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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, control 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.

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 or 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 Article V 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 1.4.2.2.

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 1.4.4.2.3.

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.

Discontinuance of the use of a legally existing non-conforming structure caused by the war 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.

1.4.4.5.1. Abandonment 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 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 1.4.4.6., 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 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 obtained 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 principle 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 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.

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 Official Zoning Map, entitled “Zoning Map of Denmark, Maine” dated March 11, 2006 and amended June 6, 2009, and on file in the office of the Municipal Clerk. The Official Map shall be signed by the Municipal Clerk and the Chairman 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 subsections 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

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.

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.

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<td>Open space use</td>
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<td>Clearing of Vegetation for approved construction and other allowed uses</td>
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<td>Animal husbandry*</td>
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<td>Single family dwelling</td>
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</table>

* - see performance standards in Chapters 4 or 5
** - see separate ordinance
<table>
<thead>
<tr>
<th>Resource Protection</th>
<th>Shoreland</th>
<th>Village</th>
<th>Rural</th>
<th>Aquifer Protection</th>
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<tbody>
<tr>
<td>Two family dwelling</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Multi-family dwelling</td>
<td>N</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Planned unit development*</td>
<td>N</td>
<td>N</td>
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<tr>
<td>Cluster development*</td>
<td>N</td>
<td>C</td>
<td>C</td>
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<tr>
<td>Mobile home park*</td>
<td>N</td>
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<tr>
<td>Mobile Homes not in a mobile home park</td>
<td>N</td>
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<tr>
<td>Conversion of seasonal residences to year-round residences</td>
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<td>Home occupations*</td>
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<td>Boathouse*</td>
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<tr>
<td>Piers and Docks*</td>
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<td>in the water for 7 months or more per year</td>
<td>C</td>
<td>C</td>
<td>N/A</td>
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<tr>
<td>in the water for less than 7 months per year</td>
<td>P</td>
<td>Y</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Signs*</td>
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<td>P</td>
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<td>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*</td>
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<tr>
<td>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 public or private way or essential services</td>
<td>P</td>
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<tr>
<td>Sale of produce and plants raised on the premises, or seasonal sales of produce and plants not raised on the premises</td>
<td>Y</td>
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<tr>
<td>Boat Launching Facilities and Marinas</td>
<td>N</td>
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<td>Shoreland</td>
<td>Village</td>
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<td>Aquifer Protection</td>
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<tr>
<td>Public or private recreational facilities including parks, playgrounds, golf courses, driving ranges, and swimming pools</td>
<td>N</td>
<td>C</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Campgrounds*</td>
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<tr>
<td>Individual Private Campsites*</td>
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<td>Church or other place of worship, parish house, rectory, convent, and other religious institutions</td>
<td>N</td>
<td>C¹</td>
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<td>Public buildings such as libraries, museums, civic centers Utilities, including sewage collection and treatment facilities</td>
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<td>C¹</td>
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<td>Public, private and parochial schools</td>
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<td>Bed &amp; Breakfast/Inn*</td>
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<td>Hotel/Motel*</td>
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<td>Hospital</td>
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<td>Day Care Center</td>
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<tr>
<td>Automobile Repair Garage</td>
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<td>Automobile Service Station</td>
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<td>Auto Washing Facility</td>
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<td>Camp</td>
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<td>Chemical and bacteriological laboratory</td>
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<td>Club*</td>
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<tr>
<td>Commercial Recreation*</td>
<td>N</td>
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<tr>
<td>Commercial painting, wood preserving, and furniture stripping</td>
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<td>Communication Tower</td>
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<td>Dry Cleaning establishment</td>
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<td>Flea Market</td>
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<td>Kennel*</td>
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<td>Laundromat</td>
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<td>Manufacturing Manufacturing less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift</td>
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<tr>
<td>2,500 sq. ft. or more of floor space or more than 6 employees on any shift</td>
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<td>Mechanized Recreation*</td>
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<td>Store</td>
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<tr>
<td>Nursing Home</td>
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<td>Resource Protection</td>
<td>Shoreland</td>
<td>Village</td>
<td>Rural</td>
<td>Aquifer Protection</td>
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<tr>
<td>---------------------</td>
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<td>Personal Services</td>
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<tr>
<td>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</td>
<td>N</td>
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<td>Photographic processing</td>
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<tr>
<td>Printing</td>
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<tr>
<td>Professional Offices</td>
<td>N</td>
<td>C¹</td>
<td>C</td>
<td>C</td>
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<td>Restaurant, Standard*</td>
<td>N</td>
<td>C¹</td>
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<td>Restaurant, Fast food*</td>
<td>N</td>
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<td>Retail use, not elsewhere listed less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift</td>
<td>N</td>
<td>C¹</td>
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<tr>
<td>Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms</td>
<td>N</td>
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<tr>
<td>Sale of Vehicles</td>
<td>N</td>
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<td>Veterinary Hospital*</td>
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<td>C</td>
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<td>Warehouse, Distribution Center</td>
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<td>Wireless Communication Facility²</td>
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<td>Cemeteries</td>
<td>N</td>
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<td>Automobile graveyards with three or more vehicles operated in accordance with State laws</td>
<td>N</td>
<td>N</td>
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<tr>
<td>Automobile graveyards with One or two vehicles*</td>
<td>N</td>
<td>N</td>
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<td>P</td>
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<td>Junkyards</td>
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<td>Waste processing or disposal facilities</td>
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<td>Mineral Extraction*</td>
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<td>Mineral Exploration</td>
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<td>P</td>
<td>Y</td>
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<tr>
<td>Water Extraction**</td>
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<tr>
<td>Structures accessory to permitted structures or uses</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Structures accessory to structures or uses permitted as conditional uses</td>
<td>C</td>
<td>C</td>
<td>C</td>
<td>C</td>
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</tbody>
</table>
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

