.4.1. There shall be no fee for the replacement of structures destroyed by fire or act of nature provided the replacement structure is in the same location and is no larger in any dimension than the original structure and reconstruction started within one year of destruction.

8.4.2. When work has begun prior to issuance of a permit, the fee for the permit shall double and the Town reserves the right to pursue any other remedies available to it under applicable laws.

#### **8.5. Certificate Of Approved Use Required.**

The Code Enforcement Officer shall issue a Certificate of Approved Use unless there is evidence that the use does not comply with the Denmark Zoning Ordinance.

#### **8.6. Legal Action And Violations.**

When any violation of any provision of this Ordinance shall be found to exist, the Municipal Officers, upon notice from the Code Enforcement Officer, are 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 Municipality.

#### **8.7. Fines.**

Any person, firm, or corporation being the owner or having control or use of any building or premises who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined in accordance with the Maine Revised Statutes Annotated. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

#### **8.8. Board of Appeals. (6.3.23)**

##### 8.8.1. Appointment and Composition.

8.8.1.1. The Board of Appeals shall consist of 7 members appointed by the Municipal Officers. Members shall be Town of Denmark legal residents or State of Maine legal residents paying real estate taxes on property within the Town of Denmark, with appointment preference given to Denmark legal residents. Members shall serve staggered terms of 3 years. A quorum shall consist of 4 members. The Board of Appeals shall elect annually a chairperson from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board of Appeals shall be



public record.

8.8.1.2. Neither a Municipal Officer, Planning Board member, Town Manager, or the Code Enforcement Officer, nor the staff or spouses or significant others of any of the foregoing may serve as a member of the Board of Appeals.

8.8.1.3. 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 present and voting, excepting the member whose potential conflict is under consideration.

8.8.1.4. A member of the Board of Appeals may be dismissed for “just cause” by the Municipal Officers after notice and hearing. The term “just cause” shall include, but not be limited to, failure to attend 3 consecutive Board of Appeals meetings or Public Hearings without sufficient justification.

## 8.8.2. Powers and Duties.

### 8.8.2.1. Administrative Appeals.

8.8.2.1.1. Except where explicitly excluded by this Ordinance, the Board of Appeals shall have jurisdiction to hear and decide where it is alleged there is an error made in the administration of this Ordinance. Where it has jurisdiction, the Board of Appeals, by majority vote of those present and voting, but by no fewer than 3 members of the Board of Appeals, may affirm, modify with conditions, or reverse a prior decision.

8.8.2.1.2. A tie vote or a favorable vote by less than 3 members shall be considered a rejection of the application under consideration.

### 8.8.2.2. Variance Appeals.

8.8.2.2.1. The Board of Appeals shall grant a variance only by a concurring vote of a majority of those present and voting, but by at least 3 members of the Board of Appeals. In so doing, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Ordinance.

8.8.2.2.1.1. A tie vote or a favorable vote by less than 3 members shall be considered a rejection of the application under consideration.

#### 8.8.2.2.2. Undue Hardship Variance.

As used in this Ordinance, an Undue Hardship Variance is authorized only for structure height, lot area, setbacks and size of structures or size of yards or open spaces. Establishment or expansion of a structure or use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals may grant an Undue Hardship Variance only where strict application of an applicable provision of this Ordinance to the applicant and his or her property would cause Undue

Hardship. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all four of the following “Undue Hardship” tests:

8.8.2.2.2.1. That the land in question cannot yield a reasonable return unless a variance is granted;

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

8.8.2.2.2.3. That the granting of a variance will not alter the essential character of the locality; and

8.8.2.2.2.4. That the hardship is not the result of action taken by the applicant or a prior owner.

8.8.2.2.3. Practical Difficulty Variance.

As used in this Ordinance, a Practical Difficulty Variance is authorized only for Dimensional Standards (meaning lot area, lot coverage, frontage, and setbacks) for properties not located in the Shoreland District. Establishment or expansion of a structure or use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts. The Board of Appeals may grant a Practical Difficulty Variance only where strict application of an applicable provision of this Ordinance to the Applicant and his or her property would cause a Practical Difficulty. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all six of the following Practical Difficulty tests:

8.8.2.2.3.1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

8.8.2.2.3.2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

8.8.2.2.3.3. The practical difficulty is not the result of action taken by the applicant or a prior owner;

8.8.2.2.3.4. No other feasible alternative to a variance is available to the applicant;

8.8.2.2.3.5. The granting of a variance will not unreasonably adversely affect the natural environment; and

8.8.2.2.3.6. The property is not located in whole or in part within a Shoreland District.

8.8.2.2.4. Disability Variance.

The Board of Appeals may grant a Disability Variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any Disability Variance granted under this subsection solely to the installation of

equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board of Appeals may impose conditions on the Disability Variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For purposes of this subsection, a disability has the same meaning as a physical or mental disability in accordance with the Maine Revised Statutes Annotated. The term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall, or roof systems necessary for the safety or effectiveness of the structure. The Board of Appeals may grant a Disability Variance to an owner of a dwelling who resides in the dwelling and who is a person with a permanent disability for the construction of a residential garage or place of storage and parking for a noncommercial vehicle owned by that person and for no other purpose. The person with the permanent disability shall prove by a preponderance of the evidence that the person's disability is permanent. All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person's disability are confidential. The Applicant must satisfactorily demonstrate to the Board of Appeals conformance with all the relevant following Disability Variance – Garage/Storage/Parking tests:

8.8.2.2.4.1. The person with a disability resides in the dwelling;

8.8.2.2.4.2. The installation of equipment or the construction or alteration of structures proposed under the application is/are necessary for access to or egress from the dwelling by the person with the disability;

8.8.2.2.4.3. The person with the permanent disability has satisfactorily proven that the person's disability is permanent;

8.8.2.2.4.4. The proposed garage construction is solely for the purpose of storing and parking a non-commercial vehicle owned by the owner of the dwelling; and

8.8.2.2.4.5. The width and length of the garage structure will not be larger than 2 times the width and length of the non-commercial vehicle;

8.8.2.3. The Town will notify Maine Department of Environmental Protection (DEP) of all variance applications at least 20 days prior to a Board of Appeals hearing.

#### 8.8.3. Conditional Use Appeal.

8.8.3.1 Planning Board decisions regarding Conditional Use Permits are final and are not appealable to the Board of Appeals.

#### 8.8.4. Enforcement Appeals.

8.8.4.1. Notices of violation and enforcement orders issued by the Code Enforcement Officer are not appealable to the Board of Appeals.

#### 8.8.5. Appeal Procedure.

8.8.5.1. Any person aggrieved by an action which comes under the jurisdiction of the Board of Appeals must file such application with the Board of Appeals on forms approved by the Board of Appeals, and the applicant shall specifically describe the basis

of the appeal. Applications should be filed within 30 days of the granting or denial of a permit.

8.8.5.2. The applicant shall pay the fee for an administrative appeal or a variance set forth on Town of Denmark Fee Schedule and shall be responsible for any additional costs to the Board of Appeals for hearing the appeal.

8.8.5.3. Administrative Appeals from actions by the Code Enforcement Officer shall be decided on an “appellate” basis, which means that the Board of Appeals must limit its review to the record established by the official whose decision is the subject of the appeal and to the arguments of the parties. No new review evidence may be accepted.

8.8.5.4. Variance Appeals from actions by the Code Enforcement Officer or Planning Board shall be decided on a “de novo” basis, which means that the Board of Appeals starts the review process from scratch, holding its own hearing, creating its own record, and making its own independent judgment of whether a project should be approved based on the evidence in the record which the Board of Appeals creates.

