



*City of Caribou, Maine*

*Municipal Building  
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Caribou, ME 04736  
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[www.cariboumaine.org](http://www.cariboumaine.org)*

**AGENDA  
Caribou Planning Board  
Annual Organizational Meeting  
Wednesday, January 6, 2016 at 5:30 p.m.  
Caribou City Council Chambers**

- 1) Call Meeting to Order
- 2) Election of Officers for 2016 2
  - a) Chairman
  - b) Vice-Chairman
  - c) Secretary
- 3) Setting 2016 Meeting Date and Times 3
- 4) Adjournment



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OFFICE OF THE CITY MANAGER  
CARIBOU, MAINE

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To: Chairman and Planning Board Members  
From: Austin Bless, City Manager  
Date: January 6, 2016  
Re: Election of Officers

We need to elect the officers for 2016. These officer positions include Chairman, Vice-Chairman, and Secretary.

The votes should be taken individually.



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OFFICE OF THE CITY MANAGER  
CARIBOU, MAINE

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To: Chairman and Planning Board Members  
From: Austin Bless, City Manager  
Date: January 6, 2016  
Re: Setting 2016 Meeting Dates and Times

The Board should set a regular meeting date and time for 2016 meetings. For the past few years the first Wednesday of the month at 5:30pm was the agreed to date and time, and that seems to have worked well.



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**AGENDA  
Caribou Planning Board  
Regular Meeting  
Wednesday, January 6, 2016  
Immediately following Annual Meeting  
Caribou City Council Chambers**

- I. Call Meeting to Order
- II. Minutes of the December 2, 2015 meeting 5-6
- III. New Business
- IV. Old Business
  - a. Chapter 13 Re-write 7-23
- V. Other Business
- VI. Adjournment



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### **Caribou Planning Board Meeting Minutes Wednesday, December 2, 2015 @ 5:30 pm City Council Chambers**

**In Attendance:** Phil Cyr, Bob White, Todd Pelletier, Michele Smith, Evan Graves, Philip McDonough III and Matthew Hunter

**Others in Attendance:** Austin Bless –City Manager & Code Enforcement Officer, Denise Lausier, CB Smith, Troy Heald, Connie Heald, David Heald, Dr. Ortiz, Dwight and Elizabeth Stickles and Jeff Lagasse

- I. Call Meeting to Order** - The meeting was called to order at 5:30 pm.
- II. Minutes of the November 4, 2015 Meeting** – Todd Pelletier moved to accept the minutes as presented; seconded by Evan Graves; Vote was unanimous.
- III. New Business**
  - a. Zoning Change Request** – A request to change the zoning of Tax Map 32, Lot 174 on Sweden Street from the C-2 zone to an R-1 zone and if approved their plan is to build a home on the lot. The lot already borders the R-1 District, so it is not a spot zoning request. The Public Hearing opened at 5:33 pm. With no public comments, the Public Hearing closed at 5:34 pm. The Planning Board said it was a reasonable request. Todd Pelletier moved to recommend sending the zoning change request to the City Council; seconded by Matthew Hunter. Vote was unanimous.
  - b. Site Design Review** – A request from Brick House Realty to convert the second floor of their building at 46 Sweden Street from one apartment to two apartments. They have a signed agreement from Gary St.Peter, owner of Napoli's to rent them four spaces in his parking lot for tenant parking. Public Hearing was opened at 5:36 pm. Jeff Lagasse from Lagasse Drafting Services was present to answer questions. Jeff explained that the Fire Marshal has already approved it with no issues. They are only changing the footprint from one to two apartments. Dr. Ortiz was present and he expressed his desire to the Board to approve the project. With no public comments, the Public Hearing closed at 5:50 pm. Bob White moved to accept the application, seconded by Matthew Hunter. Vote – 6 yes, 1 no (Philip McDonough III).
  - c. Day Care Ordinance** – The Board is looking to make several changes to the Day Care Ordinance. The Public Hearing opened at 5:52 pm. With no public comments, the Public Hearing closed at 5:53 pm. Todd Pelletier moved to send to the City Council with a recommendation for approval, seconded by Evan Graves. Vote was unanimous.

**IV. Old Business –**

- a. **Chapter 13 Re-write** – The Board reviewed Flood Hazard Regulations. After review and discussion, the Board consensus was to leave the definitions and change the fee to \$25.00.

**V. Other Business** – The next Planning Board meeting will be January 6, 2016 at 5:30 pm.

**VI. Adjournment** – Philip McDonough III moved to adjourn the meeting at 6:00 pm; seconded by Michele Smith. Vote was unanimous.

Respectfully Submitted,

Robert White  
Planning Board Secretary

RW/dl



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OFFICE OF THE CITY MANAGER  
CARIBOU, MAINE

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To: Chairman and Planning Board Members  
From: Austin Bless, City Manager  
Date: January 6, 2016  
Re: Chapter 13 Re-Write

Tonight we start Chapter 13, Section 700 which is the General Requirements for Land Uses. This section is about 45 pages long. This is a lot of the heavy lifting in our zoning ordinance. Rather than trying to rush through this I think it is best if we take two or three meetings to go over it all and make sure that we do it right rather than just do it quickly.

