



City of Caribou, Maine

AGENDA Caribou Planning Board Regular Meeting Thursday, April 8, 2021 at 5:30 p.m. Via Zoom

*Municipal Building
25 High Street
Caribou, ME 04736
Telephone (207) 493-3324
Fax (207) 498-3954
www.cariboumaine.org*

The meeting will be broadcast on Cable Channel 1301 and the City's YouTube Channel. Public comments may be submitted prior to the meeting no later than 4:00 pm on Thursday, April 8th to be read during the meeting. Send comments to CEO Ken Murchison at kmurchison@cariboumaine.org or call 493-5967.

- I. Call Meeting to Order
- II. Approval of minutes from the March 11, 2021 Planning Board meeting. Pgs. 2-4
- III. Public Hearing to consider administrative amendments to Chapter 13, Zoning of City Code. Pgs. 5-64
- IV. Discussion and possible action on administrative amendments to Chapter 13, Zoning of City Code.
- V. New Business:
 - a. Discussion on Revisions to Section 13-700.13 Home Occupations. Pgs. 65-71
- VI. Staff Report
 - a. Land Bank Legislation
 - b. Land Use Survey Mapping
 - c. Demolition of 827 Maine Street
 - d. Stream Smart Road Crossing Workshop
 - e. Continued clean-up of Former Birdseye Processing Facility
 - f. Riverfront Redevelopment Committee
- VII. Adjournment



City of Caribou, Maine

*Municipal Building
25 High Street
Caribou, ME 04736
Telephone (207) 493-3324
Fax (207) 498-3954
www.cariboumaine.org*

Caribou Planning Board Meeting Minutes Thursday, March 11, 2021 @ 5:30 pm Via Zoom

Members Present: Dan Bagley, Christine Solman, Amanda Jandreau, Frank McElwain, Drew Ayer, Dave Corriveau and Eric Hitchcock

Others Present: Ken Murchison –CEO/Zoning Administrator, Dennis Marker –City Manager, Denise Lausier –Executive Assistant to the City Manager, Melissa Badahman and Jessica Gagnon.

I. Call Meeting to Order – Meeting was called to order at 5:42 pm. Meeting was held via Zoom.

II. Approval of Minutes from the February 11, 2021 Planning Board Meeting –

Frank McElwain moved to approve the minutes as presented.

Chairman Dan Bagley wanted to clarify one item in the minutes on page 4 to include the Board consensus on waivers. Chairman Bagley also commented a good job was done on the minutes.

Frank McElwain amended his motion to approve the minutes as presented with the requested change; seconded by Dave Corriveau.

Roll call vote.

Frank – Yes; Amanda – Yes; Christine – Yes; Eric – Yes; Drew – Yes; Dave – Yes

Motion carried with all in favor.

III. Public Hearing to hear comments regarding a Zoning Change request from the property owners at 467 and 473 Sweden Street and related area from R-1 (High Density Residential District) to R-3 (Rural Residential District) and possible action –

Chairman Bagley opened the Public Hearing at 5:47 pm and introduced this item.

CEO Ken Murchison received comments from abutters in the neighborhood and read them into the record.

Brian and Karen Pelletier, 468 Sweden Street – Curious about the rezoning process but not opposed to the proposed rezoning

Nancy Beaver on behalf of Edwina Wright, 443 Sweden Street – Edwina Wright no longer owns the property and offers no opinion either for or against rezoning.

Ronnie Moir, 411 Brown Road – Farms extensively in this area and has no issues with the rezoning of the properties in question.

Brian and Judy Corrow, 450 Sweden Street – Wondered about the process for rezoning, have no issues with the rezoning request and have further requested, first verbally and then in writing, for their property to be included in the rezoning effort.

The applicants Melissa Badahman and Jessica Gagnon gave an overview of their request. They would like to rezone the land to farming and have a few small animals. They grew up farming and would like to share this with their children. Their goal is not to distress their neighbors. Others will not see the animals out back. The animals are for pets and production of food. This land was a farming zone years ago.

CEO Murchison stated that staff reviewed this request. Staff concerns was that the City Code doesn't address rezoning well. If rezoning is applied to other properties as well in the area, it won't cause spot zoning. It meets requirements to be in the R-3 zone. Lot sizes are the right size, except four properties that are not an acre that will become existing non-conforming lots. Rezoning is ok with the Comp Plan and Future Land Use Plan.

With no further comments, the Public Hearing was closed at 6:04 pm.

Chairman Bagley had concerns with the non-conforming lots created for a request of rezone for someone's personal use. CEO Murchison commented there will be further restrictions on setbacks and future development of lots. Manager Marker stated that the non-conforming is lot size; will still be residential and they can still use lots as single family uses. Although, financing may be an issue for any future sales of the homes on those lots.

Christine Solman agreed with Chairman Bagley and also has concerns with the changing of the four lots to non-conforming because of a request to rezone for someone's personal use and how it will put the four lots into a real estate issue if they try to sell their property.

Ms. Solman commented that half of the lots are I-2 and would it be possible to not rezone but place the livestock on the I-2 part of the property. Ms. Badahman & Ms. Gagnon stated that they could not use that piece of property; a four wheeler and snowmobile trail goes through there and it's way too far from water & electric for the animals.

Frank McElwain questioned the Corrow's property and why they requested to be a part of the rezone. CEO Murchison stated that they have a tree farm in the rear of their property surrounded by agriculture and that staff recommendation includes that property for rezone.

Amanda Jandreau suggested to rezone the properties that would conform and leave the four properties that would not.

Amanda Jandreau moved to send to City Council a recommendation to rezone Lots 39B, 40 and 41 on Sweden Street from R-1 zone to R-3 zone; seconded by Frank McElwain.

Roll call vote.

Frank – yes; Amanda – yes; Christine – yes; Drew – yes; Eric – yes; Dave – yes
Motion carried with all in favor.

IV. Consider Chapter 13 Revisions, completed to date and possible action –

City Manager Dennis Marker went through all administrative elements in Chapter 13, Zoning Ordinance of City Code. The revisions include the rezoning request criteria. Definitions that were in the Code twice have been cleaned up and it has shortened the Code by thirty pages. Also, there is less conflicting language in the ordinance. The whole package is ready to forward to the City Council. The next components to review and revise will be processes and then standards.

V. New Business:

a. Discussion and possible action on revisions to the Home Occupation Application –

Chairman Bagley reviewed this application with revisions with the Board.

Drew Ayer moved to accept the application as is with revisions; seconded by Frank McElwain.

Roll call vote.

Frank – yes; Amanda – yes; Christine – yes; Drew – yes; Dave – yes; Eric – yes

Motion carried with all in favor.

b. Discussion on revisions to Section 13-700.13 Home Occupations –

Chairman Bagley stated that the Board will revisit this at the next Planning Board meeting.

VI. Staff Report; Ken Murchison, CEO –

a. Land Bank Legislation – Proposed language is in the advisor's office. Legislature is looking at 800 LD's at this point.

b. Land Use Survey Mapping – Not into the urban area yet, looking at every lot.

c. Maine Working Communities Challenge Grant – This is in collaboration with Presque Isle.

d. Meeting with Zoning Board of Appeals – CEO Ken Murchison will be setting up an organizational meeting with the Zoning Board of Appeals, they have not met yet. The Board is made up of Code Officers from the region, the first in the State.

e. Pending Tour of Caribou Senior Housing – CEO Murchison read an email from Carl Soderberg to Assistant Denise Lausier. The Open House has not taken place because of Covid-19, but they are looking forward to the future when they can have the Open House and give a tour of the facility to the City Council and Planning Board.

VII. Adjournment -

Amanda Jandreau moved to adjourn the meeting at 7:06 pm; seconded by Dave Corriveau.

Roll call vote.

Frank – Yes; Amanda – Yes; Drew – Yes; Eric – Yes; Dave – Yes; Christine – Yes

Motion carried with all in favor.

Respectfully Submitted,

Amanda Jandreau
Planning Board Secretary

AJ/dl

ORDINANCE No. XX, 2021 Series

**City of Caribou
County of Aroostook
State of Maine**

An Ordinance Updating Administrative Elements of Title 13 Land Use Ordinance

Short Title: An Ordinance Amending Title 13 Administration

WHEREAS, the City of Caribou is a Local Unit of Government under the State of Maine and is granted home rule authority under Maine Revised Statutes, Title 30-A, §3001; and

WHEREAS, the City of Caribou has adopted Chapter 13, Land Use Ordinances as part of its ordinances and regulations, which outline land use laws and zoning regulations; and

WHEREAS, the Caribou City Planning Board was established to administer Title 13; and

WHEREAS, the Caribou City Planning Board determined that amendments to Title 13 were necessary to address regulatory policy changes resulting from litigation, legislation, current economic conditions, and interpretations of land use regulations; and

WHEREAS, the City Planning Board conducted multiple public meetings and hearings, the latest being conducted March 11, 2021, to receive comments on proposed changes to the regulations, which hearing was preceded by the notification to the general public in accordance with city notification procedures, and

WHEREAS, the City Planning Board has forwarded a positive recommendation to the City Council for the proposed Title 13 revisions.

NOW THEREFORE, the City Council of the City of Caribou, County of Aroostook, State of Maine, pursuant to the requirements of the City of Caribou Charter, Section 2.11, does ordain the following:

Section I. Title 13 Revisions

Title 13 and its related exhibits are hereby amended as indicated in the attached Exhibit A.

Section II. Severability

If any part of this ordinance or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in

the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section III. Posting and Effective Date

This ordinance, being introduced on _____, 2021 and a public hearing being held on _____, 2021 was duly passed by the City Council of the City of Caribou, Maine, this _____ day of _____ 2021. This ordinance shall become effective 14 days after adoption by the Council.

Jody Smith, Mayor

Thomas Ayer, Deputy Mayor

Courtney Boma, Councilor

R. Mark Goughan, Councilor

Doug Morrell, Councilor

Joan Theriault, Councilor

Lou Willey, Councilor

Attest: _____
Danielle Brissette, City Clerk

I. Section 13-100 Legal Status Provisions for the Zoning, Site Design Review, and Subdivision Ordinances is rewritten and adopted as follows:

Section 13-100 Legal Status Provisions for the Zoning, Site Design Review, and Subdivision Ordinances.

1. **Title.** The Zoning Ordinance, Site Design Review Ordinance, and the Subdivision Ordinance collectively shall be known and may be cited as the "Land Use Ordinances of the City of Caribou" or (herein "these Ordinances").
2. **Purposes.** The purposes of these Ordinances are to:
 - A. To provide for the municipal review of development that could impact on the environment and the community;
 - B. Assure the comfort, convenience, health, safety, and general welfare of the residents of Caribou;
 - C. Encourage appropriate use of land throughout the City;
 - D. Promote traffic safety;
 - E. Prevent overcrowding of real estate;
 - F. Prevent development in unsuitable areas;
 - G. Provide an allotment of land area in new developments sufficient for all the requirements of community life;
 - H. Conserve and protect where necessary natural resources and City character;
 - I. Provide for adequate public services and facilities as an integral part of Caribou development;
 - J. Protect archaeological and historic resources, freshwater wetlands, fish spawning grounds, aquatic life, bird and other wildlife habitat, and buildings and lands from flooding and accelerated erosion;
 - K. Conserve shore cover, natural beauty, open space, and visual as well as actual points of access to inland waters;
 - L. Prevent and control water pollution;
 - M. Assure new development meets the goals and conforms to the policies of the Caribou Comprehensive Plan.
 - N. To provide local protection from those particular issues and nuisances which are not governed by State law or regulation;
 - O. To balance the rights of landowners to use their land with the corresponding right of abutting or neighboring landowners to live without undue disturbance from nuisances such as noise, smoke, dust, odor, glare, traffic, stormwater runoff, or the pollution of ground or surface waters;
 - P. To reduce the off-site problems associated with development, thereby decreasing the cost of maintaining or improving municipal services;
 - Q. Provide for an expeditious and efficient process for the review of proposed development; and
 - R. To clarify the criteria of the state Subdivision Law, Title 30-A, MRSA, Sections 4401-4407 et seq.
3. **Authority.** These Ordinances have been adopted in accordance with the provisions of Article VIII-A of the Maine Constitution; the provisions of MRSA Title 30-A, Sections 3001 (Home Rule) and 4401 et seq. (Subdivisions), and the State's Growth Management Law MRSA Title 30-A, §4312 et seq.; as may be amended.

4. **Repeal of Prior Ordinances.** All prior Zoning Ordinances, Site Design Review Criteria/Ordinances, and Subdivision Ordinances/Regulations, except for the Shoreland Zoning Ordinance of Caribou, are repealed as of the effective date.
5. **Effective Date.** These Ordinances shall take effect and be in force from the effective date pursuant to Section 2.12(d) of the Caribou City Charter.
6. **Conflict with Other Laws.** Ordinances shall be interpreted at face value. Whenever the requirements of these Ordinances are at difference with the requirements of any other lawfully adopted rule, regulation, ordinance, or resolution, the most recently adopted provision shall be utilized. If the regulations were adopted at the same time, then the more restrictive or that imposing the higher standards shall govern. If a question should arise as to the interpretation of a regulation, such shall be referred to the Planning Board for consideration who will then make a determination of intent and applicability but shall not waive or modify the regulation without completing processing outlined for amendments in paragraph 9 below.
7. **Severability.** Should any Section (§), subsection (§§), or provision of these Ordinances be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of these Ordinances as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. The municipal officers of the city hereby declare that it would have passed this ordinance on each part, section, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more portions thereof be declared invalid.
8. **Availability.** A certified copy of these Ordinances shall be filed with the City Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of these Ordinances shall be posted.
9. **Amendments**
 - A. **Initiation.** An amendment to these Ordinances may be initiated by the Planning Board, by majority vote of the Board; City Council through a request to the Planning Board; or An individual, through a request to the Planning Board.
 - B. **Procedure.** Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by other than the City Council or the Planning Board, a fee, as set by the City Council in the city's fee schedule, shall accompany the proposal to cover the costs of hearings and advertisements and staff processing time.
 - C. **Process for Adoption of Amendments.**
 1. Within thirty (30) days of receiving an amendment request, the Planning Board shall hold at least one public hearing on the proposed amendment. The first public hearing shall be

preceded by notice in accordance with Section 13-110.5 and include sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes and an indication that a full text is available at the City Clerk's office shall be included in the notice.

2. After receiving public comment, the Board shall, within 60 days make a written recommendation regarding passage of the amendment to the City Council. Such recommendation shall include the original request and any Board recommended changes prior to any action on the amendment by the City Council.
 3. The City Council shall hold a public meeting on the proposed amendment and may conduct a public hearing if desired. Public Hearing notices shall be in accordance with paragraph 1 above.
 4. An amendment must be adopted by the Council by ordinance and shall be effective upon posting of the ordinance in three public places or as otherwise provided in the adoption language.
- D. Repetitive Petitions. No proposed change in these Ordinances which has been unfavorably acted upon by the City Council shall be considered on its merits again by the City Council 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.