8.8.5.5. The Chairperson shall conduct a preliminary review of appeals applications for completeness at which time more information may be requested from the Applicant. If and when the Chairperson finds the necessary information has been provided from the Applicant, the Applicant shall submit ten complete copies of the application and any supporting documents, and ten 11”X17” copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings to the Board of Appeals Secretary at the Town of Denmark Municipal Building at least ten days prior to the meeting at which they are scheduled to be considered. The Chairperson will then call a regularly scheduled meeting of the Board of Appeals for final review of completeness. Upon the Board of Appeals finding the application complete, a Public Hearing on the application shall be scheduled within 45 days. The Board of Appeals shall cause notice of the date, time and place of Public Hearings including the location of the building or lot, and the general nature of the question(s) involved, to be published in a newspaper of general circulation in the Town of Denmark, at least 7 days prior to the Public Hearing. The Board of Appeals shall also cause notice of the Public Hearing to be given to the Municipal Officers, the Town Manager, the Planning Board, and the Code Enforcement Officer.

8.8.5.5.1.1. At least 10 days prior to the date of the Public Hearing, the Applicant shall cause notice by certified return receipt mailing of the Public Hearing to be given to and received by all Denmark property owners within 500 feet of the subject property. The property owners shall be considered to be those against whom taxes are assessed. The notice shall include at least the following information: (a) The name and contact information of the Applicant appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of the variance appeal, and; (d) The time and place of the Public Hearing. The Applicant shall timely provide to the Board of Appeals a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any Public Hearing does not necessitate another Public Hearing or change in date of a Public Hearing, or invalidate any action at a Public Hearing taken by the Board of

Appeals – all providing the locations of said property owners and their contact information is obtained by the Applicant from Town of Denmark records.

8.8.5.6. If the Board of Appeals schedules a site visit, the Board shall cause notice of the date, time and place of the site visit to be published in a newspaper of general circulation in the Town of Denmark, at least 7 days prior to the site visit. The Board of Appeals shall also cause notice of the site visit to be given to the Municipal Officers, the Town Manager, the Planning Board, and the Code Enforcement Officer.

8.8.5.6.1 At least 7 days prior to the date of the site visit, the Applicant shall cause notice by certified return receipt mailing of the site visit to be given to and received by all Denmark property owners within 500 feet of the subject property. The notice shall include at least the following information: (a) The name and contact information of the person / entity appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of variance appeal, and: (d) The time and place of the site visit. The Applicant shall timely provide to the Board of Appeals a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any site visit does not necessitate another site visit or change in date of a site visit – all providing the locations of said property owners and their contact information are obtained by the Applicant from Town of Denmark records.

8.8.5.7. The owners of property shall be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing or a site visit shall not necessitate another hearing or site visit or invalidate any action by the Board of Appeals.

8.8.5.8. At any hearing, a party may be represented by agent or an attorney. Hearings shall not be continued except for good cause.

8.8.5.9. The Code Enforcement Officer or designee shall attend all hearings unless excused by the Board of Appeals and may present to the Board of Appeals all plans, photographs, or other materials deemed appropriate for an understanding of the appeal.

8.8.5.10. The applicant'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 Chairperson.

8.8.5.11. Within 7 days of reaching a decision on an appeal, the Board of Appeals shall inform, in writing, the applicant, the Code Enforcement Officer, the Planning Board, the Town Manager, and Municipal Officers of its decision and its reasons therefore, as prescribed in accordance with the Maine Revised Statutes Annotated.

8.8.5.12. A variance under the provisions of this Ordinance secured by vote of the Board

of Appeals 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.

8.8.5.13. If the Board of Appeals grants a variance, the Board of Appeals shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, Findings of Fact and Conclusions of Law indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that a variance was granted, including any conditions imposed by the Board of Appeals and the date on which the variance was granted. The variance shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval. A building permit related to the granted variance will be issued by the Code Enforcement Officer in due course after presentation of evidence of such recording and presentation of necessary building plans and specifications.

8.8.5.14. If the Board of Appeals denies an appeal, a second appeal of a similar nature shall not be brought before the Board of Appeals within one year from the date of the initial denial by the Board of Appeals unless in the opinion of a majority of the Board of Appeals substantial new evidence shall be brought forward or unless the Board of Appeals finds that an error, mistake or misunderstanding of facts occurred at the initial Public Hearing.

8.8.5.15. A copy of all variances granted by the Board of Appeals within the Shoreland District shall be submitted to the Department of Environmental Protection within 14 days of the decision.

8.8.5.16. The Board of Appeals may reconsider any decision within 45 days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The Board of Appeals may conduct additional Public Hearings and receive additional evidence and testimony. Appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration.

8.8.5.17. In evaluating each application, the Board of Appeals may request the assistance of the Southern Maine Planning & Development Commission, the Maine Municipal Association, County Soil and Water Conservation District and any other County, State or Federal agency which can provide technical assistance.

#### 8.8.6. Application Procedure.

8.8.6.1. A person informed by the Code Enforcement Officer that a variance is needed may file an application using the Board of Appeals application form. All applications shall be returned to the Chairperson of the Board of Appeals at least 10 days prior to the next Board of Appeals meeting. The application shall be accompanied by ten complete copies of all applications and any supporting documents, and ten 11"X17" copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings unless the Board of Appeals waives these requirements:

8.8.6.1.1. The name and address of the applicant (and/or the applicant's authorized agent);

- 8.8.6.1.2. A copy of the deed or other record of right, title or interest in the property;
- 8.8.6.1.3. The assessor's map and lot number;
- 8.8.6.1.4. The Section of this Ordinance which the variance request relates to;
- 8.8.6.1.5. The road or street name;
- 8.8.6.1.6. A date, scale and north arrow;
- 8.8.6.1.7. The zoning District where the premises in question is located;
- 8.8.6.1.8. All existing and proposed setback dimensions;
- 8.8.6.1.9. All the landscape areas, fencing, and size and type of plant material upon the premises in question;
- 8.8.6.1.10. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
- 8.8.6.1.11. Complete building elevation drawings of any proposed structures;
- 8.8.6.1.12. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

8.8.7. Board of Appeals Independent Consulting and Peer Review Fees.

8.8.7.1. Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Board of Appeals shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, , and similar professional consulting services. Such fees shall be subject to the following limitations:

- 8.8.7.1.1. Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, that exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law;
- 8.8.7.1.2. Such fees shall be assessed only to recover costs directly associated with review of the application submitted by the applicant to whom they are assessed;
- 8.8.7.1.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;
- 8.8.7.1.4. The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and
- 8.8.7.1.5. Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

8.8.7.2. A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this

Section. The original deposit shall be an amount specific to the application. If the balance in the escrow account shall be drawn down by 75%, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

8.8.7.3. This Section shall be administered by a Town employee responsible for administering the ordinance under which review is sought. No building permit shall be issued, nor subdivision plat released until all fees assessed hereunder have been paid in full.

#### 8.8.8. Appeal of Board's Decision.

8.8.8.1. Any decision of the Board of Appeals may be appealed by an aggrieved party who participated in the Board of Appeals proceedings to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B. Local land use decisions that satisfy the definition of a "significant municipal land use decision" found in the Maine Revised Statutes Annotated may be appealed either by filing a complaint in the general Superior Court docket or the "Business Court" docket.

### 8.9. Planning Board. (6.3.23)

#### 8.9.1. General Permit Application Procedure.

8.9.1.1 The Planning Board is authorized to hear and decide upon applications for permits and approvals in accordance with State law and the provisions of this Ordinance.

8.9.1.2 Applications for permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance.

8.9.1.3 All applications for review or approval of the Planning Board shall be based upon a written decision of the Code Enforcement Officer.

8.9.1.4 The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for permits.

8.9.1.5 Upon submission of an application, the applicant shall pay the fee(s) for review and approval of the Planning Board as set forth on the Town of Denmark Fee Schedule, and shall be responsible for any additional costs to the Planning Board for processing the application.

8.9.1.6 Ten complete copies of all applications and any supporting documents, and ten 11"X17" copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings shall be submitted to the Planning Board Secretary at the Town of Denmark Municipal Building at least ten days prior to the Planning Board meeting at which they are scheduled to be considered.