1-Limited to that portion of the Shoreland Zoning District in the Village District
2-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.

<table>
<thead>
<tr>
<th></th>
<th>Shoreland</th>
<th>Village</th>
<th>Rural</th>
<th>Aquifer Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum lot area (sq. ft.)</td>
<td>80,000&lt;sup&gt;1&lt;/sup&gt;</td>
<td>40,000*</td>
<td>80,000</td>
<td>80,000</td>
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<tr>
<td>Minimum lot width (ft.)</td>
<td>200</td>
<td>150</td>
<td>250</td>
<td>250</td>
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<tr>
<td>Minimum shore frontage (ft.)</td>
<td>200&lt;sup&gt;1&lt;/sup&gt;</td>
<td>150</td>
<td>250</td>
<td>250</td>
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<tr>
<td>Minimum set backs (ft.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Front</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>From right-of-way line of private rd</td>
<td>50</td>
<td>35</td>
<td>50</td>
<td>50</td>
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<tr>
<td>From centerline of public road</td>
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<tr>
<td>Side</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
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<tr>
<td>Rear</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>From the normal high-water elevation of a waterbody</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>From the upland edge of a wetland</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Maximum lot coverage (%)</td>
<td>15</td>
<td>35</td>
<td>20</td>
<td>10</td>
</tr>
</tbody>
</table>

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 Denmark Planning Board Standards for Reviewing Land Subdivisions.

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.

4.5. Erosion and Sedimentation 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 unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation
control plan. The plan shall be submitted to the permitting authority for approval and 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.


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 assembly.

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 storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.


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 Safe Drinking Water Guidelines 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.

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

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity.
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. Road grades shall be no greater than ten (10) percent.

4.9.5. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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 or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Road Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

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

4.9.6.3. On road 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.

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, dips, water turnouts and other storm water runoff control installations associated with roads 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.

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.

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.

4.14.1. All new construction and development shall be designed to minimize storm water runoff
from the site in excess of the natural predevelopment conditions. Where possible, 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 storm water. If runoff after
development would exceed predevelopment runoff conditions, the off-site impact must be
evaluated in terms of potential soil erosion and sedimentation, drainage capacity, and land
use/land cover characteristics. Appropriate methods of reducing off-site impact shall be
employed. Storm water management evaluations and designs shall be based on a 24-hour, 25-
year recurrence interval storm.

4.14.2. Storm water runoff control systems shall be maintained as necessary to ensure proper
functioning.

4.14.3. A Stormwater Management Permit is required from the Maine Department of
Environmental Protection prior to the disturbance of five acres or more or the
construction of 40,000 square feet or more of impervious surface.
4.15. Traffic Impacts and Street 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 street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets 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 streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

4.15.2. Driveway Design.

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

4.15.2.1. Sight Distances. Driveways shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. A sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

4.15.2.2. Driveway Location and Spacing.

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

Where the minimum standard cannot be met, only a special case driveway where turning is limited to right turn shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

4.15.2.4. Driveway Spacing. Driveways shall be separated from adjacent driveways a minimum of 75 feet and from property lines a minimum of ten feet, in order to allow public 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 street is controlled by the available site frontage and the requirements above. In addition, no lot shall have more than two driveways onto a single roadway.

4.16. Village District Design Standards.

Within the Village Districts 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.


4.17.1. 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 to no more than the levels recommended in Table 9-2 of the Denmark Comprehensive Plan, Inventory of Resources. 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/vol2/volume%20II%20March%202016.pdf) 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

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 storm water. 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. 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. **Mineral Exploration and Mineral Extraction.**

5.8.1. 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.

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

5.8.2.1. **Submission Requirements.**

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

5.8.2.1.1. 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.

5.8.2.1.2. 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.

5.8.2.2. **Design and Performance Standards.**

5.8.2.2.1. 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.

5.8.2.2.2. 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.

5.8.2.2.3. 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.

5.8.2.2.4. 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.

5.8.2.2.5. 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.

5.8.2.2.6. 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.

5.8.2.2.7. 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.

5.8.2.2.8. 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.