II. Section 13-110 Planning Board is created and shall read as follows:

Section 13-110 Planning Board

1. Appointment.

- A. Planning Board members shall be appointed by the City Council and sworn in by the City Clerk or other person authorized to administer oaths.
- B. The Board shall consist of seven (7) members. Neither a municipal officer nor their spouse may be a member of the Board.
- C. The term of each member shall be three (3) years, except the initial appointments which shall be: 1 for one year, 1 for two (2) years, 1 for three (3) years, 1 for four (4) years, and 1 for five (5) years, respectively.
- D. When there is a permanent vacancy declared, the City Council may within sixty (60) days of its occurrence be required to appoint a person to serve for the unexpired term. A vacancy may be declared by the voting members of the Board upon the resignation or death of any member, or when a member ceases to be a voting resident of the City, or when a member fails to attend three (3) consecutive meetings, or fails to attend at least 75 percent of all meetings during the preceding twelve (12) month period. When a vacancy is declared, the Chair of the Board shall immediately so advise the Council in writing. The Board may

recommend to the Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the Council disapproves the recommendation.

- E. Any member can be removed by the City Council in accordance with the Caribou City Charter.
- F. Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

2. **Organization and Rules.**

- A. The voting members of the Board shall elect a Chair, and Deputy Chair, or other officers as needed, from among its members by a majority vote and create and fill such other offices as it may determine at the annual organizational meeting which shall be held on the first regular Planning Board meeting in January, and the election shall follow immediately thereafter. The term of all offices shall be (1) year(s) with eligibility for reelection.
 - 1. The Chair shall preside at all meetings and hearings of the Planning Board. The Chair has the authority to appoint all committees, to call all work sessions and special meetings and to preside over executive sessions.
 - 2. The Board shall keep a record of all documents and proceedings in accordance with Maine Public Records statutes.
 - 3. The CEO or other designated city staff shall be responsible for posting agendas, distribution of notices of meetings and hearings, correspondence of the Board, records management and other duties as may be necessary for the Board to accomplish its duties in accordance with the city charter and state statutes.
 - B. Quorum. No meeting of the Board shall be held without a quorum which shall consist of at least four (4) members. A quorum shall not include anyone who cannot participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary interest, which shall include primary benefit to any member of the person's immediate family, their employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member, by reason of their interest, is placed in a situation of temptation to serve their own personal interest, instead of the public's interest. In the event a quorum is not present at a meeting, the present Board members are authorized to request that the Chair reschedule the meeting to another date and adjourn the meeting.
 - C. Votes. All decisions and recommendations of the Board must receive at least four consenting votes amongst the voting Board members. Board members must be physically present in the meetings to vote. Any question of whether a member shall be disqualified from voting on a particular matter due to a conflict of interest shall be decided by a majority vote of the members, except the member who is being challenged.
3. **Duties and Powers.** The Board shall perform such duties and exercise such powers as are provided by ordinance/regulations and charter and the laws of the State of Maine, to include:
- The responsibility for the directing and overseeing the activity of the comprehensive planning program,

- Reviewing subdivision proposals for consistency with the municipal plan,
- Facilitating the interpretation of land use ordinances,
- Administering and issuing permits pursuant to land use ordinances,
- Projecting a course, through community planning, for the City's future,
- Undertaking duties to conduct community planning activity,
- Conducting a municipal planning program,
- Seeing that all Planning Board members have an obligation to act reasonably and promptly,
- Facilitating and obtaining public participation, awareness, and involvement in the community plan and development review processes.

4. Meeting Organization.

A. Regular Meetings.

1. Regular meetings of the Planning Board will be scheduled during the Annual Meeting. The Board shall hold at least one regular meeting of the Board each month. The meeting shall be at the Caribou Municipal Building or other suitable meeting place. If there is no business scheduled at least seven (7) calendar days before the meeting the Chair, in consultation with the CEO, may cancel the meeting.
2. All meetings shall be open to the public except as provided for executive sessions under Maine Revised Statutes.
3. All comments addressed to the Board shall be made through the Chair.
4. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with or will be in compliance in accordance with established development review procedures.

B. Special Meetings. The Chair may schedule special meetings on 24 hour notice to the Planning Board members, City Manager, CEO, and the media. All regular meeting rules shall apply.

C. Agendas.

1. Meeting agendas shall follow the following format:
 - a. Call to order and determine the presence of a quorum.
 - b. Public Forum
 - c. Public Hearing (if any is scheduled)
 - d. Minutes of the previous meeting and correspondence.
 - e. Old business.
 - f. New business.
 - g. Other.
 - h. Adjournment.
2. Agendas shall be posted in the City Office and delivered to the Board members at least seven (7) days before the meeting.

3. New applications shall be received at the City Office's, Planning and Code Enforcement Office, no later than ten (10) days to the meeting and shall be placed on the next available slot for new applications on the Board's agenda, and the applicant so notified of the date and time. The CEO shall determine whether the application is complete before placing the request on an agenda.

D. Work Sessions.

1. The Chair may, with the approval of the majority of the Board, call work sessions for the purpose of updating the Comprehensive Plan, Subdivision Ordinance, Zoning Ordinances, Planning Board by-laws, and other information work items relating to the Board's Activities, providing that the public is notified. A quorum shall be present to conduct any business.
2. Work sessions are open to the public. The general public shall be barred from addressing the Board, unless a majority of the Board permits the public to speak.
3. No final action on an application may be taken during a work session.

- E. Executive Sessions.** Upon the vote of at least 3/5 of the Board members, present and voting, the Board may call for an Executive Session in accordance with Maine Revised Statutes.

5. Hearings.

- A.** The Board, by majority vote at a regular or special meeting, may schedule a Public Hearing on an application within the time limits established by state law or local ordinance.

- B.** The Board shall provide notice of any public hearing.

1. Notices shall include the date, time, and place of such hearing, the location of the proposed building or lot, and the general nature of the question involved.
2. Notices shall be given at least seven (7) days prior to the hearing to the person making application, the City Council, and the owners of lands abutting the subject property.
3. Notices shall be posted in three (3) prominent locations throughout the City and on the city's website at least seven (7) days prior to the hearing.

- C.** The Board shall omit, as a matter of policy for exclusion, any irrelevant, immaterial, or unduly repetitious evidence presented during a hearing.

- D.** Order of Business at a Public Hearing.

1. The Chair invites any interested parties to sign a potential speaker roster prior to starting the hearing.
2. The Chair calls the hearing to order and then describes or has the CEO describe the purpose of the hearing, the nature of the case, and the general procedures to be followed.

3. The Board decides whether the applicant has sufficient right, title, or interest to appear before the Board.
4. The Board determines whether it has jurisdiction over the application.
5. The Board determines which individuals attending the hearing are interested parties and who have signed in to speak. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing, and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency, or other legal entity for the purpose of the hearing.
6. The Chair gives a statement of the case and incorporates into the record correspondences and reports filed with the Board prior to the hearing. This material shall be available for public inspection at the beginning of the meeting.
7. The applicant is given the opportunity to present their case without interruption.
8. The Board may ask questions of the applicant through the Chair.
9. Interested parties are given the opportunity to present their testimony and pose additional questions for the Board to consider, starting with proponents followed by opponents. The Board may call its own witnesses, such as the CEO.
10. The Chair may allow the applicant to ask questions of the interested parties and Board witnesses directly.
11. The Chair shall give all parties opportunity to refute or rebut 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 closed after all parties have been heard and provided opportunity to refute or rebut statements of interest. If additional time is needed, the hearing may be continued to a later date. If continued, all interested parties shall be notified of the date, time, and place of the continued hearing, and the reasons for the continuance.
14. The Chair may permit persons participating in any hearing pursuant to these by-laws to file written statements with the Board for inclusion in the record after the conclusion of the hearing. Such written statements shall be submitted to the CEO within five business days of the close of the hearing.
15. Board members and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized. The Board may waive any of the above rules upon good cause shown.

6. Decisions.

- A. Decisions by the Board shall be made within the time limits established by state law and local ordinances and regulations.
- B. The final decision on any matter before the Board shall be issued as a written order signed by the Chair. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record. All decisions shall become a part of the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefore, upon all the

material issues of fact, law, or discretion presented and the appropriate order, relief or denial therefore. At a minimum, the record should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable City ordinances, and all applicable City regulations, and those legal documents shall be specifically referenced.

- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a comprehensive plan, if any, and by the findings of the Board in each case.
 - D. Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, their representative or agent within fourteen (14) days of being rendered.
 - E. Decisions of the Board shall be immediately filed in the office of the City Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.
7. **Appeals.** Appeal of a decision of the Planning Board shall be heard by the Board of Appeals as indicated in Section 13-140.

III. Section 13-120 Administration and Enforcement is created and shall read as follows:

Section 13-120 Administration and Enforcement

- 1. **Enforcement Authority.** The Code Enforcement Department or its designees shall administer and enforce these Ordinances. References hereafter to CEO shall include the designated Code Enforcement Officer(s) and any other duly authorized persons acting in official capacity as an enforcer of these codes.
- 2. **Duties of Code Enforcement Department.** The Code Enforcement Department or its designees shall investigate or cause to be investigated any purported violation of these Ordinances; inspect or cause to be inspected all buildings and structures in the course of construction, modification or repair, and to inspect land uses to determine compliance with these Ordinances; and take any action necessary to enforce compliance with these Ordinances.
- 3. **Power of Code Enforcement Department.** To enforce these Ordinances, the Code Enforcement Department or its designees shall have the power to:
 - A. Enter upon any property or premises to ascertain whether this title is being obeyed, if exigent circumstances or probable cause exists including but not limited to conducting inspections, investigating complaints and make reasonably necessary examinations and surveys, including, but not limited to, taking photographs, samples or other physical evidence;
 - B. Obtain a search warrant if the owner, tenant or occupant refuses to allow entry;
 - C. Refer a violation to the police department or other city agent or employee duly authorized by the city administrator to issue citations relative to other life, safety, or health codes;

- D. Stop Work
 - E. Withhold from or deny to the original applicant or current owner of a property any desired land use permits, certificates or other forms of authorization if a violation of these Ordinances exists on the property. Such withholding is permissible regardless of who is responsible for the violation on the property;
 - F. Issue a permit, certificate or other form of authorization to an original applicant or current owner, regardless of who is responsible for an existing violation of these ordinances, subject to correction of the violation;
 - G. Commence administrative enforcement, civil or criminal actions, including but not limited to issuing notices of violation or institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of these Ordinances in the name of the City of Caribou. The city has sole discretion to decide whether to commence an administrative enforcement, civil or criminal case;
 - H. Seek enforcement without prior notice if delay in enforcement would seriously threaten the effective enforcement of this title or pose imminent danger to the public health, safety or welfare;
 - J. Maintain a current file of all pertinent local statutes, ordinances, regulations, codes, and plans relating to land-use regulation;
 - K. Keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected;
 - L. Issue notices, conduct hearings and seek recovery of expenses on behalf of the city in the matter of Dangerous Buildings as provided in MRSA §2851-2859.
4. **Land Use and Building Permits.**
- A. No building or structure shall be erected, altered, enlarged, or moved until applicable permits have been issued by the CEO.
 - B. All applications for permits shall be in accordance with city provided application forms. Applications shall not be reviewed unless accompanied by payment of applicable processing fees as may be established from time to time by the City Council.
 - C. The CEO shall issue the permit only if they find, after proper examination of the application, that the application is complete and the building or structure and its intended use will comply with the provisions of these Ordinances and with all other applicable federal, state, and local rules, laws, regulations, and ordinances.

- D. The CEO shall act upon all applications for a land use permit, building permit or certificate of occupancy within fifteen (15) days after receipt of an application. Notice of refusal to issue the land use permit or certificate of occupancy shall be given to the applicant or their authorized agent in writing within fifteen (15) days of such application stating the reason for refusal. Failure of the CEO to issue a permit or provide written notice of their decision regarding a permit application within thirty (30) days of the date of filing of the application shall constitute refusal of the permit.
- E. Permits shall expire twelve months after issuance if no progress is made on the permitted activity. Permits may be re-issued one time for no additional fee if the request remains the same and there have been no changes to applicable codes. All intended construction and land use as stated in the original permit shall begin within the term of the permit issuance date. Failure to make progress toward a permitted use or intended construction activity within any six-month period may be considered as abandonment of the project and result in revocation of the permit. A permit revocation may also require the permit holder to demolish any improvements if deemed by the CEO to pose a potential threat to public health or safety.
- F. The CEO may revoke a permit after proper notification if it was issued in error or if based on erroneous information.

5. Certificate of Occupancy.

- A. No land use shall be changed in use, nor building or structure hereafter completed until a Certificate of Occupancy has been issued by the CEO, stating that the proposed use complies with applicable provisions of these Ordinances and with all other applicable local rules, laws, regulations, and ordinances. Any person who leases or occupies a building in the City without having a valid Certificate of Occupancy issued by the CEO shall be in violation of these Ordinances and is subject to its penalties.
- B. A Certificate of Occupancy shall be required for the following:
 - 1. The increase in the number of dwelling units in a building.
 - 2. The establishment of any home occupation.
 - 3. A change in a non-conforming use of land or building.
 - 4. The occupancy and use or change of use of vacant land except for agricultural operations.
 - 5. A change in use of an existing building, whether or not alteration is involved.
 - 6. Any construction activity required to have a building permit under MUBEC.
- C. Prior to the issuance of the Certificate of Occupancy, the CEO shall check and determine that all requirements under the applicable provisions of these Ordinances and with all other applicable federal, state, and local rules, laws, regulations, and ordinances have been met.

6. Inspections.

- A. The CEO shall conduct regular on-site inspections during construction of a permitted project to ensure compliance with all applicable laws and conditions attached to permit approvals.

- B. At least 24 hours prior to commencing construction of improvements, the applicant shall notify the CEO in writing of the time when the developer proposes to commence construction of such improvements requiring CEO inspection.
- C. If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the CEO may impose a Stop Work Order for the project and shall provide written notice to the applicant and developer immediately. Work shall recommence only after any Stop Work Order has been lifted. The CEO shall take any steps necessary to preserve the City's rights.
- D. If at any time before or during the construction of the required improvements it appears to be necessary or desirable to the city to modify the improvements, the CEO is authorized to approve minor modifications due to unforeseen circumstances. The CEO shall issue any approval under these Ordinances in writing and shall transmit a copy of the approval amendments to the Planning Board if they were the final approving body for the development. Revised plans shall be filed with the CEO. Major modifications, such as affect property dimensions, density, or increased intensity of use on the site, etc., which would require Planning Board authorization can only be authorized by the Planning Board.

7. Notice of Violations.

- A. If the CEO shall find that any provision of these Ordinances are being violated, the CEO shall notify the property owner and the person responsible for such violations in writing indicating the nature of the violations and ordering the action necessary to correct it and the reasonable timeframe in which the correction must take place. Corrections may include the removal of illegal buildings, structures, additions, materials, or work being done, or any other action authorized by these Ordinances to insure compliance with, or to prevent violation of, their provisions.
- B. The CEO shall maintain any notices of violation as part of the permanent record for the property.
- C. The failure of the CEO to follow the notice procedure set forth within this subsection shall not prevent the City Council from taking any legal action to enforce these Ordinances and to pursue all available legal remedies, including without limitation, injunctive relief, fines, and attorney fees.

8. Violations.

- A. The following shall be considered violations of these Ordinances and shall apply to all developments and properties within the City.
 - 1. Conveying, offering, or agreeing to convey any land in a development which has not been approved by the Planning Board or CEO, whichever is applicable.