8.9.1.7 Types of permits and approvals to be processed by the Planning Board include, but are not limited to:

8.9.1.7.1 Conditional Use Permits

8.9.1.7.2 Shoreline District Foundation Permits +, including:



- 8.9.1.7.2.1.1 Place a new, enlarged, or replacement foundation under a non-conforming structure in the 100 foot buffer zone within the Shoreland District.
- 8.9.1.7.2.1.2 Place a foundation under non-conforming new additions or expansions of a non-conforming structure(s) in the 100 foot buffer zone within the Shoreland District.
- 8.9.1.7.2.1.3 Place a foundation under a non-conforming relocated structure in the 100 foot buffer zone within the Shoreland District.
- 8.9.1.7.2.1.4 Place a foundation under a non-conforming new structure in the 100 foot buffer zone within the Shoreland District.
- 8.9.1.7.2.1.5 Place a foundation under other circumstances in the 100 foot buffer zone within the Shoreland District.

8.9.1.7.3 Other permits and approvals – as provided herein.

8.9.1.7.4 The above permits and approvals are collectively identified as “Planning Board Permits” for purposes of this Section 8.9.

## 8.9.2 General Planning Board Permits Procedures.

8.9.2.1 A person informed by the Code Enforcement Officer that a Planning Board Permit is required shall file an application for the permit with the Planning Board on forms provided by the Code Enforcement Officer or the Town Clerk’s office for the purpose. The Applicant shall submit ten complete copies of the application and any supporting documents, and ten 11”X17” copies of the main site plan (if any), and 3 full size copies of all site plans and related drawings to the Planning Board Secretary at the Town of Denmark Municipal Building at least ten days prior to the meeting at which they are scheduled to be considered. For Planning Board Permits located within any part of a Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront shall be submitted with the application. All plans and application materials for Planning Board Permits presented for approval shall show the information noted in the appropriate division of Appendix C, Application Requirements for Planning Board Permits unless the Planning Board waives any of the requirements. Completed applications shall be submitted to the Planning Board Secretary at the Town of Denmark Municipal Building. The Secretary, in coordination with the presiding officer of the Planning Board, shall schedule a Public Meeting to review the application for completeness.

8.9.2.2 Within 35 days of determining a complete application has been submitted, and before taking action on any application, the Planning Board shall hold a Public Hearing on the application. The Planning Board shall notify the applicant, Code Enforcement Officer, Municipal Officers, the Town Manager, and the Board of Appeals, at least 10 days in advance of the time and place of the hearing and shall publish notice of the hearing at least 7 days in advance in a newspaper of

general circulation in the area.

- 8.9.2.3 In cases when more time, public reaction, and/or information is needed and/or more time for gathering, reviewing, and evaluating new and additional information, materials, and testimony is needed, or due to the lateness of the hour, the application review times shall be appropriately extended and Public Hearings may be suspended or continued, and reconvened at later dates.
- 8.9.2.4 At least 10 days prior to the date of the Public Hearing, the Applicant shall cause notice by certified return receipt mailing of the Public Hearing to be given to and received by all Denmark property owners within 500 feet of the subject property. The property owners shall be considered to be those against whom taxes are assessed. The notice shall include at least the following information: (a) The name and contact information of the person / entity appealing; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of s variance appeal, and: (d) The time and place of the Public Hearing. The Applicant shall timely provide to the Planning Board a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any Public Hearing does not necessitate another Public Hearing or change in date of a Public Hearing, or invalidate any action at a Public Hearing taken by the Planning Board – all providing the locations of said property owners and their contact information is obtained by the Applicant from Town of Denmark records.
- 8.9.2.5 The Planning Board may schedule a site walk for Planning Board members and the public to physically inspect the property or site of the subject permit. If there is a refusal to allow the public onto the site, the Planning Board will cancel the site visit so as not to be in violation of State Statutes. Without a site walk, the Planning Board will not have the ability to view the site firsthand to properly assess the merits of the application.
- 8.9.2.6 At least 7 days prior to the date of the site visit, the Applicant shall cause notice by certified return receipt mailing of the site visit to be given to and received by all Denmark property owners within 500 feet of the subject property. The notice shall include at least the following information: (a) The name and contact information of the Applicant; (b) A brief description of the property involved; (c) A brief description of the decision appealed from or the nature of s variance appeal, and: (d) The time and place of the site visit. The Applicant shall timely provide to the Planning Board a copy of the notice and proof of the certified mailings. Failure of any property owner within 500 feet of the subject property to receive a notice of any site visit does not necessitate another site visit or change in date of a site visit – all providing the locations of said property owners and their contact information are obtained by the Applicant from Town of Denmark records.
- 8.9.2.7 At any hearing, a party may be represented by an agent or attorney.
- 8.9.2.8 The Code Enforcement Officer or designee shall attend all hearings and may present to the Planning Board all plans, photographs, or other materials deemed appropriate for an understanding of the application.

- 8.9.2.9 The applicant'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.
- 8.9.2.10 In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Planning Board Permit, the following information:
- 8.9.2.10.1 A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
- 8.9.2.10.2 A soils report identifying the soils boundaries and names in the **proposed development with the soil's information superimposed upon the plot plan in accord with the USDA Natural Resources Conservation Service National Cooperative Soil Classification.**
- 8.9.2.10.3 Other pertinent information necessary to determine if the proposed development or use meets the provisions of this Ordinance.
- 8.9.2.10.4 In evaluating each application, the Planning Board may request the assistance of Town, Regional, County, State, or Federal agency which can provide technical assistance.
- 8.9.2.10.5 The Planning Board may engage the services of consultants and legal to help with the review of application materials in accordance with provisions included hereinafter.
- 8.9.2.11 Upon consideration of the factors applicable to Planning Board Permits, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance and to assure that the standards of this Ordinance are met. Violation of any of these 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; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and sign, type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.
- 8.9.2.12 Within 35 days of the closing of the Public Hearing, the Planning Board shall make Findings of Fact and Conclusions of Law and approve, approve with conditions, or deny the permit application. The Planning Board shall inform, in writing, the applicant, the Code Enforcement Officer, the Municipal Officers, the Town Manager, and the Board of Appeals of its decision and its reasons therefore within seven days of making its decision.
- 8.9.2.13 Factors Applicable to Planning Board Permits.

8.9.2.13.1 Prior to granting approval of an application for a Conditional Use Permit, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with the provisions of Appendix D

8.9.2.13.2 Prior to granting approval of an application for a Shoreland District Foundation Permit +, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with the provisions of Appendix E.

8.9.2.13.3 Prior to granting approval of an application for other permits and approvals, the Planning Board shall make Findings of Fact and Conclusions of Law as determined by the Planning Board.

8.9.2.14 A Planning Board Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the application is approved, and if the work or change is not substantially completed within two years or if the use is not implemented within two years.

8.9.2.15 Within 20 days of the completion of any construction within any part of a Shoreland District, the applicant shall submit to the Code Enforcement Officer post construction photographs that document conditions after construction. The photographs shall also include the entire Shoreland vegetation.

#### 8.9.3 Conditional Use Permits – Additional Provisions

8.9.3.1 Conditional Use Permits shall be required for any new use or new structure, addition to or alteration of any existing use or structure identified in the Land Use Control Table as being a Conditional Use, the resumption of any Conditional Use on a continual commercial basis which has been discontinued for at least 5 years, and/or to any substantial increase or expansion in the volume or intensity of usage of a Conditional Use.

8.9.3.2 A Conditional Use Plan meeting the standards of this Ordinance shall be reviewed and approved by the Planning Board before any use may be approved, or before any Building Permit may be issued for any new building or construction.

8.9.3.3 No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

8.9.3.4 No changes shall be made in any Conditional Use Plan approved by the Planning Board without approval of that change by the Planning Board.

8.9.3.5 Planning Board decisions regarding Conditional Use Permits are final and are not appealable to the Board of Appeals.