5.8.2.2.9. 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:

5.8.2.2.9.1. 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.

5.8.2.2.9.2. 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.
5.8.2.2.9.3. 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.

5.8.2.2.9.4. 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.

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

5.8.2.3. 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.

5.8.3. 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 zoning 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.

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

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

5.9.2.4.2. Streets 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

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

5.9.2.4.4. No individual lot within a park shall have direct vehicular access onto an existing public street.
5.9.2.4.5. The intersection of any street within a park and an existing public street shall meet the following standards.

5.9.2.4.5.1. Angle of intersection.

The desired angle of intersection shall be 90°.
The minimum angle of intersection shall be 75°.

5.9.2.4.5.2. Maximum Grade within 75 feet of intersection.

The maximum permissible grade within 75 feet of the intersection shall be 2%.

5.9.2.4.5.3. Minimum Sight Distance.

A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet.

5.9.2.4.5.4. Distance from other intersections.

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

5.9.2.4.6. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 10th edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

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.


5.14.1 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.
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 paragraph 8.8.3.4., 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.


6.6.1. Non-Conformance.
Refer to section 1.4.

  6.6.1.1. Principal and Accessory Structures.
  6.6.1.1. 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
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.


Refer to section 4.1.


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.

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.

<table>
<thead>
<tr>
<th>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - &lt; 4 in</td>
<td>1</td>
</tr>
<tr>
<td>4 – &lt; 8 in.</td>
<td>2</td>
</tr>
<tr>
<td>8-&lt; 12 in.</td>
<td>4</td>
</tr>
<tr>
<td>12 in. or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

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.

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.

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.

6.8.51.9. 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.


6.8.6.1. Hazard trees in the shoreland district may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

6.8.6.1.1. 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 zone 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 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.

6.8.6.1.4. 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 zone district.

6.8.6.1.5 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.

6.8.7. 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:

6.8.7.1. 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:

6.8.7.1.1. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
6.8.7.1.2. Stumps from the storm-damaged trees may not be removed;
6.8.7.1.3. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
6.8.7.1.4. 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.

6.8.7.2. 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 zone 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.


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

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.

6.10. Erosion and Sedimentation Control.
Refer to section 4.5.

6.11. Landscaping.
Refer to section 4.6.

Refer to section 4.7.

Refer to section 4.8.

Refer to section 4.9.

Refer to section 4.10.

6.16. Signs.
Refer to section 4.11.

Refer to section 4.12.

Refer to section 4.13.

  Refer to section 4.14.

6.8.20. Traffic Impacts and Street Access Control.
  Refer to section 4.15.

  Refer to section 4.16.

  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 storm water. 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.


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.


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 setback 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.


Refer to section 5.7.


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.


Refer to section 5.12.

6.9.15. Restaurants.

Refer to section 5.13.


Refer to section 5.14.


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.

7.1.2. Uncertainty of Boundary Location.

Refer to section 2.3.
7.1.3. Division of Lots by District Boundaries.
Refer to section 6.4.

7.1.4. 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.

7.5.13. 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.

7.4.6. 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.

Refer to section 4.13.

7.4.15. Storm Water 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.

6.9.7. Ordinance related to Recreational Vehicle Permits.
Refer to section 5.6.

7.5.8. Home Occupations.
Refer to section 5.7.

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.

7.5.17. 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

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 insure 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 insure 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.

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.

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.

Any suspension or revocation of an approval or permit may be appealed as an administrative appeal to the Board of Appeals, pursuant to Section 8.8 of the ordinance.
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. Any other information the applicant wishes to furnish.
8.2.2.6. 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.
8.2.2.7. 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
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. His 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, he shall also provide a copy of his 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 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.

8.3. 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 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 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. Fee.

No building permit shall be issued by the Code Enforcement Officer without payment to the Town of Denmark, of a fee according to the following schedule:

8.4.1. The minimum permit fee shall be $40.00.

8.4.2. All residential dwellings:
   8.4.2.1. Finished interior $0.22 per square foot.
   8.4.2.2. Unfinished interior $0.17 per square foot.

8.4.3. All commercial dwellings:
   8.4.3.1. Finished interior $0.25 per square foot.
   8.4.3.2. Unfinished interior $0.20 per square foot.

   Finished interior spaces are habitable areas with finished walls, such as living rooms, bedrooms, kitchens, retail office spaces, storage spaces with finished walls, etc.

   Unfinished interior space includes all areas where studs are uncovered, or foundation walls are showing, such as unfinished basements, sheds, barns, garages, etc.

8.4.4. Alterations of any building: $4.00 per thousand or a minimum of $40.00. The Code Enforcement Officer may require written cost estimates or invoices from contractors to justify the declared cost of improvements.

8.4.5. Structures other than buildings (e.g. towers, swimming pools) $4.00 per thousand dollars or a minimum of $40.00. The Code Enforcement Officer may require written cost estimates to justify declared costs.

8.4.6. 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.