The ordinance is on the following pages and my thoughts/comments are noted within. I've put my comments in *red type and italics*. Suggested edits are listed with an underline for things that should be added or ~~struck through~~ for things that should be deleted.

The following General Requirements are applicable to land use activities within the City, to include site design review and subdivisions. These standards are intended to clarify review criteria and provide guidance. In reviewing a proposed development, the CEO or Planning Board, whomever conducts the review, shall review the application for conformance to the applicable standards and make findings of fact for each prior to approval of the Final Plan. The burden of proof of conformance is with the applicant, who shall provide clear and convincing evidence that the proposed Final Plan meets the standards and the review criteria.

### 1. Apartments Accessory to Commercial Uses.

The Planning Board may allow residential dwelling units in a commercial structure provided the following are met:

- A. The residential dwelling units shall be clearly incidental to the principal commercial use of the structure.
- B. Each dwelling unit shall be provided with a private space 500 square feet minimum per dwelling unit adjacent to each unit. *Why are we requiring this? It seems this may not be something the City should have to regulate. If a tenant needs storage space that would be a tenant/landlord issue.*
- C. Each dwelling unit shall be provided one (1) off-street parking space separate from customer parking.
- D. Subsurface sewage disposal, where applicable, shall be provided that complies with the State of Maine Subsurface Sewage Disposal Rules.
- E. Each dwelling unit shall have access to and use of private storage space within the individual dwelling unit or in common storage facilities. *Why are we requiring this? It seems this may not be something the City should have to regulate. If a tenant needs storage space that would be a tenant/landlord issue. It also seems duplicative of Section B.*
- F. No access to a residential dwelling unit shall be through the commercial space.
- G. All provisions of the City Building Code, Property Maintenance Code and the Life Safety Code shall be met.

### 2. 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 CEO or Planning Board shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the CEO or Planning Board. The CEO or Planning Board shall consider comments received from the Commission prior to rendering a decision on the application.

### 3. Basement Drainage.

The applicant shall show that the floor of any basement(s) can be drained to the ground surface, or storm sewers, if they are required to be installed, or that the spring water table is one (1) foot below the level of the basement floor.

### 4. Bed and Breakfast.

- A. There shall be no less than one parking space on the property for each rental room in addition to the spaces required for the dwelling unit.
- B. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
- C. Each rental room shall have not less than ten by twelve (10 X 12) feet horizontal dimensions.

### 5. Buffers and Screening.

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

*buffering. A nicely constructed privacy fence could serve the same purpose, but would not require a 15 foot wide strip of land. Section B after this mentions this but as I read that section it would still require the 15 feet of land for the buffer. Section F allows for the 15 feet to be modified, and should be considered in this discussion as well.*

- B. Where no natural vegetation or berms can be maintained, or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges, or combinations thereof.
- C. Any abutting residential property shall be effectively screened by a continuous landscaped area no less than six (6) feet in height along lot lines adjacent to the residential properties, except that driveways shall be kept open to provide visibility for entering and leaving.
- D. Where a potential safety hazard to small children would exist, physical screening / barriers shall be used to deter entry to such premises. *How are small children defined? If it's a potential safety hazard to "small children" could it be a potential safety hazard to the general public?*
- E. There shall be no paving, parking, or structures located in the buffer area.
- F. The CEO or Planning Board may allow a buffer area of less width when site conditions, such as natural features, vegetation, topography, or site improvements, such as additional landscaping, berming, fencing, or low walls, make a lesser area adequate to achieve the purposes of this Ordinance.

**6. Campground and/or Recreational Vehicle Park.**

*We have had interest from people to do a campground before, as the Planning Board may recall. The location they were looking at for a campground would be difficult to do based upon this ordinance. However, there are certainly several other areas a campground could be done in Caribou.*

A campground and/or recreational vehicle (RV) park shall conform to the minimum requirements imposed under State licensing procedures of ~~(10-144A-CMR-205) "Tent and Recreational Vehicle Parks..."~~ Maine Department of Health and Human Services RULES RELATING TO CAMPGROUNDS and the following (in case of possible conflict, the stricter rule shall apply). For the purposes of this Section "RV" shall include: travel RV, pick-up coach, motor home, camping trailer, dependent RV, and self-contained RV.

**A. General.**

- 1. A campground and/or RV park shall have no less than ten (10) acres of land and all campground and/or RV park sites (sites) or structures shall be located at least 100 feet from any property line and 200 feet from any residence, exclusive of the residence belonging to the owner. *These setbacks don't appear to be completely unreasonable, but they are more restrictive than the state. The state setbacks are 25 feet from any park boundary line abutting a street/highway or 15 feet from any other boundary line.*
- 2. Sites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, or existing residence. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standards, when sites would otherwise be visible from the locations described above.
- 3. No trailers or mobile homes, other than RVs, shall be permitted within any campground and/or RV park, temporarily or otherwise. No RVs shall be stored or exhibited for sale within the campground and/or RV park. Permanent or long-term dwellings or shelter devices are specifically prohibited.
- 4. Tent sites and RV sites shall be laid out so that the density of each developed acre of land shall not exceed the standards below (in terms of sites per acre of land, excluding circulation roads). 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.