2. Grading or construction of roads, grading of lands or lots, construction of buildings, or any utility infrastructure without valid and current local permits as required under these Ordinances. This shall include work by any public utility, water district or sanitary district.
 3. Use or occupancy of land in a manner inconsistent or in violation of these Ordinances, excepting those uses or occupancy which are legal nonconforming.
- B. The City Council, or their authorized agent, may take any steps necessary to preserve the City's rights, such as, but not limited to, entering into an administrative consent agreement for the purpose of eliminating violations of these Ordinances and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use shall result in a threat or hazard to public health and safety or shall result in substantial environmental damage.
8. **Penalties.** Any person, firm, or corporation being the owner, authorized agent, contractor, or having control or use of any structure or premises who violates any of the provisions of these Ordinances shall, after proper notice and reasonable cure period, be guilty of a Class E misdemeanor and upon conviction thereof shall be punished by a fine as stipulated in the Maine State Code, by imprisonment as stipulated in the Maine State Code, or by both such fine and imprisonment. Each day such a violation is permitted to exist after the reasonable cure period shall constitute a separate offense. Fines shall be payable to the "City of Caribou".

IV. Section 13-130 Board of Appeals is created and shall read as follows:

Section 13-130 Board of Appeals

1. **Establishment and Administration.** The Board of Appeals is hereby established in accordance with Title 30-A Section 2691. The word "Board," when used in this Section, shall be construed to mean the Board of Appeals. The Board use shall consist of five (5) members of qualified persons with legal, certifications in zoning, or other applicable qualifications to hear administrative appeals. Appointment to the Board shall be by the City Council for an indefinite period of time providing the qualification of appointment remains. Board members may be removed by the City Council in accordance with the Caribou City Charter. The members of the Board shall receive a fee of \$25 per meeting or appeals plus mileage as set annually by the City Council for their services while under appointment. Absence of a member from three (3) consecutive meetings without written explanation shall be construed to be a resignation from the Board and shall require filling of the vacancy by action by the City Council. A vacancy shall be filled for the unexpired term only. Neither a municipal officer nor his/her spouse may be a member of the Board.
2. **Authorities and Power of the Board of Appeals.** The Board of Appeals shall have the following powers:

A. Administrative Appeals:

1. To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and
 2. to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- B. Variances: To authorize variances upon appeal, within the limitations set forth in this Ordinance. This does not include any application fees set by the City Council or regulations imposed by other governmental agencies nor building codes.

3. Meetings

- A. The regular meeting of the Board shall be held as necessary.
- B. Special meetings of the Board may be called by the Caribou Code Enforcement Officer or City Manager. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the Planning Board, City Manager and the Code Enforcement Officer.
- C. The order of business at regular meetings of the Board shall be as follows: (a) roll call; (b) reading and approval of the minutes of the preceding meeting; (c) action on held cases; (d) public hearing (when scheduled); (e) other business; (f) adjournment.
- D. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive sessions except as permitted by the Freedom of Information Act.
- E. All meetings will be conducted under Robert's Rule.
- F. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date. A quorum shall consist of three (3) members of the Board

V. Section 13-140 Appeals and Variances is created and shall read as follows:

1. Making an Appeal

- A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- B. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - 1. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - 2. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- C. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from. Each appeal shall be accompanied by a review fee as set in the city fee schedule adopted by the City Council. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance.
- D. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

2. Procedure on Appeal

- A. At least fourteen (14) days prior to the date of the hearing on such appeal, the Board of Appeals shall cause to be posted in three (3) prominent locations in the City a notice which includes:
 - 1. The name of the person appealing.
 - 2. A brief description of the property involved.
 - 3. A brief description of the decision appealed from, or the nature of the appeal.
 - 4. The time and place of the Board of Appeal's hearing.
- B. At least ten (10) days prior to the date set for hearing, the Board of Appeals shall also cause the CEO or designee to give similar written notice to:
 - 1. All abutting property owners of record whose properties lie within 200 feet of the affected property.
 - 2. The person making the appeal, and
 - 3. The Planning Board, the CEO, and any other parties of record.
- C. Upon notification of the granting of an appeal by the Board of Appeals, the Planning Board or CEO shall immediately issue a permit in accordance with the conditions of the approval, unless the applicant's proposal requires additional review.

- D. Appeals may be taken within forty-five (45) days from any decision of the Board of Appeals to the Superior Court.
 - E. A second appeal of a similar nature shall not be heard by the Board of Appeals within one year from the date of denial of the first appeal. However, re-appeal may be made to the Board if substantial new evidence shall be found or an error or mistake in law or misunderstanding of fact shall have been found.
3. **Stay of Proceedings.** An appeal stays all legal proceedings related to the action appealed from unless the CEO or Planning Board, from whom the appeal is taken, certifies to the Board of Appeals, after the notice of appeal has been filed with the CEO or Board of Appeals, that by reason of facts stated in the certificate a stay would, in the CEO's or Board of Appeal's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the CEO or Board of Appeals, if legally authorized by State law or local ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the City Council for prosecution.

4. **Hearing Proceedings**

- A. The Board of Appeals may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
- B. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
- C. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board of Appeals shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing shall continue.
- D. The CEO, or their designee, shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material deemed appropriate for an understanding of the appeal.
- E. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
- F. The record may be kept open after the hearing by order of the Chair until a date established by the order.

5. Standard of Review.

- A. Review of a decision of the CEO. The Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision. The person filing the appeal shall have the burden of proof.
- B. Review of a decision of the Planning Board. The Board of Appeals shall hold an appellate hearing and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding. The person filing the appeal shall have the burden of proof.

6. Decisions by Board of Appeals

- A. Voting. All matters shall be decided by a show of hands vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of those members present and voting, by in no case less than three (3) affirming votes. A vote or by a lesser number than the required majority shall be considered a rejection of the application under consideration. If a member has a conflict of interest, that member shall not be counted by the Board in establishing the quorum for the matter in which he or she has a conflict. Conflicts of interest shall be handled the same as with the Planning Board under Title 13-110.2.
- B. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Planning Board or CEO, or to decide in favor of the applicant on any matter on which it is required to pass under these Ordinances, or to affect any variation in the application of these Ordinances.
- C. The Board of Appeals shall decide all appeals in an open session within thirty (30) days after the hearing and shall issue a written decision on all appeals. The written decision shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief, or denial thereof. Any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, the CEO, and City Council within seven (7) days of the decision date.
- D. The right to relief from the terms of these Ordinances granted by vote of the Board of Appeals in a specific case shall expire if the work or change is not commenced within six (6) months thereafter and if the work or change is not substantially completed within one year.

- E. The Board of Appeals may impose such conditions and safeguards regarding location, character, fencing, screening, landscaping, or other features as it may deem advisable in furthering the intent and purpose of these Ordinances.
 - F. The Board of Appeals, with the advice and assistance of the Planning Board and CEO, shall maintain a current map indicating by means of appropriate symbols, colors, or other notations the locations in which it has taken approving actions.
7. **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s).
- A. The Board may reconsider any decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its prior decision. The Board may conduct additional hearings and receive and review additional evidence and testimony. Reconsideration should be for one of the following reasons:
 - 1. The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - 2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.
 - B. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.
8. **Variances.** The Board of Appeals shall have the power to hear and decide upon appeal a variation from the requirements of the Zoning Ordinance not in contradiction to the public interest in respect to a parcel of land or to an existing building thereon, where a literal enforcement of the Ordinance would result in undue hardship.

Variances may be permitted only under the following conditions:

- A. Variances are obtainable for height, minimum lot size, frontage, structure size, setbacks and open space requirements.
- B. Variances shall not be granted for uses otherwise forbidden ("NO") in a District indicated on the Caribou zoning Land Use Chart.
- C. The Board must find that all criteria for an undue hardship are met. Undue hardship shall have the same meaning as defined in M.R.S.A Title 30-A, Section 4353, Zoning adjustments.

- D. A disability variance may be granted by the Board of Appeals to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. 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 property with the disability. The Board may 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 on the property. For the purposes of this subsection, a disability shall have the same meaning as a physical or mental handicap under Title 5 MRSA §4553.
- E. The Board of Appeals shall limit any variances granted as strictly as possible in order to preserve the terms, conditions and safeguards of the Ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary, to this end.
- F. For variances within Shoreland Zoning areas
1. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
 2. A copy of all variances granted in Shoreland Areas by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the Board's decision.
- G. If the Board of Appeals grants a variance under this subsection, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of granting, shall be prepared in a recordable form by the Board of Appeals. This certificate must be recorded in the Aroostook County Registry of Deeds, Southern Office by the applicant within ninety (90) days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval shall be the date stated on the written approval.
- H. The Board of Appeals shall notify the Chair of the City Council and the Planning Board in writing of any variance granted under the provisions of the Ordinance.

VI. The following Sections are repealed in their entirety:

- Section 13-800 Administration and Enforcement
- Section 13-810 Appeals
- Section 13-820 Planning Board
- Section 13-830 Board of Appeals
- Section 13-831 Board of Appeals Bylaws Provisions
- Section 13-840 Schedule of Fees, Charges, and Expenses

- Section 13-850 Amendments

VII. Section 13-900 Definitions is amended to read as follows:

Section 13-900 Definitions

1. **Construction of Language.** The following definitions shall apply to the Zoning Ordinance and the Subdivision Ordinance of the City of Caribou. In the interpretation and enforcement of these Ordinances, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance, their ordinarily accepted meaning, or as defined herein. In the case of any difference of meaning or implication between the text of the Ordinance, illustration, or table, the text shall control.
 - A. The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity and their agents.
 - B. The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.
 - C. The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
 - D. The word "CEO" shall mean Code Enforcement Officer.
 - E. The term "Zoning Ordinance" shall mean the Zoning Ordinance of the City of Caribou.
 - F. The term "Subdivision Ordinance" shall mean the Subdivision Ordinance of the City of Caribou
2. **Terms.** The following terms, as defined, shall apply as such throughout the Zoning and Subdivision Ordinances of the City.

Abandoned: The stopping of an activity, use, business, in addition to: actions taken by an owner or representative that removes the major portion of materials, goods, equipment, facilities, or parts thereof necessary for the operation of the activity, use, business. Also contains the element of abandoned and/or change to a less intensive use of the property/structure.

Abattoir: A facility for the slaughtering and processing of animals and the refining of their byproducts.

Abutter: Any person, to include property owner, leasee, or tenant, whose property adjoins or is directly across the road, street, right-of-way, stream, or waterway from the lot under consideration. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration or a party whom the Planning Board determines would be impacted by the proposal.

Accessory Use or Structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. This does not include buildings used as part of an agricultural operation on a Farm. 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.

Affordable Housing: (1) Housing renting for a monthly rent of not more than 30 percent of the total monthly household income of low-income households (defined to be a household earning less than 80 percent of the median annual income adjusted for household size, as determined by the United States Department of Housing and Urban Development); or (2) housing that may be purchased with monthly payments including: principal, interest, taxes, insurance, homeowners association fees, and assessments that do not add up to more than 30 percent of the total monthly household income of low-income households (defined to be a household earning less than 80 percent of the median annual income, adjusted for household size, as determined by the United States Department of Housing and Urban Development)

Agent: Any person having written authorization to act in behalf of a Person.

Aggrieved Party: Any person whose property is directly or indirectly affected by the granting or denial of a land use permit or variance under these Ordinances; any other person or group of persons who have suffered particularized injury as a result of the granting or denial of a land use permit or variance under these Ordinances.

Agriculture: The production, keeping, or maintenance for 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 green house products. Agriculture does include animal husbandry, aquaculture, and the processing of goods carried out pursuant to a home food manufacturing license from the Maine Department of Agriculture, but does not include forest management, timber harvesting, or marijuana related activities. As an accessory use to the principal use of the lot for agriculture, the sale of: produce and products actually grown, raised or processed on the premises; or fresh produce purchased off-site to supplement sales during the growing season, and agriculturally related products, provided that such produce and products do not occupy more than 25 percent of the space devoted to retail sales.

For the purpose of this definition, "agriculturally related products" means items produced under a home food manufacturing license from the Maine Department of Agriculture, such as jams and jellies, honey, cheese and dairy products, homemade baked goods, herbs and spices, ice cream, and maple syrup. The allowed retail sales may be in farm stand or stands in which a total of no more than five hundred (500) square feet are occupied by the sales activity.

For the purpose of this definition, the boarding of farm animals and gardening, are considered to be uses separate from agriculture.

Agricultural Processing and Storage: Establishments engaged in the manufacturing, processing, and/or packaging of foods, dairy products, commercial composting, fertilizer, and storage of such products. This does not include Abattoir operations.

Agricultural Sales and Service: Agriculturally related businesses that supply farm inputs (such as equipment) or are involved in the marketing of farm products (such as wholesalers and retailers). Does not include a farm.

Airport: Property that is maintained for the landing, refueling, and takeoff of aircraft and for the receiving and discharge of persons and cargo traveling by air, to include aviation-related facilities, structures, and property as recognized by the Federal Aviation Administration.

Alteration: Any change, addition, or modification in construction, other than cosmetic or decorative; or any change in the structural members of buildings such as bearing walls, columns, beams, or girders.

Amusement Facility: A building or portion of a building that contains: a) three-or-more coin, card, or token operated amusement machines; b) one or more coin, card, or token operated amusement machines with more than one screen or console, tables, court, course, or activity area that can be played by three or more people simultaneously.

Amusement Park: An Outdoor recreation facility to accommodate seasonal and year-round recreational development in high value resource with access to land attractions, rides, activities, courses and trails.

Animal Husbandry: The breeding, raising, or keeping of livestock, other than customary household pets, for commercial purposes. Animal husbandry does not include a kennel or confined feeding operations.

Animal Rescue Group: An organization or individual that receives domesticated animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes.

Animal Shelter: A facility that houses domesticated animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes or a Rescue Group.

Antenna: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

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

Apartment: A room or group of rooms designed and equipped exclusively for rental use by one family as a habitation and which contains independent living, cooking, sleeping, bathing, and sanitary facilities, but which shares common site features (e.g. parking, landscaping, etc.) with inhabitants of other apartments on the same property. The term does not include recreational vehicles or hotel/motel/inn units.

Applicant: A person applying for land use permit approval. An applicant, owner, and a developer may be one in the same.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species (see Agriculture).

Aquifer: A geological unit in which porous and permeable conditions exist and thus are capable of yielding usable amounts of water.

Aquifer Recharge Area: An area mapped by the Maine Geological Survey or by a licensed geologist that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater.

Area of Special Flood Hazard: The land in the floodplain having a one percent or greater chance of flooding in any given year.

Artificial Monument: A man-made object used to mark and identify the corner or line of property boundaries. Artificial monuments are those in conformance with recognized standards of the Maine Board of Licensure for Professional Land Surveyors.

Assisted Living Facility: A large or small healthcare housing facility, which may include a mental disability facility, nursing care facility, home for the aging, or those facilities which are licensed by the State of Maine Department of Health and Human Services, usually for older adults or the disabled individuals who cannot or choose not to live independently, that includes meals, personal care, and health-related services that are available 24 hours a day. Such facilities encourage a degree of autonomy and independence in residents that is not generally seen in nursing homes, but still support the living of needy adults in a meaningful manner. Residents in an assisted living community generally require custodial care.

Auction Barn: A building, area, or areas within a building used for the public sale of agricultural oriented goods, wares, merchandise, or equipment to the highest bidder. This definition includes the sale of livestock or motor vehicles.

Auction House: A building, area, or areas within a building used for the public sale of goods, wares, merchandise, such as art and antiques to the highest bidder.