8.4.7. Demolition or relocation: $40.00 permit fee.

8.4.8. Signs: $40.00 each.

   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.

8.8.1. Establishment.

A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

8.8.1.1. Appointment and Composition.

8.8.1.1.1. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of 7 members. All of whom shall be legal residents of Denmark; they shall serve staggered terms of 3 years. The Board 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 shall by public record. A quorum shall consist of 4 members. New appointments beginning in 1988, shall be 2 members for 1 year, 2 members for 2 years, and 3 members for 3 years. Thereafter all appointments shall be for 3 years.

8.8.1.1.1.1. A Municipal Officer or Planning Board member may not serve as a member.

8.8.1.1.1.2. 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 of the members, except the member who is being challenged.

8.8.1.1.3. A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.

8.8.1.1.4. These above provisions shall be included in the Board of Appeals Bylaws.

8.8.2. Powers and Duties.

8.8.2.1. Administrative Appeals.

To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination by the Code Enforcement Officer or the Planning Board in the enforcement of this Ordinance. The action of the Code Enforcement Officer or the Planning Board may be modified or reversed by the Board of Appeals, by concurring vote of a majority of those present and voting, but at least 3 members of the Board.
8.8.2.2. Variance Appeals.

8.8.2.2.1. To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

8.8.2.2.2. As used in this Ordinance, a variance is authorized only for height, area, setbacks and size of structures or size of yards or open spaces. Establishment or expansion 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.

8.8.2.2.3. 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.

8.8.2.2.4. The board may grant a 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 shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board shall impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For purposes of this subsection, a disability has the same meaning as a physical or mental handicap in accordance with the Maine Revised Statutes Annotated and 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.

8.8.2.2.5. The Board of Appeals shall grant a variance only by a concurring vote of a majority of those present and voting, or at least 3 members, whichever is greater. In so doing, the Board may prescribe conditions and safeguards as are appropriate under this Ordinance.

8.8.3. Appeal Procedure.

8.8.3.1. All applications for appeals shall be based upon a written decision of the Code Enforcement Officer or Planning Board.

8.8.3.2. Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance. The fee for an administrative appeal or a variance appeal shall be $55.00 plus the cost of certified mailings for each property owner within 500 feet of property to be notified to be calculated by the Secretary of the Board of Appeals. The applicant shall be responsible for any additional costs to the Board for hearing the appeal.

8.8.3.3. Variance Appeals shall proceed from the decision of the Code Enforcement
Officer to the Board of Appeals to the Superior Court according to State law.

8.8.3.4. Code enforcement violations appeals involving either the resource protection or shoreland districts shall proceed from the decision of the Code Enforcement Officer to the Superior Court according to State law.

8.8.3.5. When an appeal is filed, the application shall be reviewed for completeness within ten days of the initial filing date by the Chairman of the Board of Appeals. If that review establishes the application is complete, a public hearing on the application shall be scheduled within 35 days of the determination of completeness. Where information is lacking or inadequate at the time of submission and the eminency cannot be remedied immediately, such as by correction of a mere clerical oversight, the applicant shall be notified in writing of the incompleteness, and no application shall be scheduled for a public hearing to be held within 35 days of the date of the determination the application has been completed. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

8.8.3.6. The Board of Appeals shall hold a public hearing on the appeal within 35 days of the acceptance by the Board of Appeals of a completed appeals application. The Board of Appeals shall notify the Code Enforcement Officer, the Planning Board, and Municipal Officers 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.

8.8.3.7. In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the appellant and the owners of all property within 500 feet of the property, including across roads and across waterbodies less than 200 feet wide, at least 7 days in advance of the hearing. The notice shall state the nature of the appeal and of the time and place of the public hearing.

8.8.3.8. In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail the appellant and only the owners of abutting property for which an appeal is taken, at least 7 days in advance of the hearing. The notice shall state the nature of the appeal and of the time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties across a road or waterbodies less than 200 feet wide, from the property for which the appeal is made.

8.8.3.9. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

8.8.3.10. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

8.8.3.11. The Code Enforcement Officer or designee shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other materials deemed appropriate for an understanding of the appeal.

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

8.8.3.13. Within 35 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall within 7 days of its decision inform, in writing, the appellant, the Code Enforcement Officer, the Planning Board, and Municipal Officers of its decision and its reasons therefore, as prescribed in accordance with the Maine Revised Statutes Annotated.

8.8.3.14. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.

8.8.3.15. 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 fourteen (14) days of the decision.

8.8.3.16. 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.

8.8.3.17. The Board of Appeals shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, a certificate of variance 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 condition on the variance 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.

8.8.3.18. If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board substantial new evidence shall be brought forward or unless the Board finds that an error, mistake or misunderstanding of facts occurred.

8.8.3.19. Appeal of Board’s Decision. Any decision of the Board of Appeals may be appealed to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B.

