

MADAWASKA

Land Use & Development Code



Adopted at the Annual Town Meeting on June 15, 2021

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TOWN OF MADAWASKA
OCTOBER 1976

CHAPTER I **ZONING REGULATIONS**

SECTION I **GENERAL**

A. **PURPOSE**

The purposes of this Code are to promote the general welfare of the Town, to protect the health of its inhabitants, to encourage the most appropriate use of land within the Town, to conserve the value of said land; further, it is designed to fulfill all the purposes of zoning embraced in Maine Revised Statutes.

B. **ESTABLISHMENT OF ZONES**

To implement the provisions of this Code, the Town of Madawaska is hereby divided into the following type of zoning districts.

Rural Farm and Forest	- RF
Low Density Residential	-LDR
Medium Density Residential	-MDR
High Density Residential	-HDR
Resource Protection	-RP
Commercial	-C
Industrial	-I

C. ZONING MAPS

The location and boundaries of the above districts are hereby established as shown on the urban and rural maps entitled "Zoning Map of the Town of Madawaska, dated [REDACTED], prepared by the Madawaska Planning Board, which map with all explanatory matter thereon, shall be deemed to be, and is hereby made part of this Code. When uncertainty exists with respect to district boundaries as shown upon such map, the following rules shall apply:

- 1) Unless otherwise indicated, district boundary lines are the center lines, plotted at the time of adoption of this Code of streets, alleys, parkways, waterways, or separate rights-of-way of public utilities and railroad or such lines extended.
- 2) Other district boundary lines which are not listed in the preceding paragraph shall be considered as lines paralleling a street and at distances from center lines of such streets as indicated by the official zoning map on file in the office of the Town Clerk. In the absence of a written dimension, the graphic scale on the official zoning map shall be used.
- 3) 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 1 or 2 above, the Board of Appeals shall interpret the District boundaries.
- 4) Where a question arises in regard to the limits of the Resource Protection District as it affects an existing or proposed land use, the applicant shall obtain a topographic survey from a registered land surveyor based on the nearest U.S.G.S. benchmarks.

D. CONFORMITY

- 1) No building or structure shall be erected, altered, enlarged, rebuilt, moved or used and no premise shall be used unless in conformity with the provisions of this Code except those existing at the time of adoption of this Code which by the provisions of this chapter become legally nonconforming.

- 2) The regulations specified by this Code for each type of district shall be minimum requirements and shall apply uniformly to each type of district and kind of structure and/or land.
- 3) Land within the right-of-way lines of a street on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the area requirements of this chapter notwithstanding the fact that the fee to such land may run the owner of such lot.
- 4) No part of a yard, or other space, or off-street parking or loading space, about or in connection with any building and required for the purpose of complying with this Code shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as authorized in Chapter II of this Code.
- 5) Where a zoning district boundary line divides a lot, the regulations applicable to the less restricted portion of such lot may extend not more than 50 feet into the more restricted portion.
- 6) In any district, notwithstanding limitations imposed by other sections of this Code, single lots of record, created and recorded as legally buildable lots before the adoption of this Code, may be built upon consistent with the zoning provision of this Code. These provisions shall apply even though such lots fail to meet the minimum requirements for area and/or width, which are applicable in the district, provided that yard dimensions and other requirements, not involving area and/or width, of the lot shall conform to the regulation for the district in which such lot is located. Variance of yard and other requirements not involving area or width shall be obtained only through action of the Board of Appeals.
- 7) In the Resource Protection District, single lots legally created and recorded may have a single-family dwelling unit built thereon provided other spatial standards such as minimum area per dwelling and water setback requirements are maintained.

E.

CONFLICT WITH OTHER ORDINANCES

Where the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

F.

SEPARABILITY

In the event that any section, subsection or any portion of this Code shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Code; to this end, the provisions of this Code are hereby declared to be severable.

G.

AMENDMENTS

This Code may be amended by a majority vote of the registered voters of the Town voting at a regular Town meeting legally warned, called and conducted, provided that a public hearing shall first be held.

SECTION II

NONCONFORMANCE

The lawful use of premises existing at the time of the adoption of this Code may be continued although such use does not conform to the provisions hereof, and such premises may be reconstructed or structurally altered subject to the following regulations:

- 1) A nonconforming use may not be extended, except to a building or portion thereof which is at the time of the adoption of this Code primarily arranged or designed for such nonconforming use.
- 2) An existing nonconforming use may be changed to another nonconforming use provided that the Board of Appeals shall find that the proposed use is equally or more appropriate to the zoning district than the existing nonconforming use.
- 3) Whenever a nonconforming use is changed to a permitted use, such use shall not thereafter revert to nonconforming status notwithstanding any other provisions of this chapter.
- 4) Whenever any change in the exterior character of any nonconforming use is proposed including replacement, partial rebuilding, or enlargement, except for normal maintenance related operations, the Board of Appeals shall review all permit applications. In reviewing all such applications, the Board of Appeals shall use the criteria established herein for the consideration of special exceptions.
- 5) A nonconforming building damaged by fire, explosion, hurricane, earthquake, or similar uncontrollable event may be repaired or rebuilt, provided that such repairing or rebuilding shall be completed within twenty-four (24) months after the occurrence of such damage.
- 6) A nonconforming use which is discontinued for a period of twelve (12) consecutive months may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Code.