*What about Cabins that are becoming more popular for camping? These would be permanent structures at the campground.*

	Non-Shoreland	Shoreland Areas
Tent Sites	14 per acre	8 per acre

RV and Travel Trailer Sites	11 per acre	7 per acre
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5. The minimum frontage of a tent site or RV site along any shoreline of a waterbody shall be 100 feet. The minimum setback from the normal high-water line shall be 100 feet for all tent sites or RV sites, other vehicles, and temporary or permanent structures.
6. No tent site or RV site shall be located within a Resource Protections District or within the 100 year floodplain.

**B. Parking and Circulation.**

1. A minimum of three hundred (300) square feet of off-street parking plus maneuvering space shall be provided for each tent site or RV site. RVs shall be parked in spaces so that:
  - a. There shall be a minimum of 50 feet between vehicles; and
  - b. There shall be a minimum of 75 feet between all RVs and tents, and all public rights-of-way located inside the boundaries of the campground.
2. Vehicular access shall be provided onto a hard-surfaced adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the Road Design and Construction Standards, within these Ordinances, shall be observed in designing all intersections. Roads shall be constructed of at least 12" of bank-run gravel (no stone larger than 4"), 2" of crushed gravel (1/2" chips) and two (2) applications of liquid asphalt (1/2 gallon per sq. yd. each application). The minimum width of roadways shall be twelve (12) feet for one-way roads and twenty-two (22) feet for two-way roads. No vehicle parking shall be permitted on the roadway.

*The state rules don't specify things for parking except for "All parking areas shall be provided with safe and convenient vehicular access from abutting public streets or roads to each R.V. site."*

*Is this 300 feet supposed to be located at the RV/Tent Site? Or could this be one large parking lot on the campground?*

*Requiring 75 feet between an RV/Tent and the public right of way in the campground seems to me to be too much. That would put the RV/Tents very far back. In doing some measuring on Google Earth it seems most campgrounds have a 15-30 foot setback.*

**C. Health and Safety.**

1. Each tent site or RV site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once every three (3) days.
2. A campground and/or RV park shall provide water and sewerage disposal systems, sanitary facilities, and convenience facilities in accordance with the regulations of ~~40-144A-CMR-205~~ Maine Department of Health and Human Services RULES RELATING TO CAMPGROUNDS and the "*State of Maine Subsurface Wastewater Disposal Rules*". All RV sites shall be equipped with water and sewage hook-ups, and connected to approved distribution or disposal systems.
3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that the campground or RV park may be readily serviced in emergency situations. 24-hour emergency communication service (e.g. telephones) shall be provided.

**D. Planning and Review.**

1. Roads, parking, sites, and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which is submitted for review and approval.

- a. A logical sequence of entry and circulation should be created: entrance, administration, storage, parking, sites, toilets, laundry, playing fields, or shoreline.
  - b. Sites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of site clusters. The purpose is to minimize road length, increase accessibility, and preserve open space.
  - a. Footpaths and roads should follow "desired lines" of pedestrian and vehicular movement between sites and all jointly used facilities. Parking areas may be grassed, reinforced with open concrete blocks.
  - d. Access roads shall be laid out as loops to the greatest extent practicable, although "cul-de-sacs" or "dead-ends" may be allowed to serve up to twenty (20) campsites.
2. A soil erosion and sedimentation control plan approved by the County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes, and drainage, a vegetation map showing the following items may be required:
- a. The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested).
  - b. New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatibly with existing natural vegetation.
  - c. All vegetative clearing should avoid creating straight line edges between open land and surviving stands.
  - d. Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

**7. Disposal of Solid Waste.**

If the additional solid waste from the proposed development exceeds the capacity of the City's solid waste facility, causes the City's facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the City to exceed its contract with a non-city's facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The CEO or Planning Board may not require the alternate arrangement to exceed a period of five years.

**8. Easements for Natural Drainage Ways.**

Where a development is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all stormwater can be disposed of properly.

**9. Electro-Magnetic Interference.**

No use, activity, or process shall be conducted which produces electro-magnetic interference in the transmission or reception of electrical impulses beyond the lot lines, including radio and television. In all cases federal, state, and local requirements shall be met. Violation of this standard shall be considered a nuisance.

**10. Erosion and Sedimentation Control.**

- A. The procedures outlined in an erosion and sedimentation control plan shall follow Best Management Policies (BMPs) and shall be implemented during the site preparation, construction, and clean-up stages.
- B. All earth changes shall be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest period of time possible.
- C. The proposed development shall prevent sediment caused by accelerated soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.
- D. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the development shall be designed to limit the water flow to a non-erosive velocity.

- E. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fifteen (15) calendar days after final grading has been completed. When it is not possible or practical to permanently stabilize disturbed land, temporary erosion control measures shall be implemented within thirty (30) calendar days of the exposure of soil.
- F. Topsoil shall be considered part of the development and shall not be removed from the site, except for surplus topsoil from roads, parking areas, and building excavations.
- A. When vegetative cover shall be established as a temporary or permanent erosion control measure:
  - 1. Plant species to be used and the seeding rates shall take into account soil, slope, climate, duration, and use of the vegetative cover.
  - 2. Mulch shall be provided at rates appropriate to ensure a minimum of soil and seed loss until an acceptable "catch" of seed is obtained.
  - 3. Reseeding shall be done within a reasonable period of time if there is not an acceptable "catch".
- H. All development plans shall incorporate building designs and road layouts that fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

## **11. Exterior Lighting.**

Lighting may be used which serves security, safety, and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings.