Automobile Graveyard: Shall be defined as provided in State regulations, Title 30-A, as it may be amended from time to time.

Automobile Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; over-all painting and undercoating of automobiles.

Automobile Recycling Business: Shall be defined as provided in State regulations, Title 30-A, as it may be amended from time to time.

Automobile (Vehicle) Sales and Service: The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers, recreation vehicles, motorcycles, or similar motorized vehicles, including repair facilities for such vehicles.

Automobile Service Station: A place primarily engaged in the repair or maintenance of motor vehicles, trailers, and similar mechanical equipment, including brake, muffler, tire repair and change, lubrication, tune ups, safety inspections, detailing shops, overhaul or transmission work, but does not include a place that qualifies as an automobile repair garage.

Babysitting: Taking care of a child or children for a short period of time while the parents are away, usually for compensation.

Bar: A commercial establishment or part thereof which is open to the general public and primarily sells and serves intoxicating beverages by the drink for consumption on the premises. Includes taverns, night clubs, private clubs, bottle clubs and similar facilities serving alcoholic liquor.

Base Flood: Means the flood having a one percent change of being equaled or exceeded in any given year, alternately referred to as the 100-year flood.

Base Flood Elevation: An elevation equal to that which reflects the height of the base flood.

Basement: The enclosed area underneath a structure, typically having a masonry floor and walls, which comprise the structure's foundation and is occupiable space.

Bed and Breakfast: Any single family dwelling occupied by a permanent resident, in which transient lodging with a breakfast (full or continental) are provided and offered to the public for compensation and no provision is made for cooking in any of the individual guest rooms. This shall include those properties providing no more than 5 rooms or cottage spaces for lodging.

Boarding Home for Sheltered Care: A non-profit or for-profit boarding home for the sheltered care of up to five persons with a disability, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation. These facilities may be licensed by the state as rehabilitation facilities.

Boarding House: Any residential structure where lodging, with or without meals, is provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provision for cooking in any individual guest room.

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: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Building: Any structure having a roof supported by columns or walls for the sheltering, housing or enclosure of persons, animals, or personal property.

Building Height: The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Campground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles, or other shelters for which a fee is charged.

Campground -Youth Camp: A campground for the accommodation of children or other organized groups for educational or recreational purposes and as further defined in M.R.S.A Title 22, Section 2491. The term is distinct from campground and retreat centers generally and does not include parks for recreational vehicles.

Capital Improvements Program (CIP): A municipality's proposed schedule of future projects listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

Catering Establishment: Any kitchen, commissary, or similar place in which food or drink is prepared for sale or service elsewhere or for food service on the premise during special catered events.

Cemetery: Property used for the interring of the dead.

Certificate of Compliance: A document signed by the CEO stating that a structure is in compliance with all of the provisions of a Floodplain Management Ordinance. This shall include a certificate of occupancy for new construction.

Certificate of Occupancy: A document signed by the CEO stating that a structure is in compliance with all of the provisions of the Zoning Ordinance, Shoreland Zoning Ordinance, Floodplain Management Ordinances, Building Code, and the Subdivision Ordinances of the municipality.

Change of Use: A change from one primary use category in the Land Use Table to another.

Club, Private: Any building or rooms, which serves as a meeting place for an incorporated or unincorporated association for civic, social, cultural, religious, literary, political, recreational, or like activities, operated for the benefit of its members and not for the general public. These establishments may or may not be licensed to distribute alcoholic beverages in accordance with city and state regulations.

Cluster Development: A development designed to maintain or promote the creation of open space by a reduction in dimensional and lot area requirements consistent with city development standards

Code Enforcement Officer (CEO): A person appointed by the City Manager to administer and enforce an ordinance. Reference to the CEO may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Colocation: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial Composting: The processing and sale of more than 1000 cubic yards of compost per year.

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 facility.

Commercial Greenhouse or Garden Center: (see Horticulture)

Commercial Use: Commercial shall include the use of lands, buildings, or structures, other than home occupations, the intent and result of which activity is the production of income from the buying and selling of goods and services, exclusive of rental of residential buildings and dwelling units.

Commercial Rubbish Hauler: Any person engaged in the collection and transportation of solid waste for a fee or other compensation.

Common Open Space: Land within or related to a development, not individually owned, which is designed and intended for the common use or enjoyment of the residents or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the usable open space, such as for outdoor recreation.

Community Center: A building which provides a meeting place for local, non-profit community organizations, groups or individuals on a regular basis

Community Residential Home: (see: Group Home)Community Shelters: A residence providing food, shelter, medical care, legal assistance, personal guidance, and other services to persons who have been victims of domestic violence, including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

Comprehensive Plan: A document or interrelated documents adopted by the municipality's legislative body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Concept Plan: A plan which illustrates intended development on a property including but not limited to public utility connections, roads, access points, signage, lighting, buildings, storm drain areas, grading and parking. Specific plan requirements are available on the city's application forms.

Condominiums: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to MRSA Title 33 Chapter 31. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.

Confined Feeding Operations: Specialized agriculture production enterprises with confined beef cattle, hogs, poultry and egg farms and their related structures. Typically, these operations have large animal populations restricted to small areas.

Conforming: A building, structure, use of land, or portion thereof, which complies with all the provisions of an ordinance.

Congregate Housing: Facility with more than five apartments or dwellings with communal dining facilities and services, such as housekeeping, organized social and recreational activities, transportation services, and other support services appropriate for functionally impaired or disabled persons. This includes those facilities which may be licensed by the state as rehabilitation facilities.

Congregate Housing, Elderly: A type of dwelling which is occupied by elderly persons and that provides shared community space and shared dining facilities and normally also provides its residents with housekeeping services, personal care and assistance, transportation assistance, recreational activities, and/or specialized shared services such as medical support services. By "elderly" persons is meant a person 60 years old or older, or a couple that constitutes a household and at least one of whom is 60 years old or older at the time of entry into the facility. By "shared community space" is meant space designed to be used in common for the enjoyment and leisure of residents of the facility, such as, by way of example only, reading rooms, sitting rooms, recreational rooms, rooms for entertaining guests and exercise rooms. By "shared dining facilities" is meant a room or rooms designed for the serving of meals to residents sitting together, plus the kitchen and ancillary facilities required to prepare the meals. An elderly congregate housing development shall include either or both of the following types of residential units:

1. Dwelling units, as defined by this Section; and

2. Residential care units, which do not meet the definition of dwelling unit because they have no cooking facilities within the units, but which normally consist of rooms with sleeping and sanitary facilities.

Additionally, the term "elderly congregate housing" includes specialized facilities that provide long-term residential care, such as those designed specifically for persons with Alzheimer's Disease or other afflictions of the elderly for which specialized care outside of a nursing home may be appropriate. Elderly congregate housing is distinct from "convalescent home or rest home or nursing home," which is defined separately.

Conservation Easement: A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic, or open space values of real property; assuring its availability for agricultural, forest, recreational, or open space use; protecting natural resources; or maintaining air and water quality.

Construction: Includes building, erecting, altering, reconstructing, moving upon, or any other physical operations on a premise which pertain to structures or placing of site improvements.

Construction Trailer: A temporary structure or structures, to include a mobile home, tractor trailer, or similar structure, which is used in conjunction with construction activities and which is used or constructed in such a manner as to permit daily occupancy and/or the storage of equipment and materials.

Convalescent Home, Rest Home, or Nursing Home: (See: Health Care Facility - Residential)

Crawl Space: A space, usually about two (2) feet high, provided under a building in order to enable access to plumbing, wiring, and/or equipment.

Curb Cut: The opening along the curb line or right-of-way line at which point vehicles may enter or leave the road.

Day Care Facility: Any dwelling, building, or portion thereof which day care services are provided including any on-site outdoor play area. Day care facilities shall be further differentiated by the following classifications:

Family Day Care Home: Any premises or dwelling unit other than the child's own home where the child care areas are being used as a family residence, operated for profit or not for profit, in which child day care is provided at any one time on a regular basis to three, four, five, or six children, who are not relatives of the caregiver. Day care service for children in this type of facility is different from "babysitting."

Group Day Care Home: A facility in which care is provided for more than six (6), but less than twelve (12) children, at any one time, where the childcare areas are being used as a family residence.

Day Care Center: A facility which is licensed to provide care for seven (7) or more children at any one time where the childcare areas are not being used as a family residence.

Adult Day Care: A facility in which temporary care is provided for more than three (3), but less than ten (10) adults, at any one time, where the care areas are being used as a family residence.

Deck: An uncovered structure with a floor, elevated above ground level.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details

Deer Wintering Areas: Areas used by deer during the winter for protection from deep snows, cold winds, and low temperatures, as identified by the Maine Department of Inland Fisheries and Wildlife.

Demolition/Waste Disposal: A facility, including a landfill, operated to dispose of useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including by way of an example, and not by limitation to, rubbish, garbage, scrap metals, junk, refuse, inert material, landscape refuse, and demolition debris. The definition does not, however, include commercial hazardous waste disposal facilities or recycling centers as regulated by the state.

Density: The number of dwelling units per acre of land.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets and those lands which may be reserved from future development as part of a development approval.

Developer: A person who is engaging in development or construction on the land. The developer, owner, and the applicant may be one in the same.

Development: Any man-made changes to improved or unimproved real estate, including but not limited to, subdivisions, constructing buildings or other structures, mining, dredging, filling, grading, paving, excavation, changing drainage patterns, or drilling operations.

Dimensional Requirements: Numerical standards relating to spatial relationships, including but not limited to, setback, lot area, shore or road frontage, and height.

Direct Watershed: That portion of the watershed which does not first drain through an upstream lake.

Disability, Physical or Mental: Any disability infirmity, malformation, disfigurement, congenial defect or mental condition caused by bodily injury, accident, addiction, disease, birth defect, environmental conditions or illness, and includes the physical or mental condition of a person that constitutes a substantial disability as determined by a physician or, in the case of mental disability, by a psychiatrist or psychologist, as well as any other health or sensory impairment that requires special education, vocational rehabilitation, or related services.

Drive-Up Facility: An establishment that, by design of physical facilities or by service, encourages customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises while remaining in the vehicle. Such as, but not limited to, Automated Teller Machines (ATMs).

Driveway: A vehicular access-way serving a single property from a public or commonly held right-of-way.

Driveway, Common: A vehicle access-way serving more than one property from a public or commonly held right-of-way. These generally require shared use agreements or easements.

Drug Free Safe Zones: “Drug Free Safe Zones” in Caribou Code Section 8-105 are all public athletic fields, parks, playgrounds and recreation facilities under the jurisdiction of the City of Caribou shall be designated as Drug-Free Safe Zones in accordance with the State of Maine Title 17-A §1101(23). Any subject apprehended dealing drugs within 1,000 feet of any designated Drug Free Safe Zone shall be subject to enhanced penalties (17-A MRSA Chapter 45).

Dwelling: A building designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes and manufactured housing, but not recreational vehicles.

Accessory Dwelling: A smaller, independent dwelling unit on the same lot as a single-family dwelling or commercial establishment. These may be incorporated within, attached to or separate from the primary structure in accordance with the city’s standards.

Farm Employees: Buildings or mobile homes located on land owned by the laborer’s employer, inhabited solely by persons and their families while employed in agricultural activities on land owned by the laborer’s employer.

Single-Family: A building containing only one (1) dwelling unit for occupation by not more than one (1) family.



Figure 1: Example Duplex or Twin-home design

Two-Family (Duplex): A building containing only two (2) dwelling units, for occupation by not more than two (2) families and constructed on a single lot. This does not include a single-family home with an accessory dwelling.

Twin-home: A building containing only two (2) dwelling units, for occupation by not more than two (2) families which is constructed with a party wall over two separate lots.



Figure 2: Example 5-unit Townhome

Townhome: A building containing three (3) or more dwelling units, such building being designed for residential use and occupancy with each dwelling unit occupying a separately identified and owned footprint but which share a common wall with one or more of the adjacent units.

Multi-Family: A building containing three (3) or more dwelling units, such building being designed for residential use and occupancy by three (3) or more families living independently of one another; with the number of families not exceeding the number of dwelling units and the building being owned by one person or entity.

Dwelling Unit: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, eating, and sanitary facilities. The term includes mobile homes, but not recreational vehicles or hotel/motel/inn units.

Emergency Operations: Operations conducted for the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

Subsurface Wastewater Disposal System: Any subsurface wastewater disposal system regulated by the State of Maine Subsurface Wastewater Disposal Rules.

Excursion Service: A water-borne transport service established to ferry tourists and other persons non-resident to the place of destination. This term shall also include sight-seeing and other recreational river cruises where there may not be a specific point of destination.

Expansion: An increase in the floor area or volume of a 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 business operating season; the addition of hours to a business day; the use of more floor area or ground area to a particular use; and intensifying of a use with a space (e.g. the provision of additional seats or seating capacity, adding dwelling units, etc.).

Exterior Walls: A wall, bearing or non-bearing, that is used as an enclosing wall for a building, other than a fire wall, and that has a slope of 60 degrees or greater with the horizontal plane.

Family: One or more persons occupying a premise and living as a single housekeeping unit.

Farm: Any place that has, or has the potential to produce, one thousand dollars (\$1,000.00) or more in annual gross sales of farm products via cultivating of soil, managing croplands, producing and harvesting crops, and/or raising or breeding of livestock.

Farm Animal: Animals other than household pets that may, where permitted, be kept and maintained for commercial production and sale or family food production, education or recreation, including, but not limited to chickens, pigs, sheep, goats, horses, cattle, donkey and mules.

Farm Animals – Boarding: (See Stables, Commercial)

Farm Market: A consortium of three (3) or more individual produce growers, and/or manufacturers of agriculturally related products who meet on a regular basis at a central location within a structure or open area to sell farm produce.

Farm Stand: A detached structure designed, arranged, or used for the display and sale of agricultural products primarily grown or produced on the premises upon which the stand is located. A farm stand may also include a premise that the products are not grown upon, provided such premise is owned by the operator (e.g. a farmer's separate field).

Fence: Any artificially constructed barrier of any material, or combination thereof, erected to enclose or screen areas of land. To further distinguish types of fences: (a) a boundary fence encloses a parcel of property; and (b) a privacy fence blocks part or all of the property from the view of the neighbors. Privacy fences may be solid and taller than other types of fences. For the purposes of these ordinances, a fence is not an accessory structure.

Filling: Depositing or dumping any matter on or into the ground or water.

Final Plan: The final drawings on which the applicant's plan of development, consistent with city standards and application submittal requirements, is presented for approval. (See: Recording Plan)

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

Flea Market: The sale of used merchandise customarily involving tables or space leased or rented to vendors.

Floating Slab: A reinforced concrete slab which is designed to withstand pressures both from below and above.

Flood Insurance Rate Map: The official map on which the Dept. of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones.

Floodplain: The lands adjacent to a body of water or water course which have been or may be covered by the base flood.

Floodplain Soils: The following soil series as described and identified in the Soil Survey for Aroostook County, Maine: Alluvial, Hadley, Medomak, Winooski

Floodproofing: A combination of structural and non-structural provisions, changes, or adjustments to properties, water and sanitary facilities, structures, and contents of buildings that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area, Gross: The areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls. In Shoreland Areas, this shall also include the horizontal area of any attached, unenclosed portions of a structure such as porches and decks.

Floor Area Ratio: A ratio derived by dividing the gross floor area of a building by the area of the lot.