SECTION III

DEFINITIONS

Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used/occupied". The terms Code and Ordinance are to be considered interchangeable.

<u>Accessory Use</u>	A use customarily incidental and subordinate to the principle building or use and located on the same lot with such principle building or use.
<u>Accessory Building</u>	A subordinate building or a portion of the main building, the use of which is incidental to that of the principle building or main portion thereof.
<u>Acre</u>	Shall be considered equal to 43,560 sq. ft. of land area.
<u>Apartment Building</u>	A building arranged, intended, or designed to be occupied by three (3) or more families each living in its own separate dwelling unit.
<u>Basement</u>	An area below the first floor having part but not more than one-half of its height above average mean grade of the immediately adjoining building. A basement shall not be used as the sole living quarters within a dwelling.
<u>Billboard</u>	The surface of any building or structure which is available for hire for advertising goods or services not provided on the premises.
<u>Building</u>	Any structure having a rigid roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel. Each portion of a building, on separate lots and separated from other portions by a fire wall, or a common wall shall be considered as a separate structure.
<u>Campground</u>	Any area or tract of land used to accommodate two (2) or more parties, including tents, trailers or other camping outfits.
<u>Code Enforcement Officer</u>	The person duly authorized by the Town to carry out the duties as prescribed herein and shall be used synonymously with the term Building Inspector.
<u>Corner Yards</u>	In districts where yards are required:

Such corner yards, located at the intersection of two (2) streets, shall be deemed to have a side rather than a front yard between the principle building and side street. Such side yard shall not be less than the front yard requirements of uses located on the side street.

Such corner yards, located at the intersection of two (2) streets, shall be deemed to have a side rather than a rear yard between the principle building and the abutting property on the side street. Such side yard shall not be less than the side yard requirements of uses located on the side street.

All such side yards described above shall conform with the specific regulations related to yard space and related building height contained in the district provisions of this Code.

Coverage

That percentage of the plot or lot area covered by the building area.

Dwelling

A building designed or used as the living quarters for one (1) or more families. The term shall not be deemed to include motel, rooming house, lodging house, hotel, inn, or trailer.

Dwelling Unit

A room or group of rooms forming a habitable unit for one (1) family with facilities for living, sleeping, cooking, and eating. It shall comprise at least 650 square feet of habitable floor space, not including the basement. The term shall not be deemed to include trailer.

Family

An individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single household unit, or a group of not more than three (3) persons, who are not related by blood, marriage or adoption, living together as a single housekeeping unit.

Half Story

Shall be construed as meaning one-half (1/2) of the habitable floor area of the floor beneath and under a pitched roof.

Height of Building

The height of buildings shall be the vertical measurement from average mean grade of the immediately adjoining ground to the highest point of the structure. This shall not be deemed to include chimneys, spires or other similar non-habitable structures.

Home Occupation

An occupation or profession which is: customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- 1) The occupation or profession shall be carried on wholly within the principle building or within a building or other structure accessory thereto.
- 2) Not more than one (1) person outside the family shall be employed in the home occupation.
- 3) There shall be no exterior display, no exterior sign (except as expressly permitted by the regulations of this document), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principle building.
- 4) No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking shall be generated.

Hotel

A building of ten (10) or more rooms in which lodging or boarding and lodging capabilities are provided and offered to the public for compensation and in which ingress and egress to and from rooms are made primarily through a common entrance or lobby or office. As such, it is open to the public in contradistinction to a lodging house or a motel, which are herein separately defined.

Junk Yard

A lot or part thereof, in any way exposed to the elements, which is used for the sale or for the storage of secondhand products or materials, or for the storage of two or more automobiles or trucks which cannot pass the State inspection test in their existing conditions and/or are inoperable.

Lodging House

A building other than a hotel or motel with more than three (3), but less than ten (10) rooms where lodging with or without meals are provided for compensation.

Lot

A recorded parcel of land having frontage upon an approved street or private right-of-way.

Mobile Home

A detached totally self-contained and non-sectional residential dwelling unit designed for transportation, after fabrication, on streets or highways arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for location on jacks or other temporary or permanent foundations and connections to approved utilities. A mobile home shall contain not less than 650 square feet of floor area. Mobile homes manufactured after September 1, 1974, shall be approved and certified by the Maine State Housing Authority or a State approved agent prior to locating in Madawaska.