- A. The style of the light and light standard shall be consistent with the architectural style of the principal building.
- B. The maximum height of free standing lights shall be the same as the principal building, but not to exceed forty (40) feet.
- C. The CEO or the Planning Board, whomever is conducting the review, shall determine the necessity for lighting of parking areas.
- D. Exterior lighting shall be shielded in such a manner as not to create a hazard or nuisance to the adjoining properties or to the traveling public.
- E. Direct or indirect illumination shall not exceed 0.6 foot-candles upon abutting residential properties.
- F. Required Light Levels:
  - 1. Parking areas or lots: An average of one and one-half (1.5) foot-candles throughout.
  - 2. Intersections of parking areas or lots: Three (3) foot-candles.
  - 3. Maximum at property lines: One (1.0) footcandle.
  - 4. In residential areas: Average of six-tenths (0.6) footcandle.

## **12. Fire Protection.**

- A. Fire hydrants connected to the public water supply system shall be located no further than 500 feet from any building.
- B. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches.
- C. Where a dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the City shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.
- D. A proposed subdivision of 5-10 lots not served by a public water supply shall provide for a minimum storage capacity of 10,000 gallons. Additional storage capacity of 2,000 gallons per lot over 10 lots shall be provided. The Planning Board may require additional storage capacity upon a recommendation from the Fire Chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three (3) feet of ice.

### 13. Home Occupations.

Home occupations shall be incidental to the residential use of the property. No Home Occupation is allowed without first obtaining a Permit from the Code Enforcement & Planning Office. As of January 1, 2013 Home Occupation Site Design Review Applications shall have an initial fee of \$90.00.

Home occupations shall be allowed in any zone, and

All Home Occupations activity shall be restricted to within the interior of the primary or an accessory structure, and

There shall be no change in the outside appearance of the buildings or premise that shall cause the premise to differ from its residential character by use of colors, materials, construction, lighting, sounds, or noises. The Home Occupation shall be identified by no more than one free standing single or double sided yard sign or one sign on the building, no sign face to exceed two square feet in area, and

There shall be no exterior storage of materials, such as, but not limited to, trash and or any other materials used in the Home Occupation, and

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

1. The home occupation shall employ only residents of the dwelling unit.
2. The home occupation shall be carried on wholly within the principal or accessory structure.
3. The home occupation shall not occupy more than 50% of the total floor area of the principal dwelling structure. Accessory structures used for the Home Occupation may use up to 100% of the floor area.
4. No client or customer shall be allowed on any floor level other than the first floor ground floor level unless the structure is protected throughout with a State Fire Marshal approved sprinkler system.
5. Objectionable noise, vibrations, smoke, dust, electrical disturbance, odors, heat, glare, or other nuisance shall not be permitted.
6. No on street parking is allowed for clients or customers.
7. All means of ingress and egress to and from all areas accessible to clients and customers shall be in full compliance with the requirements of the 2009 Edition of NFPA 101, Life Safety Code and the Americans with Disabilities Act.

Should all of the above conditions not be maintained on a continual basis once the permit has been issued, the Code Enforcement Officer shall rescind the permit and issue a cease and desist order to stop the non-conforming Home Occupation. Any Home Occupation operating without a current permit shall be prosecuted in District Court according to Title 30-A, MRSA §4452.

All other requirements of the Caribou Code of Ordinances apply to all Home Occupations.

### 14. Hotels, Motels, and Inns.

For the purposes of these Ordinances, the terms hotel, motel, and inn are used interchangeably.

- A. A green space, not less than twenty (20) feet wide, shall be maintained open and green with grass, bushes, flowers, or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.
- B. If cooking or eating facilities are provided in any units, each unit shall be considered a dwelling unit and the development shall meet all applicable standards for multi-family development in these Ordinances, including the residential density requirements of the appropriate District. If three (3) or more multi-family

units are to be constructed within a five (5) year period the development shall be considered a subdivision and shall also be reviewed through the Subdivision Ordinance.

- C. Each unit shall contain not less than two-hundred (200) square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each sleeping room shall not be less than twelve by fifteen (12x15) feet horizontal dimensions, exclusive of bath. Each unit shall include private bathroom facilities.
- D. On each lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- E. Building construction plans shall be reviewed and approved by the Fire Chief.
- F. Recreational vehicle parking stalls shall be designed to accommodate the traveling public with a minimum stall width of eleven (11) feet and stall depth of thirty-two (32) feet. Angled parking stall width and depths shall be increased by 10 percent and 25 percent above the parking standards contained in this Ordinance.
- G. All hotel, motel, and inn development shall be connected to the public sewer and water systems where provided. Where public sewer and water systems are not available, an adequate on-site septic system, in accordance with the "*State of Maine Subsurface Wastewater Disposal Rules*", shall be provided to serve the maximum number of guests or customers who can be accommodated. Plans or written specifications, or both, for such systems shall be submitted to the Planning Board before final approval is granted by the Board. Where any doubt exists as to the adequacy of such proposed systems, the Board shall obtain the advice of a sanitary engineer or other qualified person and any cost of such service shall be paid by the applicant.
- H. No building shall be closer than fifty (50) feet from a property line.
- I. All other relevant standards of these Ordinances shall be observed.