Forest Management Activities: 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 or taller. (6 meters = 19.865 feet).

Forestry: The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

Foundation: The supporting substructure of a building or other structure, including, but not limited to, basements, slabs, sills, posts, or frostwalls (See: Permanent Foundation).

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. 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; and
2. Not considered part of a great pond, river, stream, or brook.

Frontage: The uninterrupted linear or curvilinear extent of a lot measured along the public or private street right-of-way from the intersection of one side lot line to the intersection of the other side lot line.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at the normal high water line.

Frost Wall: A masonry foundation wall extending below the ground surface, supported by footings located below the frost line to protect structures from frost heaves.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, retail and wholesale fish marketing facilities, waterfront dock and facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site.

Garage: An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles.

Gardening: Agriculture activities to derive fruits and vegetables on a limited scale for household consumption but does not involve farm animals.

Gasoline Service Station: (See: Automobile Service Station)

Golf Course: A facility other than a miniature golf course for the playing of golf at which there may be a clubhouse. A golf course may provide additional services customarily furnished such as related retail sales, restaurant, lounge, and event space if approved as a part of the required use permit.

Golf Course, Miniature: A novelty version of golf played with a putter and a golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Governmental Facility: A building(s), structure(s), and other related facility(ies) or sites intended to provide functions or services, other than housing, normally provided by governmental entities.

Gravel Pit: (See: Mineral Extraction)

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres.

Grocery Store: Stores where most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care

products, and which are substantially larger and carry a broader range of merchandise than convenience stores.

Group Home: A housing facility licensed to serve clients of the State of Maine human services agency and that provides a living environment for up to five unrelated residents who operate as the functional equivalent of a family, including supervision and care by supportive staff.

Guest House: (See: Inn)

Hazardous Waste: A waste substance or material, in any physical state, designated as hazardous by the MDEP Board under MRSA 38, §1303-A. The fact that a hazardous waste or part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Health Care Facility: A hospital, psychiatric hospital, nursing facility, kidney disease treatment center including a freestanding hemodialysis facility, rehabilitation facility, clinics, ambulatory surgical facility, independent radiological service center, independent cardiac catheterization center or cancer treatment center.

Health Care Facility (Large): A Health Care Facility with capacity for more than 5 patients per hour.

Health Care Facility (Small): A Health Care facility with capacity for no more than 5 patients per hour. This does not include private health care practitioner offices as regulated by the state.

Health Care Facility - Residential: Residence usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such recreational, social, and cultural activities, financial services, and transportation. This shall include licensed nursing homes, assisted living facilities, hospice or other supported living arrangements certified by the state.

Height of a Structure: (See: Building Height)

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the national Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to the subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

High Water Elevation: (See: Normal High-Water Line of Waters)

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

Historic Site/Structure: Means any land, site, or structure that is: (1.) Listed individually in the National Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (2.) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical

significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; (3.) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (4.) Individually listed on a city inventory of historic places.

Home Occupation: An occupation or profession which is conducted on a dwelling site or in the associated dwelling unit by a member of the family permanently residing in the unit, for financial gain and which is clearly incidental to and compatible with the primarily residential use of the property and surrounding residential uses.

Homeowners Association: A community association which is organized in a residential development in which individual owners share common interests in open space and/or facilities.

Horticulture: The cultivation of fruits, vegetables, flowers, and plants, including orchards, commercial greenhouses and nurseries, and landscaping services.

Hospital: (See: Health Care Facility)

Hotel: A building in which lodging or meals and lodging are offered to the general public for compensation and in which ingress and egress to and from the rooms are made primarily through an inside lobby or office.

Household Pet: Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds, domestic rabbits, domestic tropical fish, and rodents.

Impervious Surface: For the purpose of these Ordinances, impervious surfaces include buildings, structures, paved, and compacted gravel surfaces.

Industrial Park or Development: A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Inn: A building which contains a dwelling unit occupied by an owner or resident manager, in which six to ten (10) lodging rooms or lodging rooms and meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other common room. Inn includes such terms as guest house, lodging house, and tourist house.

Junkyard: A yard, field, or other area used as place of storage for:

1. Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture;
2. Discarded, scrap, and junked lumber;
3. Old or scrap cooper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or non-ferrous material, and
4. Garbage dumps, waste dumps, and sanitary landfills.

Kennel - Boarding: 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.

Kennel – Breeding: 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 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.”

Land Use Permit: Any permit or authorization documentation issued by the Community Development. This shall include but not be limited to Building Permits, Subdivision or Site Design Approvals, Sign Permits, etc.

Laundry, Self-Serve: A business that provides home type washing, drying, and/or ironing machines for hire to be used by customers on the premises.

Line of Sight: The unobstructed view of an object, feature, or landscape from a designated vantage point or perspective.

Litter: Any garbage, solid waste, junk, rubbish, refuse, construction debris, demolition debris, and any other waste or materials.

Livestock: Domestic hooved animals kept or raised for use or profit, such as, but not limited to, cattle, horses, sheep, elk, deer, buffalo, goats or pigs, that are typically kept outside of the home.

Lot: A parcel of land created by subdivision processes with close access to public utilities and which meets the minimum standards of the city’s ordinances to be occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by an ordinance, and having frontage upon a public street, right-of-way, or approved private way. Such includes corner lots, interior lots, irregular lots, cul-de-sac lots and flag lots (see Figure 1).

Lot Area: The land area enclosed within the legally described boundary lines of the lot or parcel

Lot, Buildable Area: The largest, contiguous land area on a lot or parcel that is within required setbacks, not encumbered by construction limiting easements, subject to environmental or aquatic regulatory constraints, nor exceeding 30% slopes.

Lot, Corner: A lot with at least two (2) contiguous sides abutting upon a street or right of way.

Lot, Interior: Any lot abutted on each side by another lot.

Lot Lines: The lines bounding a lot as defined below:

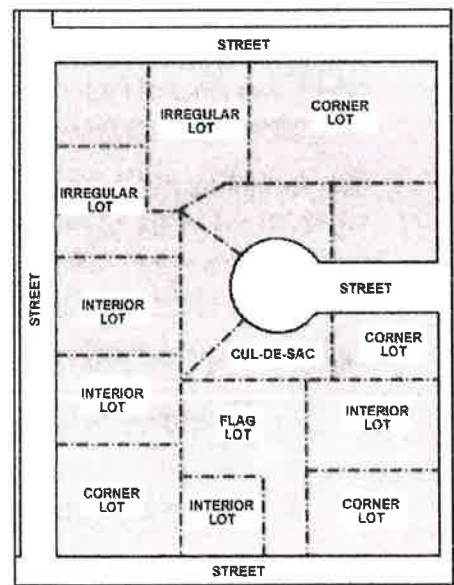


Figure 3: Illustration of various lot types

Front Lot Line: On an interior lot, the lot line abutting the street or right-of-way; or, on a corner lot each lot line abutting the street or right-of-way; or, on a through lot, the lot line abutting the street providing primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained.

Rear Lot Line: The lot line opposite the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. See Figure 2.

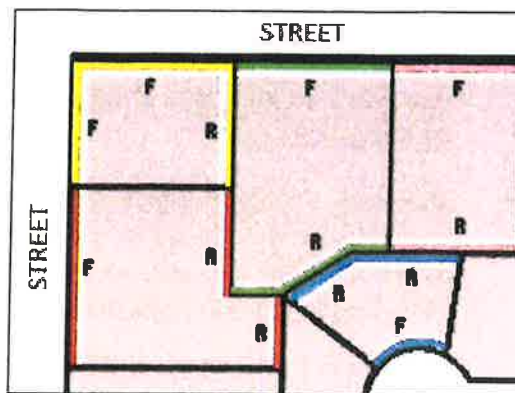


Figure 4: Illustration of relative front and rear lot lines for different lot types.

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

Lot of Record: A legally created parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file in the Aroostook County Registry of Deeds.

Lot, Shorefront: Any lot or parcel abutting a body of water or watercourse which is protected under state shoreland regulations.

Lot, Through: Any interior lot having frontages on two (2) or more parallel roads or rights of way, or lying between a road and a body of water, or a right of way and a body of water, or between two (2) bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to roads, rights-of-way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

Manufacturing: The mechanical or chemical transformation of material or substance into new products, either finished or semi-finished for use as raw material in another process, and including the assembling of component parts, the manufacturing of products, and the blending of materials. The term also includes repair services, exclusive of motor vehicles, where such services are performed in a facility larger than a Tradesman's Shop, as defined within this Section.

Manufacturing – Heavy: An establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. This term includes but is not limited to: (a) processing and packaging facilities; (b) chemical manufacturing; (c) stonework or concrete product manufacturing; (d) fabrication of metal products; (e) manufacturing of agricultural, construction, or mining machinery; (f) motor vehicle manufacturing; (g) lumber milling; (h) ship or boat construction (i) permanent concrete/batch plant, but does not include Agriculture Processing and Storage operations.

Manufacturing – Light: The manufacturing, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, provided all manufacturing activities are contained entirely within a building and noise, odor, smoke, heat, glare, and vibration resulting from the manufacturing activity are confined entirely within the building.

Marijuana: The dried leaves and flowering tops of the pistillate hemp plant that yield THC (tetrahydrocannabinol) and as defined within Title 17-A M.R. S. A. Section 1101 (1).

Marijuana - Cardholder: A person who has been issued and possesses a valid registry identification card.

Marijuana - Caregiver Retail Store: A store that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Marijuana - Enclosed, Locked Facility: A closet, room, greenhouse or other enclosed area equipped with locks and other security devices required by the State and this Ordinance that permits access only by a cardholder or qualified person employed by the related Registered Nonprofit Dispensary.

Marijuana – Manufacturing Facility: A facility or a person authorized to engage in marijuana extraction as provided in state regulations.

Marijuana - Medical use: The acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition as provided in state regulations.

Marijuana - Nonprofit Dispensary: A not-for-profit entity registered under Title 22 MRSA §2428 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana or related supplies and educational materials to cardholders. All ancillary real property structures or mechanisms utilized as a mobile non-profit dispensary to include mobile units, vans, cars, trucks, trailers, motor homes, or other units not specifically set forth, must adhere to and shall be regulated by this ordinance. A nonprofit dispensary is a primary caregiver.

Marijuana - Registered Cultivation Facility: "Registered Cultivation Facility" shall mean any site used for the cultivation of Marijuana whether at the location and a part of a Registered Nonprofit Dispensary or an associated offsite location meeting all State requirements pursuant to the licensing of the Dispensary.

Marijuana - Registered Nonprofit Dispensary: "Registered Nonprofit Dispensary" means a nonprofit dispensary that is registered by the department pursuant to Title 22 MRSA §2428, subsection 2, paragraph A.

Marijuana - Usable: The dried leaves and flowers of the marijuana plant, and any mixture or preparation of those dried leaves and flowers, but does not include the seeds, stalks and roots of the plant and does not include the weight of other ingredients in marijuana prepared for consumption as food.

Masonry-Type Skirting: Concrete, concrete blocks, brick, stone or similar materials which are arranged to resemble a foundation but provide minimal structural support.

Mineral Exploration: The 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 exploration shall not include testing for a quarry.

Mineral Extraction: Any operation which removes 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. Mineral extraction shall not include the term quarry.

Mitigation Area: Property, to include wetlands and uplands, used or reserved for the purpose of avoiding, minimizing, rectifying, reducing over time, or compensating for unavoidable environmental impacts or offsetting environmental losses arising from development of the same or another parcel of property.

Mobile Food Vendor: A mobile vehicle, including a pushcart, designed and constructed to transport, prepare, sell, or serve food at a number of sites and shall be capable of being moved from its site at any time.

Mobile Home: A structural unit designed for occupancy and constructed after June 15, 1976, which is 8 body feet or more in width and 32 feet or more in length; is built on a permanent chassis; is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and includes plumbing, heating, air-conditioning and electrical systems contained in the structure; and the manufacturer certifies it is constructed in compliance with the United States Department of Housing and Urban Development standards.

Mobile Home, Older: A mobile home unit designed for occupancy and constructed before June 15, 1976, which has not been constructed in compliance with the United States Department of Housing and Urban Development standards, transportable in one or more sections, which in the traveling mode is 750 or more square feet, and which 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.

Mobile Home Park: A plot of land designed and/or used to accommodate two (2) or more mobile homes.

Mobile Home Park Lot: The area of land on which an individual mobile home is situated within a mobile home park and which is reserved for use by the occupants of that unit.

Modular Homes: Those units which the manufacturer certifies are constructed in compliance with Title 10, chapter 951, §9001 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

Motel: A building or group of buildings in which lodging is offered to the general public for compensation, and where entrance to rooms is made directly from the outside of the building. Motel includes such terms as tourist cabins and tourist court. Any transient accommodations which does not meet the definitions of Bed and Breakfast, Hotel, or Inn or Vacation Rental shall be deemed to be a motel for the purposes of an ordinance.

Motorized Vehicle: Any mechanically or electrically powered device, not operated on rails, upon which or by which a person or property may be transported on the land. The definition shall

include, but not be limited to: automobile, bus, semi-trailer, tractor, truck, van, motorcycle, snowmobile, and moped.

Museum: A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

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 a limited line of groceries and household items. This may include automotive fueling islands but not repair services.

Net Acreage: The total acreage of a tract or lot available for development as shown on a proposed plan, minus the area for roads or access and the areas which are unsuitable or unusable for development due to restrictions or topography and environmental constraints.

Net Density: The number of dwelling units per net acreage.

New Construction: Structures for which the "start of construction" commenced on or after the effective date of an ordinance.

Nightclub: An establishment primarily for the sale or dispensing of liquor by the drink that also offers entertainment (see Bar).

Non-Conforming Lot of Record: A legal lot or parcel shown on a plan or deed recorded prior to the effective date of an ordinance or amendment which does not meet the area, frontage, width or depth requirements of the District in which it is located.

Non-Conforming Structure: A legal structure which does not meet any one or more of the following requirements; setback, height, materials, design, or lot coverage, but which is allowed solely because it was in lawful existence at the time an ordinance or subsequent amendments took effect.

Non-Conforming Use: (see Use, Legal Nonconforming)

Normal High-Water Line of 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 (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms and maples). In the case of wetlands adjacent to rivers and Great Ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. In places where the shore or bank is of such character that the high water line cannot be easily determined (rock slides, ledges, rapidly eroding, or slumping banks) the normal high water line shall be estimated from places where it can be determined by the above method.

Nursing Home: (See: Health Care Facility - Residential)

100 Year Flood: The flood having a one percent chance of being equaled or exceeded in any given year.

Open Space: Land and water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state or remediated condition.

Ordinance: Any legislative action of the municipality's legislative body which has the force of law, including but not limited to, any amendment or repeal of any ordinance.

Parabolic Antenna: (also known as a satellite dish antenna) An antenna which is bowl-shaped, designed for the reception and/or transmission of radio frequency.

Parcel: (See Tract (Parcel) of Land)

Parking Space: An area on a lot intended for the use of temporary parking of a motorized vehicle.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including campgrounds, commercial recreation, and amusement centers.

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.

Permanent Foundation: A permanent foundation means all of the following:

1. A full, poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
3. A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility;
4. At least 12 inches of compacted gravel;
5. At least 12 inches of crushed stones no larger than one inch in diameter;
6. Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings; and
7. Any foundation, reviewed and approved in writing by the CEO, using advanced technologies.