#### 8.9.4 Shoreland Permits – Additional Provisions

8.9.4.1 Placing of a foundation under a non-conforming structure in the 100-foot buffer zone within the Shoreland District shall also conform to the requirements of Section 1.4.4.3. of this Ordinance.

8.9.4.2 New structures and the expansion, relocation, reconstruction or replacement of a non-conforming structure in the 100-foot buffer zone within the Shoreland

District shall also conform to the requirements of Section 1.4.4.7. and Section 1.4.4.8. of this Ordinance.

8.9.5 Subdivisions.

8.9.5.1 The application procedure for Subdivisions shall be as specified in the Town of Denmark Subdivision Regulations.

8.9.6 Planning Board Independent Consulting and Peer Review Fees.

8.9.6.1 Notwithstanding any other ordinance provision to the contrary and in addition to such fees as are otherwise required herein, the Planning Board shall assess fees to cover 100 percent of its costs related to independent engineering, surveying, legal, and similar professional consulting services. Such fees shall be the responsibility of the applicant and shall be subject to the following limitations:

8.9.6.1.1 Such consultation shall be limited to reasonable and necessary review, as allowed by the pertinent ordinance, that exceeds the expertise of Town staff or their ability to review the application materials within the time limits otherwise required by law;

8.9.6.1.2 Such fees shall be assessed only to recover costs directly associated with review (including reporting, testimony, and expenses) of the application submitted by the applicant;

8.9.6.1.3 Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;

8.9.6.1.4 The results of the consultation for which such fees are assessed shall be available for public review, but such results shall be deemed to have been made solely for the benefit of the Town and shall remain its property; and

8.9.6.1.5 Such fees shall be assessed for the privilege of review and shall be payable without regard to consultation results or the outcome of the application.

8.9.6.2 A non-interest-bearing account shall be established with the Town by the applicant to guarantee payment in advance of actual fees assessed pursuant to this Section. The original deposit shall be an amount specific to the application and as estimated by the Planning Board to fund all anticipated and related costs and fees. If the balance in the escrow account shall be drawn down by 75%, the Town shall notify the applicant and require that an additional amount be deposited to cover the cost of remaining work. The Town shall continue to notify the applicant and require that an additional amount be deposited whenever the balance of the account is drawn down by 75% of the original deposit. Any excess amount deposited with the Town in advance shall be promptly refunded to the applicant after final action on the application.

8.9.6.3 Fees and escrow shall be administered by the Town of Denmark. No building permit may be issued, nor subdivision plat be released until all fees

assessed hereunder have been paid in full.

## **CHAPTER 9 – CONSTRUCTION OF LANGUAGE AND DEFINITIONS** (Amended 6.3.23)

### **9.1. Construction of Language.**

In this Ordinance, certain terms or words shall be interpreted as follows:

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and plural includes the singular; the word “shall” is mandatory, and word “may” is permissive; the words “used” or “occupies” include the words “intended,” “designed,” or “arranged to be used or occupied,” the word “building” includes the word “structure,” and the word “dwelling” includes the word “residence”, the word “lot” includes the words “plot” or “parcel.” In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

### **9.2. Definitions. (6.3.23)**

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

**Access Road:** Road or driveway within a deeded right-of-way providing access to a lot or lots without frontage on a public way and conforming to the requirements of Section 4.1.

**Accessory Use or Structure:** A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof, or a common wall is considered part of the principal structure.

**Aquifer Protection District:** To protect those ground water resources which are most vulnerable to contamination from certain adverse land use activities and thereby to preserve the quantity and quality of this resource for present and future use. This protection shall be afforded by decreased densities and restrictions on land uses which can be expected to pose increased risks to ground water quality.

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

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

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

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

**Antenna:** Any exterior apparatus or collection of apparatus designed for telephone, radio, television, personal communications service, pager network, or any other communications through the sending or receiving of electromagnetic waves of any bandwidth, except for those used only for the reception of television or radio signals.

**Applicant:** The legal entity, including successors and assigns, that files an application under this Ordinance.

**Approved Residential Subdivision:** A residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

**Array:** A grouping of multiple solar modules with the purpose of harvesting solar energy.

**Associated Facilities:** Elements of a Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

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

**Auto Service Station:** A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

**Automobile Graveyard:** A yard, field, drive or other area used as a place of storage for 1 or more unserviceable, discarded, worn-out or junked motor vehicles.

**Basal Area:** The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement:** A portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.

**Bed & Breakfast/Inn:** An establishment which includes a dwelling in which lodging and meals are offered to the general public for compensation, offering no more than twelve rooms for lodging purposes.

**Beneficiation:** The treatment of ore to liberate or concentrate its valuable constituents, including crushing, grinding, washing, dissolution, crystallization, filtration, sorting, sizing, drying, sintering, pelletizing, briquetting, calcining, and roasting in preparation for leaching to produce a final or intermediate product.

**Blast/Blasting:** Any activity entailing the use of explosives for the purpose of producing an explosion to demolish structures or to fragment rock for mining, quarrying, excavation or construction.

**Blasting Operations:** Drilling and site preparation solely for blasting and detonation, and any operation, enterprise, or activity involving the use of blasting.

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

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

**Buffer Area:** An area of undisturbed soil, ground cover, shrubs and/or trees abutting a water body or stream, that may prevent nutrient pollution. For Large Scale Solar Energy Systems, see additional and superseding buffer standards under Section 5.16.

**Building:** A structure with walls and roof designed for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**Bulk Sampling:** The removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction or processing of metallic minerals. "Bulk sampling" includes, but is not limited to drilling and boring, digging of shafts and tunnels, and digging of pits and trenches.

**Camp:** An establishment, licensed by the Maine Department of Human Services, Division of Health Engineering, which provides recreational, spiritual, or educational programs and instruction for participants as well as meals and/or lodging.

**Campground:** Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

**Cellar:** A portion of the building partly underground but having half or more of its clear height below the average grade of the adjoining ground.

**CEO:** Code Enforcement Officer of the Town of Denmark.

**Channel:** A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

**Closure:** The activities undertaken to manage a mining area and, if necessary, an affected area, pursuant to an environmental protection, reclamation, and closure plan as approved by the MDEP. Closure includes, but is not limited to, actions taken to contain metallic mineral wastes on site and to ensure the integrity of waste management facilities and the permanent securement of tailings, tailings impoundment areas, wastes, pits, shafts, and underground workings. Decommissioning related to exploration and mining activities is a separate requirement as provided for within this Ordinance.

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

**Code Enforcement Officer:** A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and like where applicable.

**Commercial Recreation:** Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: racquet clubs, health facility and amusement parks, but not including amusement centers.



**Communication Tower:** Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purpose of supporting one or more antenna. The term includes radio or television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and similar structures.

**Conditional Use:** A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of the Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

**Conditional Use Permit:** A permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

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

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

**Contiguous Lots:** A lot shall be considered to be contiguous with another lot if the lots adjoin at any point or line or are separated at any point by a body of water less than forty feet wide.

**Day Care Center:** An establishment, including a private residence, where three or more children under the age of six are cared for in return for compensation.

**Diameter Breast Height (DBH):** The diameter of a standing tree measured 4.5 feet from ground level.

**Dimensional Requirements:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**District:** A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements for various combinations thereof apply under the provisions of this Ordinance.

**Disturbed Area (or similar):** means all land areas that are stripped, graded, grubbed, filled, bulldozed or excavated at any time during the site preparation or removal of vegetation for, or construction of, a project. "Disturbed area" does not include maintenance. A land area on which the cutting of trees, without grubbing, stump removal, disturbance or exposure of soil has taken place is not considered a "Disturbed area".

**Drainage Dip:** A broad, shallow ridge that runs diagonally across a road or driveway, stopping water from running down the road or driveway by diverting it over to the side of the road or driveway.