**15. Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline.**

- A. Preservation of Natural Beauty and Aesthetics.
  - 1. The Plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the Plan for preservation.
  - 2. A development in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and roads.
    - 1. The development should be designed to minimize the visibility of buildings from existing public roads; yet, maximize the natural features of the site, whenever possible. When the development contains no forest or insufficient forested portions to include all buildings, the development should be designed to minimize the appearance of building when viewed from existing public roads.
  - 4. The Planning Board may require that the application include a landscape plan that would show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.
  - 5. When a proposed road traverses open fields, the plans should include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees should be planted no more than fifty (50) feet apart.
  - 6. When a proposed development contains a ridge line, the Plan shall restrict tree removal and prohibit building placement within fifty (50) feet vertical distance of the ridge top. These restrictions shall appear as notes on the final recording Plan and as covenants in the deed.
- B. Retention of Usable Open Spaces and Natural or Historic Features.

1. The development should reserve between five and ten percent of the area of the development as open space in order to provide for the recreational needs of the occupants of the development and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Planning Board shall consider the recreation plan for open space or recreation facilities in the area surrounding the development and the policies of the plan for meeting those needs; the proximity of the development to neighboring dedicated open space or recreation facilities; the type of development; and the demographic characteristics of potential occupants in the development; and the density or lot sizes of the development.
2. If any portion of the development is located within an area designated as a critical natural area, or the Department of Economic and Community Development's Natural Areas Program, the Plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the development is designated a site of historic or prehistoric importance, by the comprehensive plan, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the Plan.
4. The development should reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of usable open space to be reserved would depend on: the identified needs for outdoor recreation in that portion of City according to the comprehensive plan; the proposed lot sizes within the development; the expected demographic makeup of the occupants of the development; and the site characteristics. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more roads of at least 200 feet, and have no major dimensions of less than 200 feet.
5. Land reserved for usable open space purposes shall be of a character, configuration, and location suitable for the particular use intended.
6. Sites selected primarily for scenic or passive recreation purposes should have such access as the Planning Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites should be deemed adequate by the Planning Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
7. Reserved usable open space land may be dedicated to the City.

C. Protection of Significant Wildlife and Important Habitat Areas.

1. If any portion of a proposed development lies within:
  - a. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
    1. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
    2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
    3. Shorebird nesting, feeding, and staging areas;
    4. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
    5. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor, or
  1. Other important habitat areas identified in the local comprehensive plan, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Planning Board shall be submitted. This report shall assess the potential impact of the development on the significant habitat and adjacent areas that are important to the maintenance of the affected species and

shall describe appropriate mitigation measures to ensure that the development shall have no adverse impacts on the habitat and the species it supports.

2. Protection of Deer Wintering Areas. The applicant shall contact the Regional Biologist of the Maine Department of Inland Fisheries and Wildlife at the Planning Board's request to determine whether any portion of the proposed development lies within an identified deer wintering area. A letter should be prepared by the Wildlife Biologist stating whether there is or is not a deer wintering area on the plat. If there is an identified deer wintering area, the Plan shall include the limits of the area on the Plan and a management plan prepared by a wildlife biologist for any identified deer wintering areas. The management plan shall provide for approximately 50 percent of the area to be maintained in mature softwoods. The management plan will be reviewed by the IF&W Wildlife Biologist for acceptance and their comments will be forwarded to the Planning Board.

- D. Public Access to the Shoreline. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the usable open space, with provisions made for continued public access.

## **16. Impact on Water Quality or Shoreline.**

- A. GPA Lakes. No application for development in the direct drainage area of a GPA lake should be approved unless the development will have no significant impact on the water quality of the lake or any downstream lakes. The direct drainage area of a lake is that portion of a lake's watershed which drains to the lake through tributaries or overland runoff without passing through another lake. In determining the significance of impact on the lake the Planning Board shall consider:
  1. Past degradation of the lake's water quality;
  2. The cumulative impact of this development and any other developments or activities subsequent to the establishment of this policy; and
  3. The assimilative capacity of the lake.

It shall be the applicant's responsibility to provide the Planning Board with any information necessary to evaluate the magnitude of the impact of the proposed development on the lake.

- B. Phosphorus Export.
  1. Any development within the watershed of a Great Pond shall make provisions to limit the post development phosphorus export. The Planning Board shall keep an accurate record of permits issued within the watershed.
  2. Simplified Phosphorus Review. The simplified review may be used for a:
    - a. Proposed development of three or four lots with less than 200 feet of new or upgraded road with a cumulative driveway length not exceed 450 feet for a three lot subdivision or 600 feet for a four lot subdivision;
    - b. Proposed development of three or four lots with no new or upgraded road with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or
    - c. Proposed developments consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded roads not exceeding 200 linear feet.

A proposed development which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

3. Standard Review. This subsection shall apply to proposed developments which do not qualify for the simplified review. Phosphorous export from a proposed development shall be calculated according to the procedures in

*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine DEP, latest edition. When a proposed development creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

4. Maintenance and Use Restrictions for Phosphorus Control Measures.

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

- a. General Requirements for Buffer Strips.