Permitted (Allowed) Use: A use which is listed as permitted in the various Districts set forth in this ordinance.

Personal Property: Property which is owned, tangible and movable, unlike land and buildings or ownership interests. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Service Business: Establishments primarily engaged in providing services other than those provided by professional offices, but not goods, as exemplified by beauty shops, barber shops, shoe repair, photographic studios, coin-operated laundries, fitness studios, advertising, and similar establishments.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

Pet Grooming: Any place or establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged.

Pharmacy or Medical Supply Store: A business substantially devoted only to the sale of pharmaceutical items, supplies, and equipment such as prescription drugs.

Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line or Within a Wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Planning Board: The Planning Board for the Municipality.

Pond: (See: Water Body)

Poultry: Domestic fowl kept or raised for use or profit, such as but not limited to, ostrich, emu, chickens, ducks, turkeys, geese, pigeons or pheasant that are typically kept outside of the home.

Porch: A one-story roofed structure attached to a residential building with no floor space above and no more than two sides of the porch enclosed by a vertical wall, window, or screened surface.

Preliminary Subdivision Plan: Drawings and supporting information indicating the proposed layout of a subdivision consistent with the city's preliminary application requirements.

Prime Farmland: Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oil-seed crops, and meets all of the criteria established by the US Department of Agriculture.

Principal Structure: The building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use: The main or primary use on any lot or parcel that establishes the basic land use characteristics of the property, as opposed to an accessory use which is wholly incidental or being a minor activity relative to the same premises.

Private Road: A privately owned right-of-way providing access to one or more lots or parcels meeting the municipality's road design and construction standards for a "Private" road.

Professional (Business) Offices: The place of business for small health care facilities, lawyers, accountants, financial advisors, architects, surveyors, psychiatrists, psychologists, counselors, real estate, insurance, and the like or in which a business conducts its administrative, financial, or clerical operations, including financial institutions and other financial services, but not retail sales, personal services, or the use of trucks as part of the business operation.

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 Improvements: The designing, furnishing, installing, connecting, and full construction of right-of-way improvements, storm drainage, public utility facilities or other improvements to be dedicated to or accepted as a public facility or on behalf of a public utility provider as required for a development.

Public Utility: Any person, firm, corporation, municipal department, board, or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation, sanitary sewage disposal, cable, or water to the public.

Public Utility Facility: A communications, electric, gas, cable, water, sewer, or other utility pipe, conduit, transmission line, transformer, reducer, distribution apparatus, or other unoccupied structure necessary for the furnishing of a Public Utility's services.

Quarry: A place where stone is excavated from rock for additional processing or direct sale.

Racetrack: A facility consisting of a paved roadway used primarily for the sport of automobile racing. A racetrack may include seating, concession areas, suites, and parking facilities.

Recent Floodplain Soils: (See: Floodplain Soils)

Reconstructed: The rebuilding of a road or structure in such a manner and to such an extent as to substantially replace it or improve its serviceability.

Recording Plan: The final, city approved site plan or subdivision plans to be recorded at the Aroostook County Registry of Deeds.

Recreation: An activity pursued for leisure in order to refresh the mind or body through forms of play, amusement, or relaxation. Experiences may be active such as boating, fishing and athletic sporting, or may be passive, such as enjoying scenery or observing wildlife.

Recreational Facility: A place designed, constructed, and maintained or equipped for the conduct of recreational activities.

Recreation – Active: Those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include but are not limited to playgrounds, ball courts, golf courses, and swimming pools.

Recreation – Commercial: An indoor or outdoor recreation facility operated as a business and open to the general public for a fee. This may include golf courses, corn mazes, climbing gyms, laser-tag arenas, roller-rinks, etc.

Recreation - Mechanized: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

Recreation – Open space: Lands that may be improved or set aside, dedicated, designated, or reserved for recreational facilities such as swimming pools, play equipment for children, ball fields, court games, picnic tables, etc or passive space such as fields, paved trails, plazas, interpretative areas, etc.

Recreation - Passive: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc.

Recreational Vehicle: A vehicle, or an attachment to a vehicle designed to be towed, designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up coach, travel trailer, camping trailer, dependent RV, self-contained RV, 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 currently registered with the State Division of Motor Vehicles.

Recycling Center - Small: A building and related site that operates as a licensed recycling center under the State in which used materials, such as, but not limited to, newspaper, cardboard, magazines, glass, and metal cans, are separated and processed by hand or with limited motorized equipment contact prior to shipment to others who will use these materials to manufacture new products. These are generally operated in commercial buildings with less than 3,000 s.f.

Recycling Center - Large: A building and related site that operates as a licensed recycling center under the State in which used materials, such as, but not limited to, newspaper, cardboard, magazines, glass, and metal cans, are separated and processed with the aid of motorized equipment such as forklifts, balers, loaders, etc. prior to shipment to others who will use these materials to manufacture new products.

Recycling Collection Point: An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed at the collection point.

Repair: To take necessary action to fix normal damage or storm damage.

Religious Center: A building or buildings owned or maintained by a religious organization(s) for social, civic or philanthropic purposes, and in which persons regularly assemble or frequent for worship or religious instruction with associated clergy. Uses also included are seminaries, monasteries and convents. This definition shall not include temporary tents or structures.

Renewable Energy Facility: Any facility or installation such as a windmill, hydroelectric unit or solar collecting or concentrating array, which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use. Such may be a Public Utility facility or privately owned and operated.

Research, Testing and Development Facility: A laboratory or other facility for carrying on investigation on the natural, physical, or social sciences, or engineering and development of end products as an extension of such investigation. Such a facility does not engage in the manufacture or sale of products, except as incidental to the main purpose of research and investigation.

Residential Use: Any land use which includes a dwelling unit used as a principal use.

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

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 meal which is served in edible or disposable containers.

Drive-In Restaurant: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meal which is served in edible or disposable containers.

Rest Home: (See: Health Care Facility - Residential)

Re-subdivision: The division of an existing subdivision or any change in the Plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved Plan.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods, commodities, or services to the ultimate consumer for direct use or consumption and not for resale. This does not include a caregiver retail store or warehouse retail.

Retreat Center: A facility used for professional, educational, or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing, and recreation for participants during the period of the retreat or program only. Such centers may not be utilized by the general public for meals or overnight accommodations. Housing for participants may be in lodges, dormitories, sleeping cabins (with or without baths), or in such other temporary quarters as may be approved, but kitchen and dining facilities shall be located in a single centrally located building or buildings.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electrical transmission line, oil or gas pipeline, water main, sanitary sewer main, stormwater main, shade trees, or other auxiliary uses, either public or private, on which an irrevocable right-of-passage has been recorded for the use.

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.

Riverine: Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Road: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles, 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. This includes the full width of associated right-of-way not just the paved area intended for vehicular travel.

Runway Protection Zone: A trapezoidally-shaped area centered about the extended runway center line at either end of the runway and beginning beyond the end of the area usable for the takeoff and landing of aircraft where, due to the higher potential for the occurrence of aircraft accidents, land use is necessarily restricted.

Safe Children Zone: Those areas within 1,000 feet of real property comprising a public or private elementary or secondary school or on or within 1,000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A.

Satellite Receiving Dishes: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

Sawmill: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot

Schools:

Public and Private - including Parochial School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfied either of the following requirements:

- a. The school is not operated for a profit or a gainful business; or
- b. The school teaches courses of study which are sufficient to qualify attendance there as in compliance with State compulsory education requirements.

Commercial School: An institutions which is commercial or profit-oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

Preschool: A facility for the organized instruction of children who have not reached the age for enrollment in public schools. May be operated as part of a Day Care Facility in a home or commercial location.

Seasonal Dwelling: A dwelling unit lived in for periods aggregating less than seven (7) months of the year and is not the principal residence of the owner.

Self-Service Storage Facility: A building or group of buildings that consists of individual, small, self-contained units that are leased or owned for the storage of customer's goods or wares. Buildings may have controlled access or be within a fenced compound.

Service Business: (See: Personal Service Business)

Service Drop: Any Public utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles; or

- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

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

Setback from Water: The horizontal distance from the normal high-water line to the nearest part of a structure.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management or which are built in a manner to facilitate common parking areas, storm drain facilities or shared ingress/egress points.

Shoreland Zone: The land area within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; 250 feet of the upland edge of a freshwater wetland except as otherwise provided in M.R.S. Section 438-A, subsection 2; or seventy-five (75) feet of the normal high-water line of a stream; or as may be indicated on the official Shoreland Zoning Map adopted by the city.

Sidewalk Vendor: Any person engaged in the selling, or offering for sale, of food, beverages, merchandise, or services for immediate delivery from a vendor stand or from his or her person that is not located in, or in association with, a building.

Sign: A display surface, fabric or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and containing related elements (e.g. letters, pictures, products, mechanisms or sculptures) constructed, placed or organized to announce, direct attention to or advertise. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign. Signs shall include:

Abandoned: Any sign that advertises a business, lessor, owner, product, service, or activity that is no longer located on the premises where the sign is displayed.

Animated: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

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

Billboard: A sign, structure, or surface which is available for advertising purposes for goods or services rendered at a location other than the premises on which the sign is located.

Canopy: Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.



Figure 5: Example of Canopy Sign

Changeable Copy: A sign or portion thereof on which the message changes more than eight (8) times per day with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. For the purposes of this Ordinance, a sign on which the copy that changes is an electronic or mechanical indication of time or temperature shall be considered a changeable copy sign.

Commemorative: A sign, tablet or plaque commemorating or memorializing a person, event, structure or site.

Construction: A temporary sign providing information about future development or current construction on a site and the parties involved in the project.

Flashing: A sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying degrees of light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off. Signs which indicate the time temperature shall not be considered flashing signs.

Freestanding: Any sign supported by structures or supports that are placed on, or anchored in, the ground and are independent from any building or other structure. These generally exceed 8 feet in height.



Figure 6: Example Freestanding Sign

Government: A sign erected and maintained by or on behalf of the United States, the state, the county, or the city for the purpose of regulating traffic or for civic purposes.

Holiday Decorations: Temporary signage, in the nature of decoration, clearly customary and commonly associated with federal, state, local, or religious holidays and contains no commercial message.

Incidental: A sign pertaining to the safe and efficient movement of pedestrians and vehicular traffic into and out of a building, parking area, and premises.

Illegal: Any sign which does not conform to the regulations of this code as currently adopted or as adopted at the time of construction.

Illuminated: A sign which has characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as part of the sign construction or display. Illumination may be by direct or indirect lighting.

Marquee: Any sign attached to a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Monument: A sign which does not generally exceed eight feet (8') in height which is vertically self-supported by a fixed permanent form or support(s) in the ground.

Non-Conforming Sign: Any sign that does not conform to the requirements of an ordinance.

Official Business Directional Sign (OBDS): A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 MRSA §1901, et. seq. which points the way to public accommodations and facilities or other commercial facilities.

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

Permanent: Any sign which is not temporary by definition. And intended to be displayed for more than sixty (60) consecutive days.

Portable/Temporary Movable: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to "A" or "T" frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from a public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Projecting: Any sign affixed or attached to a building or a wall in such a manner that its leading edge extends more than eighteen (18) inches beyond the surface of the building or wall.

Residential: Any sign located in a residential zoning district for residential uses that contains no commercial message except advertising goods or services legally offered on the premises



Figure 8: Example of a Monument Sign



Figure 9: Example Temporary Signs



Figure 10: Example Projecting Sign

where the sign is located, if offering such service at such location conforms with all requirements.

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

Suspended: A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Wall: Any sign attached parallel to, but within six (6) inches of, a wall, or erected and confined within limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.



Figure 11: Example Wall Sign

Window: Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed within 12-inches of the inside of a window or upon the window panes, or glass and is visible from the exterior of the window.

Sign Area: The area of a sign that is used for display purposes, excluding the minimum frame and supports and as further detailed in the city sign regulations.

Sign Height: The measurement from the top of the copy area to ground directly under or at the base of the sign unless otherwise defined for freestanding signs along highways in the city sign regulations.

Site Plan: A map or graphics prepared to scale depicting the development of a tract of land for commercial, industrial, multi-family or other mix of uses, including but not limited to the location and relationship of the structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, existing and proposed grading, walkways, and other site development information as related to a proposed development and the city's development requirements. This does not include a subdivision plat or subdivision plans although some of the same information may be required.

Site Plan Review: The process whereby the Planning Board or city staff review the site plans and maps of the developer to assure that they meet the stated purposes and standards of the zoning district, provide for the necessary public facilities, and protect and preserve topographical features and adjacent properties through appropriate siting of structures and landscaping.

Sketch Plan: (See Concept Plan.)

Slope, Steep: Slopes exceeding 30 percent for a distance of 50 feet or more and having a vertical rise of more than four feet.

Slope, Unstable: An area susceptible to a landslide, a mudflow, a rockfall or accelerated creep of slope-forming materials due to soil conditions, slope, vegetative cover, hydrology or development impacts.

Solar Power Generation Facility: A power generation facility utilizing photovoltaic cells and semiconductor devices that convert sunlight into direct current electricity for storage, distribution and/or the beneficial use of more than one end user. (see Renewable Energy Generation)

Solid Waste. Useless, unwanted solid materials with insufficient liquid content to be free flowing. Other common words used for solid waste include trash, rubbish, garbage, junk, and refuse. Solid waste includes refuse-derived fuel, but does not include source separated recyclables / compostables, septic tank sludge, or wastewater treatment sludge.

Soup Kitchen: A food service use that provides free prepared meals for consumption on site.

Spot Zoning: A change in district boundaries, variances, and other amendments to the zoning code and permitted use and area maps that violate sound planning principles, disregarding the general plan, impacts to the general city and surrounding properties, and would give privileges not generally extended to property similarly located in the area. Usually the amount of land involved is small, limited to one or two ownerships, and nestled in areas already developed.

Stable, Commercial: A series of stables, barns, paddocks, and/or other shelters and exercising facilities in which large or medium farm animals are fed, exercised and/or cared for on a short or long-term basis and for the use of the occupants for remuneration, hire, sale, boarding, riding, or show. This definition does not include kennels.

Stable, Private: An accessory building in which sheltered animals are kept for the use of the occupants of the premises and not for remuneration, hire, or sale.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams or a perennial stream flowing from a freshwater wetland as described by Maine Revised Statutes, Title 38 Chapter 3.

Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite receiving dishes, but in land areas outside of shoreland areas, signs, sidewalks, patios, driveways, and parking lots are not defined as structures.

Subdivision: See M.R.S. Title 30-A, Chapter 187 Section 4401 as may be amended from time to time.

Subdivision Plan: A site development plan of a subdivision or of a land development, including all required supplementary data, showing the proposed public or private streets, open spaces, utilities, and the lot or site layout as a basis for consideration by the city prior to the preparation of a Subdivision plat.

Subdivision Plat: The final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or lot division.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Expansion: Floorspace increase of 25 percent or new materials or processes not normally associated with the existing use. In shoreland areas, if any portion of a structure is less

than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30 percent or more, during the lifetime of the structure.

Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places of a State Inventory of Historical Places.

Substantial Start/Construction: Completion of 30 percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Wastewater Disposal System: Any system for the disposal of waste or wastewater on or beneath the surface of the earth including, but not limited to 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 Title 38 MRSA §414, any surface wastewater disposal system licensed under Title 38 MRSA §413 Subsection 1-A, or any municipal or quasi-municipal sewer or wastewater treatment system. 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 Title 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.