**Drainage Way:** A route or course along which water moves or may move to drain a region.

**Driveway:** A vehicular way created for the passage of motorized vehicles and serving one or two lots.

**Dwelling:** A fixed structure, containing one or more dwelling units.

**Dwelling; Multi-Family:** A single dwelling, containing three or more dwelling units.

**Dwelling; Two Family:** A single dwelling, containing two dwelling units.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

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

**Essential Services:** The construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

**Eutrophication:** The process of nutrient enrichment of waterbodies.

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

**Expansion of a Structure:** An increase in the footprint or height of a non-conforming structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

**Expansion of Use:** The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**Exploration or Exploration Activity – Metallic Mining:** Any bulk sampling or exploratory activity associated with a metallic mineral mining operation.

**Family:** On or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five persons not related by blood or marriage.

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

**Finished Interior:** Spaces are habitable areas with finished walls, such as living rooms, bedrooms, kitchens, retail office spaces, storage spaces, and finished walls, etc.

**Flea Market:** The sale of used merchandise customarily involving tables or space leased or rented to vendors.

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

**Flood Plain:** The lands adjacent to a waterbody which have been or may be covered by the regional flood.

**Floodway:** The channel of a stream and those portions of the flood plain adjoining the channels that are required to carry and discharge the flood water or flood flows of any river or stream.

**Flood Proofing:** A combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings.

**Regional Flood:** The maximum known flood of a waterbody; either the 100-year frequency flood, where calculated, or the flood of record.

**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 the exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

**Footprint:** The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Forest Management:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

**Forested wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

**Foundation:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

**Freshwater Wetland: Freshwater Swamps, Marshes, Bogs and Similar Areas (Other Than Forested Wetlands), which are:**

1. Of ten or more contiguous acres: or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10n acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
3. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

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

**Frontage, Street:** The horizontal distance between the intersections of the side lot lines with the front lot line.

**Generating Facilities:** Means For Wind Energy Facilities are Wind Turbines and electrical lines, not including Generator Lead Lines immediately associated with the Wind Turbines.

**Glare:** The effect produced by light or reflective light with an intensity sufficient to cause annoyance, discomfort, distraction, and/or loss in visual performance and visibility.

**Grade:** In relation to buildings, the average of the finished ground level at the center of each wall of a building.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Ground Cover:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Harvest Area:** The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**Hazard Tree:** A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**Height of a Structure:** The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

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

**Historic Area:** means A Historic Site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation, with the exception of the Arnold Trail.

**Home Occupation:** An occupation or profession which is: customarily carried on in a dwelling unit or structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**Impervious:** Not permeable; not permitting the passage of substances (for example, liquids, gases) or heat to pass through a membrane or other structure.

**Individual Private Campsite:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

**Intermittent Stream:** A watercourse which is comprised of flowing water three months out of the calendar year.

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

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. Discarded, scrap and junked lumber;

3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
4. Garbage dumps, waste dumps and sanitary fills.

**Kenel:** Any place, building, tract of land, abode, enclosure, or vehicle where six or more dogs or six 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 dog or other pet is kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six months.

**Lagoon:** An artificial enlargement of a waterbody, primarily by means of dredging and excavation.

**Large Scale Solar Energy Systems (LSSES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. Large Scale Solar Energy Systems may consist of one or more free-standing ground, or roof, or wall mounted solar collector devices or solar related equipment and other accessory structures and buildings including light reflectors, concentrators, inverters, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

**Locally-Designated Passive Recreation Area:** Any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of an Applicant's Wind Energy Facility permit application.

**Lot:** A parcel of land in single ownership, described on a deed, plot, or similar legal document.

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

**Lot, Corner:** A lot with at least two contiguous sides abutting upon a street.

**Lot, Coverage:** The percentage of the lot covered by all buildings, driveways, parking areas, and other areas where vegetation is removed. For Large Scale Solar Energy Systems, see additional and superseding lot coverage standards under Section 5.16.

**Lot, Interior:** Any lot other than a corner lot.

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

**Front Lot Line:** On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

**Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot the rear lot line shall be opposite the front lot line of least dimension.

**Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**Lot Width:** The horizontal distance between the side lot lines, measured at the setback line.

**Lot Width, Shoreland:** See Minimum Lot Width, Shoreland Only

**Lot of Record:** A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by City or County Officials.

**Lot, Shorefront:** Any lot abutting a waterbody.

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

**Maine Metallic Mineral Mining Rules:** Title 38, Sections 490-LL et seq. of the Maine Revised Statutes Annotated, and the MDEP rules promulgated thereunder, including 96 C.M.R. Ch. 200.

**Manufactured Housing Unit:** Housing units that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, transportable in one or more sections, that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained in the unit. Such units are commonly referred to as mobile homes.

**Manufacturing:** The assembling, fabrication, finishing, manufacturing, packaging, distribution or processing of goods, or the extraction of minerals.

**Marina:** A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

**Market Value:** The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**MDEP:** The Maine Department of Environmental Protection and any successor agency.

**Metallic Mineral:** Any ore or material to be excavated from the natural deposits on or in the earth for its metallic mineral content; contains one or more metals like, but not limited to, gold, iron, aluminum, nickel, copper, zinc, lead, lithium, silver, mercury, platinum, bauxite, manganese, etc.; includes metallic materials incorporated, combined, or encased within other materials; are further classified into ferrous minerals and non-ferrous minerals; and does not include ores of thorium or uranium.

**Metallic Mineral Mining, Mining Operation, Operation, or Mining Activity:** The extraction of metallic mineral and any associated exploration and extraction activities, facilities, or processes necessary for the exploration, extraction or removal of metallic minerals or overburden or for the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk

sampling, exploration, extraction, or beneficiation of metallic minerals, smelting, as well as waste storage and other stockpiles and reclamation activities.

***Meteorological Tower (MET Tower):*** A Tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders, and solar power panels. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

***Mechanized Recreation:*** Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

***Mineral Exploration:*** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land, and which include reasonable measures to restore the land to its original condition.

***Mine Waste:*** All material, including overburden, rock, ore, tailings, and other mining-related materials, that has been exposed to or removed from the earth during exploration or mining activities.

***Mining Area:*** The aggregate land area devoted to mining and exploration activities, including land from which earth material is removed in connection with mining and exploration activities, land on which material from mining is stored or deposited, land on which beneficiation or treatment facilities (including groundwater and surface water management treatment systems) are located, land on which water reservoirs used in a mining operation are located, access roads, equipment operating areas, and parking areas.

***Mineral Extraction- Non Metallic Mineral:*** Any operation within any twelve (12) month period which removes more than two hundred fifty (250) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site.

***Minimum Lot Width, Shoreland Only:*** The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland District, both lot lines shall be considered to be side lot lines.

***Mobile Home Park:*** A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

***Modular Housing Unit:*** Housing units that the manufacturer certifies are constructed in compliance with Maine Title 10, Chapter 951 and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

***Nacelle:*** The frame and housing at the top of the Tower that encloses the gearbox and generator.

***Native:*** Indigenous to the local forests.

***Neighborhood Convenience Store:*** A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

***Net Lot Area:*** The area remaining after the following are subtracted, in order, from the lot area:

1. All areas within an existing or proposed street right of way or right of way used for access to another lot;
2. All areas with a sustained slope of 25% or more;
3. All areas with soils which are classified as very poorly drained by the U.S. Natural Resources Conservation Service; and
4. 50% of those areas with soils which are classified as poorly drained or somewhat poorly drained by the U.S. Natural Resources Conservation Service.

**Net Residential Density:** The number of dwelling units per net lot area.

**Non-Conforming Building or Use:** A building, structure, use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of the Ordinance.

**Non-Native Invasive Species of Vegetation:** Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Non-Participating Landowner:** For Wind Energy Facilities is any landowner, other than a Participating Landowner whose land is located within Denmark, Maine.

**Normal High-Water Line (Non-Tidal Waters):** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Occupy:** To inhabit any space within a structure including but not limited to attics and crows nests.