1. Buffer strips shall provide sufficient area for travel lanes between areas of designated wildlife habitat.
2. The construction, alteration, maintenance, and other activities in buffer strips shall not adversely affect wildlife and fisheries lifecycles.
3. There shall be no unreasonable disturbance to:
  - a. Designated deer wintering areas.
  - b. Habitat of any species declared threatened or endangered by the Maine Department of Inland Fisheries and Wildlife or the U.S. Fish and Wildlife Service.
  - c. Nesting sites for bird colonies.
4. The buffer strip shall be maintained permanently and any plant material which does not live will be replaced within one year.
5. Screen planting, when used, shall be so placed that at maturity it shall be 8 feet in height and be no closer than three feet from any road or property line.
6. Fencing and screening will be so located within the owner's property line to allow access for maintenance on both sides without intruding upon abutting properties.

- b. Vegetative Buffer Areas. Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the final recording Plan. Where a vegetative buffer area is to be owned in common by property owners in the development, documentation establishing the lot owners association shall include the following standards.

1. Wooded Buffers.

Maintenance provisions for wooded buffers shall provide for either of the following two options.

- a. No Disturbance.

Maintenance and use provisions for wooded buffer areas which are located on hydrologic soil group D soils and within 250 feet of the Great Pond or a tributary, or which are located on slopes over 20 percent shall include the following:

1. Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
1. All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the Great Pond or tributary and shall remain stabilized.

3. Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
4. No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
5. Buffers shall not be used for all-terrain vehicle or vehicular line to the Great Pond or tributary and shall remain stabilized.
6. Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
7. No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
8. Buffers shall not be used for all-terrain vehicle or vehicular traffic.
9. Limited disturbance.

Maintenance and use provisions for other buffer areas may include the following:

1. There shall be no cleared openings and an evenly distributed stand of trees and other vegetation shall be maintained.
2. Activity within the buffer shall be conducted so as to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
3. Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the Great Pond or a tributary. The path must remain stabilized.
4. Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
5. Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening being created, those openings shall be replanted with native trees at least three feet in height unless existing new tree growth is present.
6. Buffers shall not be used for all terrain vehicle or vehicular traffic.

2. Non-Wooded Buffers.

- a. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
- b. A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
- c. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
- d. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

C. Infiltration Systems. Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in "*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*", published by the Maine DEP, revised May, 1990. Requirements for maintenance shall be included in deed restrictions and as notes upon the final recording Plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

D. Wet Ponds. A lot owners association shall be established to maintain wet ponds, unless the City or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual "*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*", published by the Maine DEP, revised May, 1990.

- C. Cutting or removal of vegetation along water bodies shall not increase water temperature, result in shoreline erosion, or sedimentation of water bodies.

## 17. Kennels.

Including Animal Shelters, Boarding Kennels, Breeding Kennels and Rescue Group facilities. This ordinance does not regulate or limit the number of domesticated privately owned household pets.

**Animal Shelter**, “means a facility that houses animals and operates for the purpose of providing stray, abandoned, abuses or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes.” ~~Animal Shelters are not allowed in the R-1, R-2, C-1 & H-1 zones. Animal Shelters are allowed in RC-2, R-3, C-2, I-1 & I-2 zones with site design review and planning board approval.~~ Animal Shelters are allowed in districts as outlined in the Land Use Table with site design review and planning board approval.

**Boarding Kennel**, “means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.” ~~Boarding Kennels are not allowed in the R-1, R-2, C-1 & H-1 zones. Boarding Kennels are allowed in the RC-2, R-3, C-2, I-1 & I-2 zones with site design review and planning board approval.~~ Boarding Kennels are allowed in districts as outlined in the Land Use Table with site design review and planning board approval.

**Breeding Kennel**, “means a location where 5 or more adult female dogs, wolf hybrids or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. Breeding Kennel does not include a kennel licensed by a municipality under Title 7 Section 3923-C when the dogs are kept primarily for hunting, show, training, sledding, competition, field trails or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.” ~~Breeding Kennels are not allowed in the R-1, R-2, C-1, C-2 & H-1 zones. Breeding Kennels are allowed in the RC-2, R-3, I-1 & I-2 zones with site design review and planning board approval.~~ Breeding Kennels are allowed in districts as outlined in the Land Use Table with site design review and planning board approval.

**Rescue Group**, “means an organization or individual that receives animals that have been abandoned, surrendered or removed from an animal facility or that take in homeless dogs or cats and sells, gives or otherwise places the animals in private homes. Rescue group does not include a facility licensed under chapter 723.” ~~Rescue Groups are not allowed in the R-1, R-2, C-1 & H-1 zones. Rescue Groups are allowed in the RC-2, R-3, C-2, I-1 & I-2 zones with site design review and planning board approval.~~ Rescue Groups are allowed in districts as outlined in the Land Use Table with site design review and planning board approval.

All buildings and or structures used as Kennels, Animal Shelters, Boarding Kennels, Breeding Kennels and Rescue Groups shall comply with A. through G. following:

- A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from any residential property line existing at the time of permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times.
- D. Temporary storage containers for any kennel wastes containing or including animal excrement, shall be kept tightly covered at all times.
- E. No owner of animals or operator of a kennel shall allow any animals to create objectionable noise disturbance, odors, or other nuisances.
- F. All other relevant standards of this ordinance shall also be observed.