8.8.4. Application Procedure.

8.8.4.1. A person informed by the Code Enforcement Officer that a variance is needed may file an application with the Appeals Board. All applications shall be returned to the Code Enforcement Officer at least 10 days prior to the next Appeals Board meeting. The application shall be accompanied by a plot plan and show the following requirements unless the Appeals Board waives these requirements:

8.8.4.1.1. The name and address of the applicant (or his/her authorized agent);

8.8.4.1.2. A copy of the deed or other record of right, title or interest in the property;
8.8.4.1.3. The assessor’s map and lot number;
8.8.4.1.4. The section of the ordinance in which the variance request relates to;
8.8.4.1.5. The road or street name;
8.8.4.1.6. A date, scale and north arrow;
8.8.4.1.7. The zoning district where the premises in question is located;
8.8.4.1.8. All existing and proposed setback dimensions;
8.8.4.1.9. All the landscape areas, fencing, and size and type of plant material upon the premises in question;
8.8.4.1.10. 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;
8.8.4.1.11. Complete building elevation drawings of any proposed structures;
8.8.4.1.12. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

8.8.5 Board of Appeals Independent Consulting and Peer Review Fees

8.8.5.1. 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, legal, and similar professional consulting services. Such fees shall be subject to the following limitations:

8.8.5.1.1. 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;
8.8.5.1.2. 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;
8.8.5.1.3. Such fees shall be reasonable in amount, based upon the consulting time involved and the complexity of the review;
8.8.5.1.4. 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
8.8.5.1.5. 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.
8.8.5.2. 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.

8.8.5.3. This Section shall be administered by a Town employee responsible for administering the ordinance under which review is sought. No building permit or may be issued, nor subdivision plat be released until all fees assessed hereunder have been paid in full.

8.9. Planning Board.

8.9.1. Procedure.

8.9.1.1. All applications for conditional use or applications for review or approval of the Planning Board shall be based upon a written decision of the Code Enforcement Officer.

8.9.1.2. A fee of $55.00 plus the cost of certified mailings for each property owner within 500 feet of property to be notified will accompany applications for conditional use permits; the cost of the certified mailings to be determined by the Secretary of the Planning Board. Applications for conditional use permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance. The applicant shall be responsible for any additional costs to the Board for reviewing the application.

8.9.1.3. A $55.00 fee shall accompany applications for review and approval of the Planning Board as required under this Ordinance.

8.9.1.4. Conditional Use appeals shall proceed from the Planning Board to the Superior Court according to State law.

8.9.1.5. All applications and any supporting documents shall be submitted to the Code Enforcement Officer at least ten days prior to the Planning Board meeting at which they are scheduled to be considered.

8.9.2. Conditional Use Permits.

8.9.2.1. Authorization.

8.9.2.1.1. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance. Conditional Use Permits shall be requested for any new use or new structure, addition to or alteration of any existing use or structure in the Conditional Use categories, the resumption of any Conditional Use on a continual commercial basis which has been discontinued for at least 5 years, or to any substantial increase or expansion in the volume or intensity of usage of a Conditional Use. No
changes shall be made in any Conditional Use Plan approved by the Planning Board without approval of that change by the Planning Board.

8.9.2.1.2. 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. In the case of proposed resumption of Conditional Uses which have been discontinued for at least five (5) years, Planning Board approval shall be required before such uses may be resumed.

8.9.2.2. Powers and Duties.

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

8.9.2.3. Application Procedure.

8.9.2.3.1. A person informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale 1” equals of not more than 50’, and show the following information unless the Planning Board waives these requirements:

8.9.2.3.1.1. The name and address of the applicant (or his authorized agent) plus the name of the proposed development;

8.9.2.3.1.2. A copy of the deed or other record of right, title or interest in the property;

8.9.2.3.1.3. The assessor’s map and lot number;

8.9.2.3.1.4. A date, scale and north arrow;

8.9.2.3.1.5. The zoning district where the premises in question is located;

8.9.2.3.1.6. All existing and proposed setback dimensions;

8.9.2.3.1.7. All landscaped areas, fencing, and size and type of plant material upon the premises in question;

8.9.2.3.1.8. All proposed signs and their size, location and direction of illumination;

8.9.2.3.1.9. 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;

8.9.2.3.1.10. Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures
on adjacent lots;

8.9.2.3.1.11. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed; and

8.9.2.3.1.12. An appropriate place for the signatures of the Planning Board.

8.9.2.3.1.13. The Board may waive the above submission requirements only when it finds that the required information is not necessary for making a determination regarding the factors in section 8.8.3.4.

8.9.2.4. 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 Code Enforcement Officer, Municipal Officers, 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.

8.9.2.5. The Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.

8.9.2.6. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

8.9.2.7. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.

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 Chairman.

8.9.2.10. Within 35 days of the public hearing, the Planning Board shall make findings of fact and conclusions and approve, approve with conditions or deny Conditional Use application. The Planning Board shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons therefore within seven days of making its decision.

8.9.2.11. Upon notification of the decision of the Planning Board the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.