**Occupied Building:** For Wind Energy Facilities is a residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

**Open Space Use:** A use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

**Ore:** Rock containing sufficient metallic mineralization to process using current technologies.

**Overburden:** Soil, rock, or other materials which lie above or between the natural mineral deposits to be mined.

**Parking Space:** A minimum area of two hundred (200) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

**Participating Landowner:** For Wind Energy Facilities are one or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right, title and interest in such property.



**Patio:** An uncovered floor, usually made of concrete, brick, or other masonry material, which is not elevated above the surface of the ground in any manner.

**Person:** For Wind Energy Facilities, an individual, corporation, partnership, firm, organization or other legal entity.

**Person:** For metallic mineral exploration and mining operations and for Wind Energy Facilities, an individual, firm, partnership, association, company, limited liability company, corporation, joint venture, organization, municipality, governmental entity, or other legal entity.

**Personal Scale Solar Energy Systems – Major (PSSSES – Major):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for on-site use. Personal Scale Solar Energy Systems-Major are accessory to the principal use on the parcel, consist of one or more freestanding ground, or roof, or wall mounted solar collector devices or solar related equipment, and are intended to primarily reduce on-site consumption of utility power or fuels. The sale and distribution of excess energy to a public utility for distribution shall be incidental to PSSSES-Major and shall not be its primary purpose. PSSSES-Major are Solar Energy Systems having an aggregate maximum power rating of more than 20KWdc and/or an aggregate collection of focusing area of more than 1,200 square feet on any one lot and are limited to an aggregate maximum power rating of not more than 40KWdc and/or an aggregate collection or focusing area of not more than 2,400 square feet.

**Personal Scale Solar Energy Systems – Minor (PSSSES – Minor):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power primarily for on-site use. Personal Scale Solar Energy Systems-Minor are accessory to the principal use on the parcel, consist of one or more free-standing ground, or roof or wall mounted solar collector devices or solar related equipment, and are intended to primarily reduce on-site consumption of utility power or fuels. The sale and distribution of excess energy to a public utility for distribution shall be incidental to PSSSES-Minor and shall not be its primary purpose. PSSSES-Minor are Solar Energy Systems having an aggregate maximum power rating of not more than 20KWdc and an aggregate collection of focusing area of not more than 1,200 square feet on any one lot.

**Personal Services:** A business which provides services but not goods such as hairdressers, shoe repair, real estate, insurance, etc.

**Planned Residence:** For Wind Energy Facilities are a Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

**Planned Unit Development:** Land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings intended to be on the land. Development may be a single operation or a programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

**Premises:** One or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

**Principal Building:** The building in which the primary use of the lot is conducted.

**Principal Use:** The primary use to which the premises are devoted, and the main purpose for which the premises exist.

**Private Road:** Any road which is not a public road or driveway.

**Professional Offices:** The place of business, other than a dwelling unit, for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

**Protected Location:** For Wind Energy Facilities are any location that is:

1. Accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a Residence or Planned Residence, or an Approved Residential Subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Facility is submitted under this Ordinance;
2. Within a State Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, a state wilderness area designated by statute, a municipal park or a Locally Designated Passive Recreation Area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
3. A hotel, motel, campsite or duly licensed campground that the municipal authority responsible for review and approval of a pending application has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under the Wind Energy Facilities –“Special Standards..... Section.

**Public Facility:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Public Road:** Shall include any town-maintained road, state highway or subdivision road that serves three or more lots.

**Public Utility:** Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

**Recreational Vehicle:** A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling, and which may include a pick-up camper, travel trailer, tent trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be registered with the State Division of Motor Vehicles.

**Residence:** A building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

**Resource Protection District:** All areas within the 100-year floodplain are Resource Protection District. The Resource Protection District also includes areas around wetlands which have been

rated as high or moderate value habitat for waterfowl by the Department of Inland fisheries and Wildlife.

**Restaurant:** An establishment where meals are prepared and served to the public for consumption.

**Standard Restaurant:** A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.

**Fast Food Restaurant:** A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meals which are served in edible or disposable containers.

**Right of Way:** A strip of land over which a person or persons have been given the legal right to pass and/or to install and use facilities such as roads, streets, utility services and railroads.

**Riprap:** Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

**Road:** Public and private ways such as streets, avenues, alleys, highways, roadways, access ways and drives, and similarly named ways constructed for or created by the repeated passage of motorized vehicles, excluding driveways as defined herein and excluding logging roads and farm roads.

**Rural District:** To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing minimum controls on those uses which by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

**Sapling:** A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Scenic Resource:** Is either a Scenic Resource of state or national significance, as defined in 35-M.R.S.A .§ 3451(9) or a Scenic Resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

**Seedling:** A young tree species that is less than four and one half (4.5) feet in height above ground level.

**Setback:** The minimum horizontal distance from a lot line to the nearest part of a structure.

**Setback from High Water:** The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shoreland District:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland

edge of a freshwater wetland; or within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream.)

**Sight Line Representation:** For Wind Energy Facilities, a profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

**Sign:** A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

**Significant Wildlife Habitat:** For Wind Energy Facilities, a Significant Wildlife Habitat as defined in 38 M.R.S.A. § 480-B(10).

**Slash:** The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Solar Energy:** Radiant energy (direct, diffuse and/or reflective) received from the sun.

**Solar Energy System:** A system of equipment used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power consisting of one or more freestanding ground, or wall, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines, and other appurtenant structures.

**Solar Panel:** That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

**Solar Related Equipment:** Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, and foundations, or other structures used for or intended to be used for collection of solar energy.

**Storm-Damaged Tree:** A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**Stream:** a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the Shoreland District of another water body or wetland. When a stream meets the Shoreland District of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

**Street:** A road as defined herein.

**Structure:** Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

**Subdivision:** The division of a tract or parcel of land into three or more lots, whether accomplished by sale, lease, development, building or otherwise, in any five-year period. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel

of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. For the purpose of this Ordinance the term subdivision shall include such developments as shopping centers, condominiums, mobile home parks and campgrounds where there are three or more units involved.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividing's are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or
2. The division of the tract or parcel is otherwise exempt under this definition.

Land divided by inheritance, order of court or gift to a relative, except where the objective of such transaction is to avoid municipal review is not considered part of a subdivision. Also, in determining whether a subdivision has occurred, land retained by the subdivider for his or her own use as a single-family residence for a period of five years shall not be computed in the number of lots created unless the objective of such division is to avoid municipal review. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition.

The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.

In determining the number of dwelling units in a structure, the provisions of this definition regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

**Substantial Start-General:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Substantial Start-Wind Energy Facility:** Construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a Tower on a foundation has begun.

**Subsurface Sewage Disposal System:** A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

**Sustained Slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tailings:** The product resulting from the milling and mineral concentration process remaining after extraction of minerals by physical or chemical means.

**Tailings Impoundment:** The land on which is deposited, by hydraulic or other means, material that is separated from the metallic product in the beneficiation or treatment of minerals, including any surrounding dikes constructed to contain the material.

**Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

**Timber Harvesting in a Shoreland District:** The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the Shoreland District when associated with any other land use activities. The cutting or removal of trees in the Shoreland District on a lot that has less than two (2) acres within the Shoreland District shall not be considered timber harvesting. Such cutting, or removal of trees shall be regulated pursuant to Section 6.9.16.

**Tower:** For Wind Energy Facilities, the free-standing structure on which a wind measuring or energy conversion system is mounted.

**Trailer, Utility:** A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

**Tree:** A woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream:** A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

**Turbine Height:** For Wind Energy Facilities, the distance measured from the surface of the Tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

**Unfinished Interior:** Spaces include all areas where studs are uncovered or foundation walls are showing, such as unfinished basements, sheds, barns, garages, etc.