**Historical Note:** Section 13-700 §17 Kennels was amended by the City Council on February 13, 2012.

## 18. Lots and Density.

- A. There shall be no more than one principal building and its accessory buildings erected on any one lot.

- B. Any lot containing a residential building shall abut on a public street for a distance of not less than 75 feet.
- C. Every lot that is to be offered for sale for development shall be such that any buyer, with or without knowledge of the lots physical characteristics, shall be able to have a principal structure, adequate access, adequate water supply and quality, and adequate sewage disposal on that lot.
- D. Lot dimensions and building setback dimensions shall meet the requirements of the Zoning District in which the development is located. Any lot intended for use as a year round residence shall be connected either to the City sewer system or to an approved subsurface wastewater disposal system. Any residential lot served by an approved subsurface wastewater disposal system shall be a minimum of one acre.
- E. Wherever possible, side lot lines shall be perpendicular to the road.
- F. Depth and width of lots shall be adequate to provide for the off-road service, loading, and parking facilities for vehicles required by the type of use and development.
- G. Corner lots shall be increased in size wherever necessary in order that any structure to be placed thereon shall conform to the minimum front setback line from each road. Any new corner lots should be encouraged to have access onto the road with the least amount of traffic volume or impact.
- H. The division of parcels into lots with more than twice the required minimum lot size required by the Zoning Ordinance should be laid out in such a manner as either to provide for future legal subdivision or to allow the opening of future roads. Deed restrictions and notes on the final recording Plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and require approval from the Planning Board, subject to all applicable federal, state, or local ordinances or regulations, and any conditions placed on the original approval.
- B. If a lot on one side of a stream, road, or other similar barrier fails to meet the minimum requirements for lot size, it should be combined with a lot on the other side of the stream, road, or other similar barrier to meet the minimum lot size requirement.
- C. In areas served by a postal carrier, lots shall be numbered in such a manner so as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the road and odd numbers on the opposite side. Where the proposed development contains the extension of an existing road approved by the Planning Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and City Tax Assessor and their comments considered by the Planning Board.
- K. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A vegetative buffer strip of at least ten (10) feet wide, across which there shall be no right of access, shall be provided along each lot abutting such a traffic artery or other disadvantaged use. *Is this buffer strip adequate?*
- L. All lots must abut a public way, unless an access road meeting the following criteria has been constructed within a deeded right-of-way having a minimum width of fifty (50) feet. The access road shall be constructed to a minimum width of twelve (12) feet if serving one dwelling unit, and eighteen (18) feet if serving two (2) dwelling units. The access road shall contain a minimum depth of eighteen (18) 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 (2) dwelling units. Any access road serving between three (3) and five (5) dwelling units shall meet the "Private" road design and construction standards, but need not be paved. Any access road serving more than five (5) dwelling units shall meet the "Private" road design and construction standards and it shall be paved. All lots shall have adequate right-of-way access for emergency vehicles to enter, turn around, and exit.
- M. Land susceptible to flooding and land not suitable for housing or road development and land which may be hazardous to life, health, or property shall not be accepted as part of a development for residential purposes, but may be used, with the approval of the CEO or Planning Board, for parks, playgrounds, or other open-space uses.
- N. No lots created shall have a lot depth to frontage ratio of greater than 5 to 1.

## 19. Monumentation.

- A. No person, firm, corporation, or other legal entity shall sell or convey any land unless, prior to the conveyance of said land, monuments have been set within each lot sold or conveyed in conformance with this subsection (See: Title 30-A, MRSA, §4406 (2)).

- B. If artificial monuments have not been set at the time of the Final Plan submission, that fact shall be indicated by notation on the Final Plan. Said notation shall also indicate that monuments will be set prior to the sale or conveyance of any lot.
- C. All monuments required by this subsection shall be set along any street, road, way, or parcel to be dedicated to the municipality prior to the acceptance of any street, road, way, or parcel by the municipality.
- D. Monument, monument location, and artificial monument settings shall conform with the requirements of the Maine Board of Licensure for Professional Land Surveyors, latest edition.
- E. Artificial monuments shall be located in a manner and be of sufficient size, composition, and material that:
  - 1. The likelihood of their disturbance is minimal;
  - 2. The monument is capable of being detected with electromagnetic metal detectors;
  - 3. Their life expectancy, under normal circumstances, shall exceed 25 years; and
  - 4. The person who placed the monument can be identified with certainty by inspection of the monument.
- F. Monuments shall be set at all corners and angle points of the property boundaries where the interior angle of the boundaries is 135° or less.

**20. Noise.**

- A. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any activity shall be limited by the time period and land use District listed in the following chart. Sound levels shall be measured at least 4 feet above ground at the property boundary.