8.9.2.12. A Conditional Use 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 Conditional Use is authorized, and if the work
or change is not substantially completed within two years.

8.9.2.13. Factors Applicable to Conditional Uses.

Prior to granting approval to an application for a Conditional Use Permit the Planning Board shall make findings of fact and determination that:

8.9.2.13.1. The proposed use and/or structure will maintain safe and healthful conditions;

8.9.2.13.2. The proposed use and/or structure will prevent and control water pollution and sedimentation;

8.9.2.13.3. The proposed use and/or structure will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat;

8.9.2.13.4. The proposed use and/or structure will conserve shore cover, visual as well as actual points of access to inland waters and natural beauty;

8.9.2.13.5. 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;

8.9.2.13.6. The proposed use and/or structure will comply with the town’s flood plain management ordinance;

8.9.2.13.7. Adequate provision for the disposal of all solid waste and wastewater produced has been made;

8.9.2.13.8. The proposed use and/or structure will not have an unreasonable adverse impact on water bodies including the export of phosphorus off the site;

8.9.2.13.9. Adequate provisions for the management of storm water have been made;

8.9.2.13.10. Existing vegetative cover will be preserved to the extent feasible;

8.9.2.13.11. Adequate provisions for the control of soil erosion and sedimentation have been made;

8.9.2.13.12. There is adequate water supply to meet the demands of the proposed use;

8.9.2.13.13. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made;

8.9.2.13.14. The use is consistent with the policies of the Comprehensive Plan;

8.9.2.13.15. 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;

8.9.2.13.16. All standards in this Ordinance applicable to the proposed use will be met.

8.9.3. Planning Board Independent Consulting and Peer Review Fees

8.9.3.1. 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 subject to the following limitations:

8.9.3.1.1. 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;

8.9.3.1.2. 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;

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

8.9.3.1.4. 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

8.9.3.1.5. 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.

8.9.3.2. 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.

8.9.3.3. This Section shall be administered by a Town employee responsible for administering the ordinance under which review is sought. No building permit may be issued, nor subdivision plat be released until all fees assessed hereunder have been paid in full.

8.9.4. Conditions Attached to Conditional Uses.
8.9.4.1. Upon consideration of the factors listed above, 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.

8.9.4.2. 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 Conditional Use Permit, the following information:

8.9.4.2.1. 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.

8.9.4.2.2. 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.

8.9.4.2.3. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance.

8.9.4.3. In evaluating each application, the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance.

8.9.5. Other Permits Requiring Approval of the Planning Board.

8.9.5.1. The following permits require approval of the Planning Board:

8.9.5.1.1. Placing of a foundation under a non-conforming structure in the 100-foot buffer zone within the shoreland-zoning district, in accordance to section 1.4.4.1.2.4.1. of this Ordinance.

8.9.5.1.2. Relocation, reconstruction or replacement of a non-conforming structure in the 100-foot buffer zone within the shoreland-zoning district, in accordance to section 1.4.4.1.2.4. and section 1.4.4.1.2.4.1. of this Ordinance.

8.9.5.1.3. Subdivisions.

8.9.5.2. An application shall be submitted in writing on approved forms supplied by the Planning Board.

8.9.5.3. Planning Board Independent Consulting and Peer Review Fees

Refer to section 8.10.14.
CHAPTER 9 – CONSTRUCTION OF LANGUAGE AND DEFINITIONS

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.

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Abandoned Public Road: Any road that was once public and now deemed abandoned in accordance with the Maine Revised Statutes Annotated and on file in the Town of Denmark, Maine records as being abandoned.

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.

**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.

**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.

**Building:** A structure with walls and roof designed for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**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.
**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.

**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.

Drainage Way: A route or course along which water moves or may move to drain a region.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving two lots or less.

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.

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.

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 channel 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 or 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.

**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.

**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.

**Impermeable Surface:** A layer of surface of material that will not permit the absorption or penetration of water in a specific period of time as defined in the Maine State Plumbing Code.

**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.

**Kennel:** 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.

**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 only, 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.
- **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.

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.

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.

Mineral Extraction: 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.

**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.

**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 crow nests.

**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.

**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.

**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.

**Personal Services:** A business which provides services but not goods such as hairdressers, shoe repair, real estate, insurance, etc.

**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.

**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.

**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:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

**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.

**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.

**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.

**Slash:** The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**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 zone 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:** An existing state, county, or town way; a way dedicated for public use and shown upon a plan approved by the Planning Board and recorded in the Oxford County Registry of Deeds; or a way dedicated for public use and shown on a plan recorded in the Oxford County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term “street” shall not include those ways which have been discontinued or abandoned.

**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 dividings 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 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:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**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.

**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 Zone 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 zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone district on a lot that has less than two (2) acres within the shoreland zone district shall not be considered timber harvesting. Such cutting, or removal of trees shall be regulated pursuant to Section 6.9.16.