**Upland Edge:** The boundary between upland and wetland.

**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.

**Vegetation:** All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Village District:** To provide an opportunity for compact development in a village setting but protect existing residences in the more densely developed parts of town from the adverse impacts frequently associated with various types of commercial development.

**Water Body:** Any great pond; rivers and streams.

**Water Crossing:** Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

**Watershed:** A region or area bounded peripherally by a divide and draining to a particular watercourse or body of water.

**Wetland:** A freshwater wetland

**Wetlands Associated with Great Ponds and Rivers:** Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

**Wind Energy Facility:** A facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

**Wind Energy Facility, Type 1A:** A Wind Energy Facility having a maximum generating capacity of less than 10kW, a maximum of one Wind Turbine and a maximum Turbine Height of 80 feet.

**Wind Energy Facility, Type 1B:** A Wind Energy Facility having a maximum generating capacity of less than 20kW per turbine or, multiple Wind Turbines with a combined maximum capacity of less than 100kW per site, with a Turbine Height less than 100 feet.

**Wind Energy Facility, Type 2:** A Wind Energy Facility having a maximum generating capacity of 100 kW or greater and which does not require a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S . §481, et seq. Type 2 Wind Energy Facilities are not allowable under this Ordinance.

**Wind Energy Facility, Type 3:** A Wind Energy Facility having a generating capacity of 100kW or greater and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 MRS §481, et seq. Type 3 Wind energy Facilities are not allowable under this Ordinance.

**Wind Turbine:** A system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

**Wireless Communication Facility:** any antenna, satellite dish, microwave dish or equipment used for receiving, relaying or transmitting radio, telephone, television, or any other electromagnetic based communication or data transfer, or any tower, pole or structure supporting such equipment.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.

**Yard:** The area of land on a lot not occupied by the principal building.

**Yard, Front:** The area of land between the front lot line and the nearest part of the principal building.

**Yard, Side:** The area of land between the side lot line and nearest part of a structure.

**Yard, Rear:** The area of land between the rear lot line and nearest part of a structure.

# APPENDICES



**APPENDIX A**  
**Town of Denmark, Maine**  
**Official Zoning Map**

See Official Zoning Map on file in the Denmark Town Clerk's Office.

**APPENDIX B**

**YEAR THE ZONING ORDINANCE WAS ENACTED**

**JUNE 3, 1974**

**YEARS THE ZONING ORDINANCE WAS AMENDED**

**MARCH 11, 1978**

**MARCH 10, 1984**

**MARCH 8, 1986**

**MARCH 12, 1988**

**MARCH 8, 1999**

**MARCH 10, 2001**

**APRIL 4, 2005**

**MARCH 11, 2006**

**JUNE 7, 2008**

**JUNE 6, 2009**

**JUNE 4, 2011**

**JUNE 2, 2012**

**JUNE 1, 2013**

**JUNE 4, 2016**

**JUNE 1, 2019**

**FEBRUARY 27, 2021**

**JUNE 4, 2022**

**JUNE 3, 2023**

**APPENDIX C**  
**Town of Denmark, Maine**  
**Application Requirements For Planning Board Permits**

**Shoreland District Foundation Permits +**

All applications and plans for Planning Board Shoreland District Foundation Permits + presented for approval shall include, at a minimum, the following information unless the Planning Board waives these requirements:

- a. A plan or plans presented for approval shall show the following information unless the Planning Board waives these requirements:
  - a.1. Site plan(s) Drawn at a scale 1" equals of not more than 50';
  - a.2. The name and address of the applicant (or his/her authorized agent) plus the name of the proposed development;
  - a.3. The assessor's map and lot number;
  - a.4. A date, scale and north arrow;
  - a.5. The zoning district where the premises in question is located;
  - a.6. All existing and proposed setback dimensions;
  - a.7. All landscaped areas, fencing, and size and type of plant material upon the premises in question;
  - a.8. All proposed signs and their size, location and direction of illumination;
  - a.9. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
  - a.10. Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures on adjacent lots;
  - a.11. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed; and
  - a.12. An appropriate place for the signatures of the Planning Board.
- b. A copy of the deed or other record of right, title or interest in the property;
- c. The applicable provisions of the "Additional Application Submission Requirements" of Section 5.16. Solar Energy Systems have been met;
- d. If located in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront shall be submitted with the application.
- e. Three complete copies of all application materials, and ten 11"X17" copies of the main site plan (if any) have been submitted.

**APPENDIX C - Continued**  
**Town of Denmark, Maine**  
**Application Requirements For Planning Board Permits**

**Conditional Use Permits And Certain Other Permits (other than LSES)**

All applications and plans for Planning Board Conditional Use Permits and other permits other than Large Scale Solar Energy System Permits, presented for approval shall include, at a minimum, the following information unless the Planning Board waives these requirements:

- a. A plan or plans presented for approval shall show the following information unless the Planning Board waives these requirements:
  - a.1. Site plan(s) Drawn at a scale 1" equals of not more than 50';
  - a.2. The name and address of the applicant (or his/her authorized agent) plus the name of the proposed development;
  - a.3. The assessor's map and lot number;
  - a.4. A date, scale and north arrow;
  - a.5. The zoning district where the premises in question is located;
  - a.6. All existing and proposed setback dimensions;
  - a.7. All landscaped areas, fencing, and size and type of plant material upon the premises in question;
  - a.8. All proposed signs and their size, location and direction of illumination;
  - a.9. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
  - a.10. Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures on adjacent lots;
  - a.11. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed; and
  - a.12. An appropriate place for the signatures of the Planning Board.
- b. A copy of the deed or other record of right, title or interest in the property;
- c. A soils report identifying the soils boundaries the names in the proposed development with the soil's information superimposed upon the plot plan in accord with the USDA Natural Resources Conservation Service National Cooperative Soil Classification.
- d. If located in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront shall be submitted with the application.
- e. Other pertinent information necessary to determine if the proposed development or use meets the provisions of this Ordinance.
- f. Three complete copies of all application materials, and ten 11"X17" copies of the main site plan (if any) have been submitted.

**APPENDIX C - Continued**  
**Town of Denmark, Maine**  
**Application Requirements For Planning Board Permits**

**Large Scale Solar Energy System (LSSSES) Conditional Use Permit**

All applications and plans for Planning Board Large Scale Solar Energy System (LSSSES) Conditional Use Permits presented for approval shall include, at a minimum, the following information unless the Planning Board waives these requirements:

- a. A plan or plans presented for approval shall show the following information unless the Planning Board waives these requirements:
  - a.1. Site plan(s) Drawn at a scale 1" equals of not more than 50'.
  - a.2. The name and address of the applicant (or his/her authorized agent) plus the name of the proposed development;
  - a.3. The assessor's map and lot number;
  - a.4. A date, scale and north arrow;
  - a.5. The zoning district where the premises in question is located;
  - a.6. All existing and proposed setback dimensions;
  - a.7. All landscaped areas, fencing, and size and type of plant material upon the premises in question;
  - a.8. All proposed signs and their size, location and direction of illumination;
  - a.9. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
  - a.10. Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures on adjacent lots;
  - a.11. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed; and
  - a.12. An appropriate place for the signatures of the Planning Board.
- b. A copy of the deed or other record of right, title or interest in the property;
- c. A soils report identifying the soils boundaries the names in the proposed development with the soil's information superimposed upon the plot plan in accord with the USDA Natural Resources Conservation Service National Cooperative Soil Classification.
- d. Evidence that the solar facility operator owns the subject land or has a satisfactory land purchase agreement or lease agreement for all the land associated with the LSSSES and, if lease, that the lease agreement remains in effect during the operation of the LSSSES.
- e. Evidence of financial capacity to construct and operate the proposed LSSSES.
- f. Comprehensive Stormwater management report and plans and details.
- g. Erosion control narrative and plans and details.
- h. Study identifying any endangered or protected flora and fauna on site.