**Sound Pressure Level Limits** (Measured in dB (a) scale)

	<u>7 AM - 10 PM</u>	<u>10 PM - 7 AM</u>
Residential Districts	55	45
Commercial Districts	60	50
Industrial Districts	65	50

- B. The levels specified may be exceeded by 10 dBA for a single 15 minute period per day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "*American Standard Specification for General Purpose Sound Level Meters*".
- C. No person shall engage in construction activities, on a site abutting any residential use, between the hours of 10 PM and 7 AM which exceed those limits established for residential Districts. Otherwise the following activities shall be exempt from these regulations:
  - 1. Sounds emanating from construction and maintenance activities conducted between 7 AM - 10 PM.
  - 2. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency activities.
  - 3. Sounds emanating from traffic on public transportation facilities.

**21. Preservation of Natural Features.**

The CEO or Planning Board may require that a proposed development preserve such natural features as trees, streams, water courses, and scenic views. The road and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as practical.

**22. Professional Offices in Residential Districts.**

Professional offices may be permitted in those residential Districts indicated on the Land Use Permit Table and in accordance with the provisions below:

- A. New professional offices shall be located only within existing buildings, in order to retain the essential character of the neighborhood, except as allowed in "E", below.
- B. Parking for professional offices shall be located to the side or rear of the building, and shall be screened from view from all streets and abutting residential properties.

- C. All outdoor lighting shall be directed in such a manner as to avoid "overspill" onto abutting residential properties or glare into the street.
- D. Exterior alterations shall be minimized and shall be similar to the original architectural style of the building.
- E. In special situations where a building is extremely dilapidated and structurally unsound and where reuse is therefore not practicable or economically feasible, or where a building is not judged to be a significant component of the neighborhood's overall architectural and historic character, the Planning Board may approve plans to replace an existing residential building with a proposed new professional office building whose scale and design would be appropriate to the site and to the neighborhood.

**23. Rear Lots.**

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

- A. The right-of-way must be conveyed by deed recorded in the Aroostook County Registry of Deeds, Northern Office to the owner of the rear lot and be a minimum of 50 feet in width.
- B. A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the rear lot.
- C. Except for lots recorded on the effective date of these Ordinances, the right-of-way deed must be recorded in the Aroostook County Registry of Deeds, Northern Office at the time the rear lot is first deeded out as a separate parcel.
- D. Creation of the right-of-way to serve the rear lot shall not create a non-conforming front lot by reducing such lot's required road frontage below the minimum, or, if the front lot is already non-conforming with respect to road frontage, reduce its road frontage at all.
- E. The right-of-way may serve only one single-family dwelling, unless the following provisions are met:
  - 1. If serving two (2) dwelling units the access shall be constructed to a minimum width of eighteen (18) feet. The access shall contain a minimum depth of eighteen (18) inches of bank-run gravel and have drainage ditches and culverts at all appropriate points.
  - 2. Any access serving between three (3) and five (5) dwelling units shall meet the "Private" road design and construction standards, but need not be paved.
  - 3. Any access serving more than five (5) dwelling units shall meet the "Private" road design and construction standards and it shall be paved. All lots shall have adequate right-of-way access for emergency vehicles to enter, turn around, and exit.
- F. If the right-of-way is brought up to standards as set forth in the City's road design and construction standards, further dwellings may be constructed on a rear lot with Planning Board approval, provided all other space and bulk requirements are met for each dwelling. For purposes of such approval, the sale or lease of additional lots or the construction of an additional dwelling or dwellings served by the right-of-way shall be considered in the same manner and under the same restrictions and requirements as if such division or construction were a subdivision.
- G. Each single-family dwelling on a back lot shall be located within an area large enough to hold a circle with a minimum diameter equal to the required road frontage as required for a single-family dwelling in the District.
- H. A lot of record which could otherwise be legally built upon, but which is served by a right-of-way which does not comply, herein, may nevertheless be used for a single-family dwelling with Planning Board approval.

**24. Reservation or Dedication and Maintenance of Usable Open Space and Common Land, Facilities, and Services.**

- A. All usable open space common land, facilities, and property shall be owned by:
  - 1. The owners of the lots or dwelling units by means of a lot-owners association;
  - 2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - 3. The City.

- B. Further subdivision of the common land or usable open space and its use for other than non-commercial recreation agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When usable open space is to be owned by an entity other than the City, there shall be a conservation easement deeded to the City prohibiting future development.
- C. The common land or usable open space shall be shown on the Final Plan with appropriate notations on the Plan to indicate that:
  - 1. It shall not be used for future building lots; and
  - 2. Which portions of the usable open space, if any, may be dedicated for acceptance by the City.
- D. The Final Plan application shall include the following:
  - 1. Covenants for mandatory membership in the lot owners association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - 2. Draft articles of incorporation of the proposed owners association as a non-profit corporation; and
  - 3. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- E. In combination, the documents referenced in paragraph D above shall provide for the following:
  - 1. The homeowners association shall have the responsibility of maintaining the common property or facilities.
  - 2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  - 2. The association shall have the power to place a lien on the property of members who fail pay dues or assessments.
  - 4. The developer or applicant shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board upon request of the lot owners association, applicant, or developer.

**25. Residences Excluded from Industrial Districts.**

Residential uses are specifically excluded from Industrial Districts except for watchman, caretaker, or janitor, or other such use clearly incidental to a lawful industrial use.

**26. Satellite Receiving Dish.**

No satellite receiving dish, greater than 40" in diameter, shall be located within 100 feet of the right-of-way of a public road.