**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.

**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.
**Variance:** A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

As used in this Ordinance, a variance is authorized only for height, area, and size of structures or size of yards or open spaces or setback. Establishment or expansion 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.

**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.

**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
Adopted: 3/11/06
Amended June 6, 2009
APPENDIX B
BOARD OF APPEALS
Town of Denmark, Maine
By-Laws

I. GENERAL PROVISIONS
A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Robert’s Rules of Order.
B. It shall be the responsibility of the Board to become familiar with all the duly enacted Ordinances of the Town which it may be expected to act upon as well as with the applicable State Statutes.
C. It shall be the responsibility of the Board to become familiar with the community goals, desires, and policies as expressed in the “Comprehensive Plan” and grant the minimum relief which will ensure that the goals and policies of the plan are preserved, and substantial justice is done.

APPOINTMENT
A. The Board shall consist of (7) seven members appointed by the Municipal Officers of the Town of Denmark for three (3) years to be staggered. The term to expire as of the date of the annual Town Meeting.
B. A quorum shall consist of (4) members.
C. A Municipal Officer nor spouse of, or Planning Board member may not serve as a member.
D. 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 of the members, except the member who is being challenged.
E. Any member of the Board may be dismissed for cause, by the Municipal officers upon written charges and after a public hearing. The term “for cause” shall include failure to attend (3) consecutive Board meetings or hearings without sufficient justification or voting when the member has a “conflict of interest”.
F. When there is a vacancy, the Secretary shall immediately notify the Town Clerk. The Municipal Officers shall, within (30) thirty days, appoint a person to serve for the unexpired term.

III. OFFICERS AND DUTIES
A. The Officers of the Board shall consist of a Chairman and Vice Chairman, who shall be elected by a majority of the Board annually. The Secretary shall be appointed by the Municipal Officers and paid accordingly.

B. CHAIRMAN
The Chairman shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairman shall rule on all issues of evidence, order, and procedure, and shall take on such other actions as are necessary to carry out the business of the Board. The Chairman’s signature shall appear on all decisions as directed by the Board.

C. VICE-CHAIRMAN
The Vice-Chairman shall serve in absence of the Chairman and shall have all the powers of the Chairman during the Chairman’s absence, disability or disqualification.

D. SECRETARY
The Secretary, subject to the direction of the Board and Chairman, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent of failing to vote, indicating such fact. The Secretary shall arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as normally carried out by a secretary. The Secretary shall prepare a record of all resolutions, transactions, correspondence, findings and determinations of the Board. The Secretary shall keep a complete record of each hearing, including: date(s), time(s), and place(s) of the hearing(s); subject of the hearing; identification of any participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board, and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

E. The Officers of the Board shall provide the Municipal Officers annually with an accounting of fees collected and all expenditures made by the by the Board the previous year.

IV. CONFLICT OF INTEREST
A. 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, except the member whose potential conflict is under consideration.

B. The term “conflict of interest” shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of a person’s immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person’s immediate family.

V. POWERS AND LIMITATIONS
A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party;

1. The Board may interpret the provisions of any applicable Town Ordinance which are called into question.

2. The Board may approve the issuance of a special exception permit in strict compliance with any applicable Town Ordinance.

3. The Board may grant a variance only where strict application of any applicable Town Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words “undue hardship” as used in this subsection mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;
b. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood.

c. That the granting of a variance will not alter the essential character of the locality; and

d. The hardship is not the result of action taken by the applicant or prior owner.

B. The issuance of a variance is subject to any specific conditions contained in applicable Town Ordinances/Regulations.

C. In granting a variance, the Board may prescribe such conditions and safeguards, as they deem advisable in order to protect the public interest, health, safety and general welfare, and the purpose of the Ordinance.

VI. MEETINGS

A. The regular meeting of the Board shall be held once every month (the second Thursday) at 7:00 PM, or as necessary.

B. The annual organization meeting of the Board shall be the first regular meeting of the year after Town Meeting.

C. Special meetings of the Board may be called by the Chairman. At least forty eight (48) hours written notice of the time, place and business of the meeting shall be given to each member of the Board, the Municipal Officers, the Planning Board, the Code Enforcement Officer, and the Plumbing Inspector.

D. The Chairman shall call a special meeting within ten (10) days of a receipt of a written request from any three (3) members of the Board. The request shall specify the matters to be considered at such meeting.

E. The order of business at the regular meeting of the Board shall be as follows: 1. attendance; 2. reading and approval of the minutes of the preceding meeting; 3. action on held cases; 4. public hearing (when scheduled); 5. other business; 6. adjournment.

F. All meetings of the Board shall be open to the public; except executive sessions. No vote may be taken by the Board except in Public Meetings.

VII. VOTING

A. A quorum shall consist of four (4) members of the Board.

B. No hearing or meeting of the Board shall be held, or any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairman to call a special meeting for a subsequent date.

C. All matters shall be decided by roll call vote. Decisions on any matter before the Board shall require the affirmative vote of the majority of the entire membership of the Board unless otherwise specified herein.
D. A tie vote or favorable vote by lesser number than the required majority shall be considered a rejection of the application under consideration.