**APPENDIX C - Continued**  
**Town of Denmark, Maine**  
**Application Requirements For Planning Board Permits**

**Large Scale Solar Energy System (LSSSES) Conditional Use Permit Continued**

- i. Evidence that the project as proposed has been presented to the following agencies, and written responses from those agencies: The Maine Natural Areas Program, the Maine Department of Inland Fisheries and Wildlife, the Maine Historic Preservation Commission, the Maine Department of Transportation, the Maine Department of Agriculture, Conservation & Forestry, and the Maine Department of Environmental Protection.
- j. Opinion as to whether the project as proposed requires a National Pollutant Discharge Elimination System (NPDES) permit.
- k. Plans showing changes to the landscape of the site, grading, vegetation clearing and planting, screening, lighting, structures, arrays, utilities, BMP's, and all proposed features.
- l. Property line metes and bounds.
- m. Fencing and gate details.
- n. Plan showing water related features including water courses and bodies, wetlands, flood hazard areas, and vernal pools.
- o. Plan showing existing tree lines, rock outcroppings, trails, roads, fences, buildings, structures, and foundations.
- p. Plan showing any existing above or below ground utilities.
- q. Location of any deer wintering areas on site.
- r. A Phase I Environmental Site Assessment report and a response narrative from the solar facility operator or landowner of the LSSSES on next steps, if any.
- s. A table of required and provided zoning dimensional information (e.g. Setbacks, lot coverage, height, etc.)
- t. Documentation of the major solar related equipment to be used including manufacturer's specifications and cut sheets.
- u. An explanation of any transmission or distribution lines access or upgrades required as a result of the project including, but not limited to, route starting and ending points, potential impacts to street trees and rights of ways.
- v. An explanation of any new or proposed upgrades to electrical substations that are related to the LSSSES including, but not limited to, location, screening, setbacks, and noise impacts.
- w. Electrical diagram detailing the arrays installations, associated components, and electrical interconnection.
- x. A description of the amount of energy to be produced.
- y. Listing and status of other expected state and federal permits needed.
- z. A decommissioning plan meeting the requirements of this Ordinance.
- aa. Written confirmation from the public utility company to which the LSSSES will be connected noting that it has been informed of the solar facility operator or landowner's intent to install the

proposed grid connected system and that it has conditionally approved of such connection.

**APPENDIX C - Continued**  
**Town of Denmark, Maine**  
**Application Requirements For Planning Board Permits**

**Large Scale Solar Energy System (LSSES) Conditional Use Permit Continued**

- ab. A written manual or guide for the Denmark Fire Department providing clear response information and instructions, including disconnection locations necessary for fire/emergency response.
- ac. A list of possible or intended dual uses of the property.
- ad. If located in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront shall be submitted with the application.
- ae. A check(s) for application fee(s) and for anticipated notification costs, consultant and legal fees, and reproduction and other miscellaneous costs.
- af. Evidence that no portion of the LSSES is visible from any point on a great pond or navigable waterway in Denmark.
- ag. Evidence that no portion of the LSSES is visible from a point five feet above a Public Road in Denmark.
- ah. Other pertinent information necessary to determine if the proposed development or use meets the provisions of this Ordinance.
- ai. Three complete copies of all application materials, and ten 11”X17” copies of the main site plan (if any) have been submitted.

**APPENDIX D**  
**Town of Denmark, Maine**  
**Findings of Fact and Conclusions of Law**

**Conditional Use Permits**

Prior to granting approval of an application for a Conditional Use Permits, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with at least the following provisions unless any provision is waived by the Planning Board:

- a. The proposed use and/or structure will maintain safe and healthful conditions.
- b. The proposed use and/or structure will prevent and control water pollution and sedimentation.
- c. The proposed use and/or structure will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat.
- d. The proposed use and/or structure will conserve shore cover, visual as well as actual points of access to inland waters and natural beauty.
- e. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion and safety concerns have been addressed in accordance with the performance standards in this Ordinance.
- f. The proposed use and/or structure will comply with the town's flood plain management ordinance.
- g. Adequate provision for the disposal of all solid waste and wastewater produced has been made.
- h. The proposed use and/or structure will not have an unreasonable adverse impact on water bodies including the export of phosphorus off the site.
- i. Adequate provisions for the management of stormwater have been made.
- j. Existing vegetative cover will be preserved to the extent feasible.
- k. Adequate provisions for the control of soil erosion and sedimentation have been made;
- l. There is adequate water supply to meet the demands of the proposed use;
- m. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made;
- n. The use is consistent with the policies of the Comprehensive Plan;
- o. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor, visual impact, and the like;
- p. The minimum lot area has been met.
- q. The minimum setbacks have been met.
- r. The maximum lot coverage has been met.



**APPENDIX D - Continued**  
**Town of Denmark, Maine**  
**Findings of Fact and Conclusions of Law**

**Conditional Use Permits Continued**

- s. The Chapter 4 General Performance Standards have been satisfied:
  - 4.1. Access to Lots.
  - 4.2. Accessory Buildings.
  - 4.3. Archaeological Sites.
  - 4.4. Buffer Areas.
  - 4.5. Erosion And Sedimentation Control.
  - 4.6. Landscaping.
  - 4.7. Off Street Parking and Loading Requirements.
  - 4.8. Protection Of Drinking Water Supplies.
  - 4.9. Roads and Driveways.
  - 4.10. Septic Waste Disposal.
  - 4.11. Signs.
  - 4.12. Soils.
  - 4.13. Storage of Materials.
  - 4.14. Stormwater Runoff.
  - 4.15. Traffic Impacts and Street Access Control.
  - 4.16. Village District Design Standards.
  - 4.17. Water Quality Protection.
- t. If located in any part of the Shoreland District, a photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shorefront has been submitted.
- u. The applicable provisions of Section 5.16., Solar Energy Systems – Large Scale, have been satisfied.
- v. For LSSSES applications, that no portion of the LSSSES is visible from any point on a great pond or navigable waterway in Denmark.
- w. For LSSSES applications, that no portion of the LSSSES is visible from a point five feet above a Public Road in Denmark.
- x. All standards in this Ordinance applicable to the proposed use will be met.

**APPENDIX E**  
**Town of Denmark, Maine**  
**Findings of Fact and Conclusions of Law**

**Shoreland District Foundation Permits +**

Prior to granting approval of an application for a Shoreland District Foundation Permit or a new residential principal or accessory structure in the Shoreland District, the Planning Board shall make Findings of Fact and Conclusions of Law in accordance with at least the following provisions unless any provision is waived by the Planning Board:

- a. The proposed use and/or structure will maintain safe and healthful conditions.
- b. The proposed use and/or structure will prevent and control water pollution and sedimentation.
- c. The proposed use and/or structure will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat.
- d. The proposed use and/or structure will conserve shore cover, visual as well as actual points of access to inland waters and natural beauty.
- e. The proposed use and/or structure will comply with the town's flood plain management ordinance.
- f. The proposed use and/or structure will not have an unreasonable adverse impact on water bodies including the export of phosphorus off the site.
- g. Adequate provisions for the management of stormwater have been made.
- h. Existing vegetative cover will be preserved to the extent feasible.
- i. Adequate provisions for the control of soil erosion and sedimentation have been made;
- j. The use is consistent with the policies of the Comprehensive Plan;
- k. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor, visual impact, and the like;
- l. A photographic record of preconstruction conditions of the area anticipated to be disturbed and of the vegetation along the entire shoreline has been submitted.
- m. All standards in this Ordinance applicable to the proposed use will be met.

**Attest:** A true copy of an ordinance titled "Zoning Ordinance of the Municipality of Denmark, Maine, Enacted June 10, 1974 Amended June 03, 2023", as accepted by the Municipal Officers of the Town of Denmark, Maine April 25, 2023 and adopted by the Governing Body at Town Meeting on June 3, 2023.

Dated: July 11, 2023

A True Copy: Attest

Signature Frances Warner  
Frances Warner  
Town Clerk, Denmark