Swimming Pool: An outdoor man-made receptacle or excavation designed to hold water to a depth of at least 24 inches, primarily for swimming or bathing, whether in the ground or above the ground.

Tattoo Parlor/Body-piercing Studio: Any room or space where tattooing is performed for compensation. Tattooing means a placement in human tissue of any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or any design, letter, scroll, figure, or symbol done by scarring upon or under the skin. This does not include hair or beauty salons where permanent makeup may be provided in accordance with state regulations.

Telecommunications Facility: Any facility, and its accessory uses, equipment and structures, utilized for the broadcast or reception of electro-magnetically transmitted information.

Telecommunications, Co-location: The addition of antennae and equipment of a service provider to a separate provider's permitted telecommunications site with limited expansion of the footprint of the permitted site. Co-location facilities are generally encouraged to limit the proliferation of towers and antennae locations around the community.

Telecommunications, Alternative Design: Artificial trees, clock towers, and similar nontraditional structures that are compatible with the existing setting or structures and camouflage or partially

conceal the presence of antennas or towers. This includes any antenna or antenna array attached to the alternative design structure.

Theater: A facility operated by an entity for the showing of motion pictures or dramatic or musical performances.

Thrift Store: A profit or nonprofit business or organization that engages in or specializes in the sale or resale of previously owned or used goods and merchandise from an area greater than 25 percent of the total floor area devoted to retail sales and whose merchandise is donated or principally donated.

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 the shoreland zone is specifically regulated under M.R.S.A. Title 38.

Tract (Parcel) of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract (parcel) of land unless such road was established by the owner of land on both sides thereof.

Tradesman Shop: An establishment having less than 1200 square feet occupied by a craftsman or a person in a skilled trade, including, by way of example only, plumbing, carpentry, or electrical work. The term also shall include establishments engaged in the repair of electrical goods and appliances, watches, jewelry, equipment, furniture, or other goods, exclusive of motor vehicles, where such services are the primary use and not accessory to another use, such as retail sales. The shop may include workspace, storage space, and office space.

Trail: A route or path, other than a roadway, and related facilities, developed and used primarily for recreational or transportation activities, including but not limited to, hiking, walking, cross-country skiing, snowmobiling, horseback riding, bicycling, and dogsledding.

Travel Trailer: (See: Recreational Vehicle)

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere, nor a lake or great pond and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. The tributary to a great pond is not considered a tributary to the outlet of that great pond.

Trucking/Distribution Terminal: An establishment primarily engaged in furnishing trucking or transfer services with or without storage.

Unbuildable Area: Land which is determined to be unusable or not adaptable to the uses prescribed of the land due to the nature and/or characteristic of the land such as slopes over thirty percent (30%), water coverage or shoreland protections, containment within certain types of easements or otherwise unsuitable for development as determined by the community development department. For the purpose of this code, undevelopable land may be included within a development plan but

may not be included in the calculation of the buildable area of any primary or accessory structure and must remain in its native state.

Upland Edge: The boundary between upland and wetland.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics, and soil conditions can be used for active recreation, horticulture, or agriculture. In order to be considered usable open space, the land must not be; poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10 percent.

Use: The manner in which land or a structure is arranged, designed, or intended, or is occupied.

Use, Change of: The replacement of an existing use by a new use, or a change in the nature of an existing use which necessitates additional parking, storm drain systems, etc. but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

Use, Conditional: A use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the commission and granting of conditional use approval imposing such conditions as necessary to make the use compatible with other uses permitted in the same zone or vicinity. Conditional uses are issued for uses of land and are transferable from one owner of the land to another.

Use, Legal Nonconforming (Grandfathered): Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by an ordinance, but which is allowed to remain solely because it was in lawful existence at the time an ordinance or subsequent amendments took effect.

Use, Mixed: The development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form.

Use, Permitted: A use permitted in a district without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this ordinance. The term further includes a conditional use, as listed for the particular district, provided a conditional use permit is obtained.

Use, Principal: The main or primary purpose for which a structure or lot is designed, arranged, or intended or for which it may be used, occupied, or maintained under this zoning bylaw.

Use, Temporary: A use for a maximum of 180 days that does not involve the construction or alteration of any permanent structure and will terminate automatically upon expiration of a fixed time period.

Used Merchandise Sale: The outdoor sale of used articles, conducted for more than five (5) consecutive days or for more than two (2) weekends per year, and shall require a Temporary Use permit from the CEO. Used Merchandise Sales includes flea markets.

Vacation Rental: A dwelling or portion thereof that is available for use or is used for transient accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.

Variance: A relaxation of the development terms of a zoning ordinance as allowed under state and local statute.

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 above ground level.

Vegetative Buffer: A screen of live plant material that is opaque from the ground to a height of at least six feet, intended to exclude visual contact between uses and to create a strong impression of spatial separation during all seasons of the year. At maturity, the screen shall be considered to be view-obscuring if there are no openings greater than one square foot.

Vested Property Right: The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan for a specified time, regardless of changes in this ordinance.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations. The overnight boarding of healthy animals shall be considered a Commercial Stable as defined elsewhere in this ordinance.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Waiver: (Not to be confused with "variance" which applies only to the Zoning Ordinance.) A relaxation of the terms of the Subdivision Ordinance or Site Design Review Ordinance; to waive submission of information otherwise required by the Ordinance when that information is not necessary in order to make a determination that the standards of the Ordinance and the criteria of the Statute are met. The applicant retains the burden of proof that the standards and criteria are met. The CEO and Planning Board have no power to waive any statutory criteria.

Warehousing/Storage: The storage of goods, wares, and merchandise in a warehouse characterized by extensive warehousing floor area, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production. This does not include self-storage facilities.

Warehouse, Retail: An off-price or wholesale retail/warehouse establishment exceeding 30,000 square feet of gross floor area and offering a limited range of merchandise, serving both wholesale and retail customers.

Wastewater Replacement System: A system intended to replace: (1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or (2.) any existing overboard wastewater discharge.

Wastewater Treatment Plant: A facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.

Water Body: Shall include the following:

Pond or Lake: Any inland impoundment, natural or man-made, which collects and stores surface water.

Stream or River: A free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three (3) months during the year.

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.

Water Treatment Plant: A facility or facilities within a water supply system which can alter the physical, chemical, or bacteriological quality of the water in the system.

Weeds: All grasses, annual plants, and vegetation. Weeds shall not include cultivated flowers, gardens, trees, or shrubs.

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.

Wetland: (See: Freshwater Wetland and Forested Wetland)

Wholesale Business/Sales: The use of land and/or buildings engaged in the selling of merchandise to retailers to industry, commercial, institutional, farm, or professional business users or other wholesalers as distinguished from the sale to the general public.

Wind Energy Conversion System: A machine that converts the kinetic energy in the wind into a usable form (commonly known as a wind turbine or windmill) for the beneficial use of more than one end user (see Renewable Energy Generation).

Yard: The area between a structure and the property boundary which has a minimum width or depth established by setback requirements and intended to be an unbuildable area on a lot except for accessory structures, fencing, patios, etc. as allowed under this ordinance.

Yard Sale: All general sales, open to the public, conducted from or on a premise for the purpose of disposing of personal property. Yard sale includes garage sales, porch sales, tag sales, and the like. They shall occur for not more than five (5) consecutive days or for not more than two (2) weekends a year or they shall be considered a "Used Merchandise Sale" as defined in this Section.

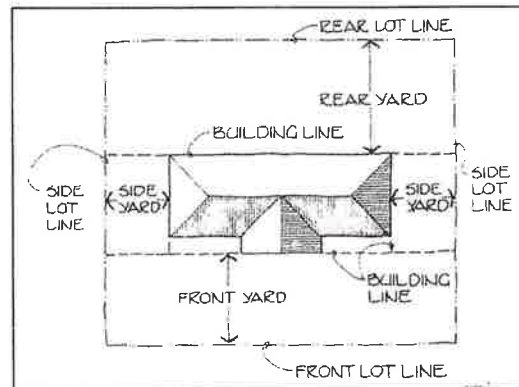


Figure 12: Depiction of typical lot yard areas.

Zone or District: A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of the Zoning Ordinance.

VIII. Section 13-500 paragraph 17. Definitions is amended to read as follows:

17. Shoreland Definitions

In addition to those definitions found in Title 13-900, the following terms shall specifically apply to the regulations of the Shoreland Zoning areas. Any other terms not included herein shall be as found in the state statutes pertinent to shoreland zoning regulations.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

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

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Significant River Segments - See Appendix B or 38 M.R.S.A. section 437.

IX. Section 13-200 Zoning Ordinance is amended as follows (underlined text is added, stricken text is deleted)

Section 13-200 Zoning Ordinance and Land Use Regulations

1. **Title.** This Section shall be known and may be cited as the "Zoning Ordinance of the City of Caribou".
2. **Administration.** The Planning Board of the City of Caribou shall administer this Section.
3. **Applicability.** This section shall apply to all land, buildings, or structures within the boundaries of the City of Caribou.
4. **Intent.** In order to carry the purposes of this title, the City of Caribou is hereby divided into zones with specific development and land use regulations pertinent to such zones as established below.

X. Section 13-201 Applicability of Zoning Review is repealed

XI. Section 13-202 Official Zoning Map is rewritten as follows:

Section 13-202 Official Zoning Map

1. **Official Zoning Map.** Zones are located and bounded as shown on the Official Zoning Map of the City which is hereby declared to be an official record and made a part of this Section. The Official Zoning Map shall be created and maintained electronically by the Caribou Community Development Department with a hard copy being placed in the City Clerk's office, which shall be attested by the City Clerk, and bear the seal of the City under the following words:

"This is to certify that this is the Official Zoning Map of the Zoning Ordinance of the City of Caribou, Maine" Date: _____

The Official Zoning Map in the City Clerk's office shall have a minimum scale no less than 1 inch = 2000 feet. There may for purpose of clarity, necessitated by reasons of scale on the map, be more than one Zoning Map produced, including electronically, for public viewing. Regardless of the existence of purported copies of the official zoning map, which may from time to time be made or published, the official zoning map located in the office of the City Clerk shall be the final authority in determining current zoning status.

The Official Zoning Map shall be reproduced with each official amendment or as needed in the event it becomes damaged, destroyed, lost, or difficult to interpret.

2. **Amendments to the Official Zoning Map.**

- A. If, in accordance with the provisions of Section 13-100 and Title 30 A MRSA §4503, changes are made in Zone boundaries or other matter portrayed on the Official Zoning Map, changes to the map shall be made upon the effective date of the Council ordinance approving the map amendment. The following wording shall be reflected on the Official Zoning Map with each amendment adopted in a calendar year:

" By official action of the City Council, the following change(s) was (were) made: (insert brief description of the general location, acreage affected, nature of change, the ordinance number and effective date)." Immediately beneath the entry the City Clerk shall place their signature.

- B. No changes to Zone boundaries shall be made in the Official Zoning Map except in conformity with the procedures set forth in Section 13-100 and consideration of the information required below. Any unauthorized zone boundary change shall be considered a violation of this Section and punishable as provided for within the Sec. 13-120, "Administration and Enforcement".
- C. Application to Rezone. Property owners desiring to change the zoning classification for property which they own, whether individually or as a part of a larger development project, may make application to the community development department for a hearing to rezone their property. Applications to rezone property shall consist of, but not be limited to, the following:

1. A complete rezoning application with fees paid,
 2. A concept plan depicting the layout, including, but not limited to, roads, parks, trails, and type of development anticipated within each zoning classification being requested. This plan shall also include a density table which reflects the anticipated development with potential number of development units, residential and commercial, and the number of potential units under the current zone standards,
 3. Legal description of the property(ies) proposed to be rezoned along with a map and area calculation for each area to be affected.
 4. Materials for notification to property owners within 300 feet of the area to be affected.
- D. Criteria for Rezoning Consideration. In order to grant an approval for rezoning of property, the Planning Board and City Council must find that:
1. The rezoning conforms to the intent of the City general plan;
 2. The rezoning will provide greater benefit to the community than adverse effects to surrounding properties; and
 3. The rezoning will not cause property, structures, or uses of the property to unnecessarily become nonconforming according to this title.

3. Rules Governing Interpretation of Zone Boundaries

Where uncertainty exists as to the boundaries of Districts as shown on the Official Zoning Map the following rules shall apply.

- A. Boundaries indicated as approximately following the center lines of roads, highways, alleys, railroad rights-of-way, rivers, or streams shall be construed to follow such center lines.
- B. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City limits shall be construed as following such limits.
- D. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.
- E. Sources for the delineation of the Special Flood Hazard areas shall be the Caribou Flood Insurance Map.
- F. Sources for the delineation of the Aquifer Protection District shall be the latest edition of the Maine Geological Survey "Hydrogeologic Data for Significant Sand and Gravel Aquifers".
- G. Boundaries indicated as parallel to or extensions of features indicated in subsections A through D above shall be construed as being parallel to or extensions of such features. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

- H. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or other circumstances not covered by subsections A through G above, the Board of Appeals shall interpret the District boundaries.
- I. Where a tract has a split zoning boundary, other than the boundary to an overlay zone, the following rules shall apply.
 - 1. On lots of two (2) acres or less in area, the lot shall be used as if the entire lot were in the District which comprises the larger portion.
 - 2. On lots larger than two (2) acres, the District regulations shall be followed in each portion.
- J. Where other uncertainty exists, the zoning administrator, or other authorized officer, shall make recommendation to the Planning Board which shall interpret the map. Interpretations shall be made to favor the highest and best use of the property and in accordance with the city's adopted general plan. Interpretations shall be noted on the official zoning map along with the date of interpretation for future reference.

DRAFT Home Occupation Regulations Code Amendment

(New) Section 13-207 Conditional Uses

1. Before authorizing any conditional use, the Planning Board shall make written findings that the proposed use is in compliance with the specific requirements governing individual conditional use, and the applicant has demonstrated ~~reasonable means to that the proposed use~~ meets the following standards:
 - A. The proposed use will not result in significant hazards or adverse impacts to pedestrian or vehicular traffic, on-site or off-site.
 - B. The proposed use will not create or increase any fire hazard.
 - C. The proposed use will provide adequate off-street parking and loading areas.
 - D. The proposed use will not cause water pollution, sedimentation, erosion, or contamination of any water supply.
 - E. The proposed use will not create unhealthy conditions because of smoke, dust or other airborne contaminants.
 - F. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, ~~hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light~~ and air to neighboring properties.
 - G. The proposed use will provide adequate waste disposal systems for all solid and liquid wastes generated by the use.
 - H. ~~The proposed use will not adversely affect the value of adjacent properties.~~
 - I. ~~The proposed use will be compatible with existing uses in the neighborhood, with respect to the generation of noise and hours of operation.~~
 - J. The applicant's proposal must include any special screening or buffering necessary to visually obstruct the subject property from abutting uses or to ensure the continued enjoyment of abutting uses.
 - K. The applicant's proposal must adequately provide for drainage through and for preservation of existing topography within its location, particularly in minimizing any significant change in grade, cut, fill, or paving ~~intended~~.
 - L. ~~The applicant must be found to have adequate financial and technical capacity to satisfy the criteria in this section and to develop and thereafter maintain the proposed project or use in accordance with all applicable requirements.~~
2. Upon review of the above standards, the Planning Board shall outline any specific conditions of approval that are to be imposed and utilized by an applicant to reasonably comply with the above standards. Such list of conditions shall be attached to any permits associated with the applicant's proposed use or operations.