E. If a member has a conflict of interest, said member shall not be counted by the Board establishing the quorum for such matter.

F. If the Board has alternate members, the Chairman shall appoint an alternate member to act for a regular member who is: disqualified from voting or unable to attend the hearing due to late arrival. The alternate member will act for the regular member until the case is decided.

G. If the Board has no alternate member, no regular member shall vote on the determination of any matter requiring public hearing unless he has attended the public hearing thereon; however, where such member has familiarized themselves with such matter by reading the record, they shall be qualified to vote.

VIII. APPEAL PROCEDURE

A. ADMINISTRATIVE APPEAL

1. Any person aggrieved by an action, which comes under the jurisdiction of the Board pursuant to Section V. Must file such application for appeal, “in writing on forms provided” within thirty (30) days of the granting or denial of a permit. The applicant shall file this appeal with to Code Enforcement Officer of the Town of Denmark, setting forth the grounds for his/her appeal. Upon receiving the application for appeal, the Code Enforcement Officer shall notify the Chairman of the Board.

2. The fee to accompany applications for appeal shall be set forth in the Town of Denmark Zoning Ordinance. Checks are made payable to the Board of Appeals of the Town of Denmark.

XI. HEARINGS

A. The Board shall schedule a public hearing on all appeals applications within thirty (30) days of the acceptance of a completed application.

B. The Board shall cause notice of the date, time and place of such hearing the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality, at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to the Municipal Officers, the Planning Board, the Code Enforcement Officer, the Plumbing Inspector and the owners of the property abutting that for which the appeal is taken, at least (10) days prior to the date of the hearing.

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

D. The order of business at a public hearing shall be as follows:

1. The Chairman calls the hearing to order.
2. The Chairman determines whether there is a quorum.

3. The Chairman gives a statement of the case and reads all the correspondence and reports received.

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

5. The Board decides whether the applicant has the right to appear before the Board.

6. The Board determines which individuals attending the hearing are “interested parties”. “Interested parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board’s decision. Parties may be required by the Board to consolidate or join their appearances in part or whole if there interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal Officers, the Planning Board, the Code Enforcement Officer, and the Plumbing Inspector shall automatically be party to the proceedings.

7. The appellant is given the opportunity to present his or her case without interruption.

8. The Board and interested parties may ask questions of the appellant through the Chair.

9. The interested parties are given an opportunity to present their cases. The Board may call its own witnesses, such as the Code Enforcement Officer or Plumbing Inspector.

10. The appellant may ask questions of the interested parties and the Board witnesses through the Chair.

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

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

13. The hearing is close after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

14. Written testimony may be accepted by the Board, for seven (7) days after the close of the hearing.

E. The Board may waive any of the above rules upon good cause shown.

X. DECISIONS

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A. Decision of the Board shall be made not later than twenty (20) days from the date of the final hearing.

B. The final decision on any matter before the Board shall be made by written order signed by the Chairman. The transcript of the testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become part of the record and shall include a statement of findings and conclusions, as well as, the reasons or basis upon all the material issues of fact, law, or discretion presented and the appropriate order, relief, or denial thereof.

C. The Board, in reaching said decision, shall be guided by standards specified in the applicable Ordinance as well as Comprehensive Plan, and by the findings of the Board in each case.

D. In reviewing an application on any matter, the standards of any applicable Local Ordinance or State Statute shall take precedence over the standards of these rules, whenever a conflict occurs. In all instances, the more restrictive rule shall apply.

E. Notice of any decision, shall be sent by certified or registered mail or hand delivered to the applicant, their representative agent, the Planning Board. The Code Enforcement Officer, the Plumbing Inspector, and the Municipal Officers within ten (10) days of the decision.

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

G. A variance under the provisions of the Denmark Zoning Ordinance secured vote of the Board of Appeals shall expire if the work or change involved is not commenced within one (1) year of the date of which the appeal is granted and if the work or change is not substantially completed within two (2) years.

REHEARINGS

A. Any party aggrieved by a decision or order of the Board may within thirty (30) days petition the Board to reopen the hearing if:

1. All parties agree to having the hearing reopened;

2. The Zoning Ordinance requires a rehearing;
   
3. The record contains a misstatement of fact or a significant clerical error contained in the final decisions, or material fact of which the Board took official notice; or

4. There is substantial enough changes of conditions since the time of the previous appeal to warrant a new hearing.

XII. APPEAL TO SUPERIOR COURT

A. The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with The Maine rules of Civil Procedure.
XIII. AMENDMENTS

A. These By-Laws may be amended by simple majority vote of the Board.

B. The invalidity of any section or provision of these By-Laws shall not be invalidated by any other section or provision of these By-Laws.

ADOPTED BY VOTE OF THE
BOARD OF APPEALS
June 14, 2001
Michael E. Berube, Chairman
APPENDIX C

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