Commented [DB1]: Concern captured with other criteria

Commented [DB2]: Difficult or impossible to assess. Recommend deletion.

Commented [DB3]: This is very similar to F – can they be combined?

Formatted: Normal, Indent: Left: 0.25", No bullets or numbering

Commented [DB4]: I don't know how we would judge this. Recommend delete

Commented [DB5]: These are not really standards for the use, but rather requirements of the application/plan

Section 13-500 Shoreland Zoning Definitions

~~Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.~~

Section 13-900 Definitions

Home Occupation: An occupation or profession ~~which that is customarily~~ conducted ~~for financial gain on a dwelling site or in a the associated~~ dwelling unit by a member of the family ~~permanently~~ residing in the unit, for financial gain and which is clearly incidental to and compatible with the ~~primarily~~ residential use of the property and surrounding residential uses. ~~A home occupation shall not be construed to mean an employee working in his/her home in the service of an employer, whose principal place of business is licensed at another location.~~

(Rewritten as follows) Section 13-700.13 - Home Occupations.

1. *Purpose.* The purposes of this section are to:

- A. Provide an opportunity for home occupations ~~to be conducted~~ as an ~~accessory incidental?~~ Use, when they are compatible with the neighborhoods in which they are located.
- B. Provide an opportunity for a home occupation to engage in the business of child care and other group child activities ~~and encourage this type of home occupation to draw clients/customers from their immediate neighborhood.~~
- C. Guide ~~certain~~ business activities ~~which that~~ are not compatible with neighborhoods to ~~other,~~ ~~more~~ appropriate commercial zones.
- D. Safeguard peace, quiet, and domestic tranquility within all residential neighborhoods. Protect residents from the adverse effects of ~~business uses being conducted in residential areas from of~~ noise, nuisance, traffic, fire hazards, and other possible business uses that create significant impacts on a neighborhood.
- E. Provide a means to ~~enforce and regulate~~ and enforce home occupations ~~if violations of the ordinances occur.~~

Commented [DB6]: The terms "incidental" and "accessory" are co-mingled throughout. Recommend choosing one or the other and using consistently throughout.

Commented [DB7]: Not relevant

Commented [DB8]: Why is this specific use highlighted here? Recommend delete.

Commented [DB9]: This section really doesn't do this. Recommend delete.

2. *Scope.* All home occupations ~~must~~ adhere to the standards and qualifications listed in this section and those imposed under the authority of the Planning Board in accordance with this ordinance.

Commented [DB10]: Recommend capitalizing throughout: "Home Occupation(s)"

3. *Categories of Home Occupation Licenses.* Home occupation businesses are classified as Category I, Permitted Home Occupation, or Category II, Conditional Use Home Occupation. ~~A Category I, Permitted Home Occupation requires review and approval by the Code Enforcement Officer. A Category II, Conditional Use Home Occupation requires review and approval of by the Planning Board.~~

4. *License Permit Required.* All home ~~based business operations~~ occupations shall ~~annually~~ obtain ~~annually~~ a Home Occupation Permit from the Community Development offices.

Commented [DB11]: License is different from permit.

Commented [DB12]: What is this? Do you mean CEO?

5. *Home Occupation Standards.* All home occupations shall comply with the following standards at all times:

- A. *Bona Fide Resident.* The home occupation business shall be owned ~~and operated solely by and~~ and operated solely by ~~and~~ carried on ~~only~~ by a bona fide resident of the home. If the applicant for

a home occupation license rents or leases the property wherein the home occupation is intended to be conducted, the applicant must provide a letter of acknowledgment and consent from the property owner as an attachment to the application for a Home Occupation permit.

B. *Accessory Use on the Property.*

1. For residential purposes, the home occupation shall be clearly secondary and incidental to the primary use of the dwelling unit.
2. The home occupation must maintain or improve the external residential appearance of the principal structure, attached or detached garage, or accessory structure.
3. The home occupation applicant must designate the portion of the home, accessory structure, or attached or detached garage to be used as the location for business activities.
4. The home occupation shall not involve the use of any yard space for storage or display of supplies, inventory, or equipment when such use is in conjunction with the sales, service, or production of goods, unless specifically stored within trailers or accessory structures as allowed herein. Any screened area or structure used for the home occupation must be in either the side or rear yard areas.

- D. ~~Employees.~~ No more than one full-time or full-time equivalent nonresident may be employed, volunteer, or work on the premises where the home occupation business is located.

E. *Business Vehicles and Parking*

1. All business-related vehicles ~~which that~~ park at the location of the home occupation, including those of the applicant and ~~employees,~~ must use off-street parking. This provision excludes stops made by delivery vehicles. Customers or Clients may utilize on-street parking along the home frontage in accordance with street parking standards.
2. Business Vehicles exceeding a GVW of 8,000 lbs, trailers, and related equipment must be stored to the side or rear of the home.

- F. *Signage.* A single sign is permitted, provided such sign is non-illuminated and does not exceed two square feet.

- G. *Conformity with Health and Safety Codes.* ~~There shall be complete conformity~~ The home occupation shall conform with all fire, building, plumbing, electrical, and all other City, County, State, and Federal codes. ~~No process can be used which is hazardous to public health, safety, or welfare.~~

- H. *Neighborhood Disruptions Not Permitted.* The home occupation shall not interfere or disrupt the peace, quiet, and domestic tranquility of the neighborhood. The home occupation shall not create or be associated with, or produce odor, smoke, dust, heat, fumes, light, glare, noises or vibrations, excessive traffic, or other nuisances, including interferences with radio and television reception, or any other adverse effects within the neighborhood.

Commented [DB13]: This contradicts what is stated previously about no yard space.

Commented [DB14]: Missing section "C"

Commented [DB15]: This is not consistent with previous wording, where it has been specified as residents only. I think we should consider keeping the current restriction of residents/family members only, unless there is a compelling reason to expand the criteria

Commented [DB16]: Again, we should avoid allowing employees – the word "employee" has specific legal definition and implications. Would kick in requirements to register with State, which we then would need to monitor and enforce, per section I below

Commented [DB17]: Covered elsewhere

I. *State Licenses.* Any business required to be licensed by the State of Maine, including but not limited to caregivers, day care facilities, food preparation services, etc. must provide the City with proof of current licensure through the appropriate State agency.

6. *Category I Qualifications.* In addition to the standards previously set forth above, all Category I home occupation businesses must also comply with the qualifications outlined below. If a business ~~finds that they are unable to~~ cannot fully comply with all of the Category I Qualifications set forth below, the applicant may pursue possible approval as a Category II home occupation through the conditional use permit process (section 7 below) before submitting application for a Home Occupation Permit.

A. *Hours.* No visitors in conjunction with the home occupation (clients, patrons, employees, volunteers, students, pupils, etc.) shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

B. *Traffic.* Vehicular traffic from business-related visitors and customers shall not exceed that which normally and reasonably occurs for a home in the neighborhood.

1. The home occupation shall be limited to no more than two business-related visitors or customers per hour, ~~to and~~ a maximum of eight business-related visitors or customers per day. Business-related deliveries or pickups shall not exceed two per day.

2. Child day care and other child group activities shall not exceed 16 (sixteen) customer drop-offs/pick-ups per day.

3. The receipt or delivery of merchandise, goods, or supplies for use in a home occupation shall be limited to vehicles with a gross vehicle weight rating (GVWR) of 23,000 pounds or less.

C. *Maximum Floor Space.* No more than 25 percent of the total main floor area or upper living levels of the dwelling unit, nor, in the alternative, more than 50 percent of the total floor area of any basement of the home unit shall be utilized for the home occupation. No businesses can operate outside of the primary residential structure, unless otherwise approved by the Planning Board for outside activities.

D. *Child Day Care and Other Child Group Activities.* ~~This type of home occupation~~ Conduct of Child Day Care and Other Child Group Activities (e.g., dance schools, preschool, music classes, etc.) shall not exceed eight children ~~associated with child day care or other child group activities (e.g., dance schools, preschool, music classes, etc.)~~ at any one time. A maximum of eight students/children are permitted per day. This number shall include the licensee's own children, if they are under six years of age ~~and are under the care of the licensee at the time~~ the home occupation is conducted. Outside activities are permitted in accordance with state operation standards.

E. *Elderly Day Care.* ~~Conduct of Elderly Day Care~~ businesses shall not exceed ~~supervising more than two the care of two~~ elderly persons that are 60 years of age or older for more than 12 hours per day. Any ~~home occupation of this nature which~~ Elderly Day Care that exceeds two individuals 60 years of age or older, or more than 12 hours per day of operation ~~will be~~

Commented [DB18]: This criteria is unclear and should be reworded. Don't we have other rules that limit customers to the main level? What if the business uses both some living area and some basement area? Is this intended to replace the 50% total floor area of the principle dwelling structure?

Commented [DB19]: "at any one time" and "per day" are different. Current wording would limit business to conduct just one ½ hour dance lesson with 8 students per day.

Commented [DB20]: Why the age restriction?

Formatted: Font: Not Italic

considered a Category II home occupation, ~~which~~ and shall be reviewed and approved by the Planning Board.

7. *Category II, Conditional Use Permit Required.* If a home occupation is able to comply with all of the standards in section 5 above but is unable to comply with all of the Category I qualifications established in section 6, the proposed business activities must be reviewed by the Planning Board and granted a conditional use permit before pursuing a Home Occupation Permit. In addition, any application proposing two or more home occupation licenses, and associated with the same dwelling unit, shall be reviewed by the Planning Board, to ensure that the cumulative impacts of the proposed home occupations comply with city ordinances. The following standards or business types shall be reviewed ~~for~~ by the Planning Board for approval.

- A. *General.* In addition to any conditions established by the Planning Commission at the time of its review, all Category II home occupations must comply with the following:

Commented [DB21]: Do you mean "Board?"

1. All Category II home occupation uses shall ~~only~~ be conducted only from property with a single-family dwelling.
2. ~~Proposed Uses are shall be determined to be~~ appropriate as ~~licenseable~~ home occupations only if they are ~~determined-judged~~ to be compatible with residential neighborhoods by the Planning Board after full conditional use review by the Planning Board

3. A maximum of 12 business-related visitors per day may be allowed, except as provided for in section B. "Child Day Care" and C. "Other Group Child Activities."

Formatted: Indent: Left: 0.5"

- B. *Child Day Care.* The following items indicate maximum limits that may be granted by the Planning Board when a child day care is expected to exceed eight children at one time:

Commented [DB22]: Still have the "per day" inconsistency in section 5 to resolve.

1. A maximum of 16 children is permitted at any one time.
2. A maximum of 18 children is permitted per day.
3. These numbers shall include the licensee's and any employees' children if they are under six years of age and are under the care of the licensee at the time the home occupation is conducted.
4. A maximum of 24 vehicular stops per day for child drop-off or pick-up is permitted.

- C. *Child Group Activities.* The following provisions indicate a maximum limit that may be granted by the Planning Board for other child group activities ~~which~~ that are expected to generate or exceed eight children/students (e.g., dance schools, preschools, music classes, other care or instruction for children) at any one time other than child day care:

1. A maximum of 12 students/children per session and a maximum of 24 students/children per day shall be permitted, so long as
 - a. A Traffic Plan that has been reviewed and approved by the Community Development Director, which includes acceptable traffic flow, drop-off, and turn-around areas.

Commented [DB23]: How are we going to monitor and enforce these restrictions?

Commented [DB24]: What is this again? I see you've defined "Community Development Staff" and "DRC" ("Development Review Committee?"), but I'm not sure what "Community Development Director" is.

- b. A maximum of four sessions per day may be permitted.
- c. All sessions combined shall not generate more than 24 vehicular stops per day.
- d. The total number of students/children shall include the licensee's and any employees' children if they are under six years of age and are under the care of the licensee at the time the home occupation is conducted.
- e. No child group activities falling under a Category II home occupation may be established within 300 feet of another group child activity, Category II home occupation use, as measured from property line to property line of another group child activity, Category II home occupation use.

Commented [DB25]: Math doesn't add up. Max 24 students/day x 2 stops/student (pick-up, drop-off) = 48 stops.

Commented [DB26]: I understand the rationale here, but there's a question of fairness. It doesn't quite sit right that we would be denying someone just because someone else got set up before they did.

D. *Business Not Conducted Within a Home.* For Any home occupation which that proposes or conducts business activities within an outbuilding, accessory building, attached or detached garage, the following guidelines shall be used to determine the maximum impacts permitted:

- 1. No more than a maximum of 200 square feet, or, in the alternative, no more than 50 percent of the total floor space (whichever is the greater) of any accessory structure or attached or detached garage may be used for a home occupation, unless there are specific exceptions granted by the Planning Board.
- 2. Any accessory structure used for a home occupation must maintain the architectural aesthetics or compatibility of the home and the immediate neighborhood.

Commented [DB27]: Currently it's 100% of accessory building – why the change? If there's a good reason to change this rule, then we should expand the limits – 200 sq ft or 50% is really restrictive. Also, there shouldn't be any exceptions allowed by the Planning Board, or there should be specific criteria laid out here, under which an exception could be granted.

Commented [DB28]: This shouldn't be in this section. Would be covered in original build permit. This section is only about use.

E. *Dangerous Home Occupations.* Any home occupation using explosives, incendiary products and devices, flammable, or hazardous chemicals.

F. *Home Occupations Generating Excessive Traffic.* Any home occupation which will generate in excess of two customers or visitors per hour or eight per day. A maximum of 12 business-associated visitors per day may be allowed under a conditional use permit, except as provided for child day care and other group child activities.

H. *More Than Two Home Occupation Permits.* Any home where the applicant is seeking more than two home occupation licenses shall be reviewed by the Planning Board to assure the cumulative impacts of Home Occupations comply with city ordinances.

8. *Prohibited Home Occupations.* The following uses, by nature of the occupation, substantially impair the use and value of residentially-zoned areas for residential purposes and are, therefore, prohibited:

- A. Mortuary, crematorium, columbarium, or mausoleum.
- B. Animal hospitals or veterinary service,s except in the R-3 zone with a Category II, Conditional Use Home Occupation Category II pPermit.
- C. Clinic, dental office, medical office, chiropractic office, or hospital, except in the R-3 zone with a Category II Category II, Conditional Use Home Occupation permit.
- D. Junkyard, auto wrecking yard, or salvage yard.

Commented [DB29]: Not even in R-3?

E. Stables, kennels, pet store, or any other commercial animal breeding business or similar activity, except in the R-3 zone with a Category II Category II, Conditional Use Home Occupation Permit.

F. Storage, service, repair, or sales of ambulances, tow trucks, recreational vehicles, watercraft, automobiles, ATVs, or other motorized vehicles.

Commented [DB30]: Not even in R-3?

G. Auto body repair or motor vehicle repair.

Commented [DB31]: R-3?

~~H. Use of specified chemicals, pesticides and flammable/combustible materials, and including any other process or business where current adopted Building and Fire Codes would require an operational permit.~~ H. Home occupations that use explosives, incendiary products and devices, or flammable / hazardous chemicals

I. Home occupations wherein the Number of vehicular stops or visits that would exceeds 24 per day.

Commented [DB32]: See previous comment on 24 vs 48 stops

J. Bed and breakfast facilities. (regulated under separate rules – see <<appropriate section here>>)