Mobile Home

A contiguous parcel of land having a minimum area of ten (10) acres and

<u>Park</u>	plotted for the development of a minimum of ten (10) mobile home lots which are to be rented, leased or sold.
<u>Motel</u>	A building or group of detached or connected buildings designed, intended or used primarily to provide sleeping accommodations for travelers and having a parking space adjacent or convenient to a sleeping room. An automobile court, a tourist court, or motor lodge with more than one (1) unit shall be deemed to be a motel.
<u>Net Residential Acreage</u>	The gross available acreage less the area required for streets or access and less the areas of any portions of the site which are unsuitable for development because of topography, natural drainage or subsoil conditions.
<u>Net Residential Density</u>	Net residential density shall mean the number of dwelling units per net residential acre.
<u>Nonconforming Use</u>	A building, structure or use of land existing at the time of adoption of this Code and which does not conform to the regulations of the district or zone in which it is situated.
<u>Normal High Water Mark</u>	That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. In places where the shore or bank cannot be easily determined (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.
<u>Parking Space</u>	Parking space shall mean an area of not less than 200 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be construed as to be usable year round and all parking spaces shall be suitably surfaced with bituminous binder, concrete, asphalt, gravel, or crushed stone.
<u>Piggery</u>	A building or area or portion thereof or an enclosure used or designed for the keeping of one (1) or more pigs for commercial purposes.
<u>Project Cost</u>	Project cost will be materials and labor necessary to complete the project. Local cost for materials and labor shall be used regardless of the source of material and labor.
<u>Public Uses</u>	Any building or use held, used or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal.

<u>Public Utility</u>	Include every common carrier, gas company, natural gas pipeline company, electrical company, telephone company, telegraph company, water company, public heating company, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is declared to be a public utility.
<u>Renovations</u>	Repairs and upkeep that do not change the existing external square footage.
<u>Rooming House</u>	Any dwelling in which more than three (3) persons, whether individually or as families is housed for compensation with or without meals. This shall be deemed to include fraternities and sororities.
<u>Setback from Water</u>	The minimal horizontal distance from the normal high water mark to the nearest part of the structure.
<u>Shore Frontage</u>	The width of the lot as it fronts the shore as measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water mark.
<u>Sign</u>	Any structure or part of the structure attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word 'sign' does not include the flag, pennant or insignia of any nation, state, city or other political unit. Temporary display of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event is not considered a sign.
<u>Special Exception</u>	A special exception is a use that would not be appropriate generally or without restriction throughout the district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such districts as special exceptions, if specific provision for such special exceptions is made in Chapter I of this Code.
<u>Street</u>	<p>A way established or maintained under public authority, or a private way approved by the Planning Board and plotted, dedicated and recorded, or a way shown on a plan of a subdivision duly approved by the Planning Board.</p> <p>1) <u>Arterial Streets</u> Major traffic routes connecting communities or substantial portions of communities.</p>

2) Collector Streets

Any street that carries the traffic to and from the major arterial streets to local access streets, or directly to destinations, or to serve local traffic generators.

3) Local Residential Streets

Any street which affords direct access to houses and places of business which do not generate significant amounts of traffic. These streets are always to be designed and constructed so as to discourage through traffic of any type.

Street Line

The exterior line of a street right-of-way which separates it from abutting lots.

Street Frontage

The width of the lot as it fronts the street.

Structure

Any production or piece of work, artificially built up or composed of parts, and joined together in some definite manner.

Trailer

Trailer shall mean any vehicle including campers used or so constructed as to permit its being used as a conveyance on the public streets and highways and may be duly licensed such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons. A trailer shall not be construed as a mobile home for the purpose of this Code.

Trailer Park

An area occupied or designed to be occupied by trailers for seasonal use only from May through October.

Variance

A variance is a relaxation of the term of this Code where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship.

As used in this Code, a variance is authorized only for height, area, and size of structure or size of yard and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in the particular district or adjoining district.

Yard

An unoccupied space, open to the sky, on the same lot with a building or structure.

Yard Front

An open space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot as it abuts long a public or private street.

Yard Rear

An open space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard Side

An open space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

SECTION IV

ADMINISTRATION

A.

ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Code. If the Code Enforcement Officer shall find that any of the provisions of this Code are being violated, he shall notify by certified mail the person (s) responsible for such violations. Indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal activity; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

B.

LEGAL ACTION AND VIOLATIONS

When a violation of any provisions of this Code is found to exist, the attorney for the Town upon notice from the Town Manager or Code Enforcement Officer as directed by the Board of Selectmen, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this Code, the same to be brought in the name of the Town.

C.

FINES

Any person, firm or corporations being the owner of or having control or use of any building or premise, who violates provisions hereof, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than \$20.00 nor more than \$200.00 for each day such violation is permitted to exist after notification thereof. All fines collected hereunder shall inure to the Town.

SECTION III

DEFINITIONS

Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used/occupied". The terms Code and Ordinance are to be considered interchangeable.

Accessory Use A use customarily incidental and subordinate to the principle building or use and located on the same lot with such principle building or use.

Accessory Building is incidental to that of the A subordinate building or a portion of the main building, the use of which principle building or main portion thereof.

Acre Shall be considered equal to 43,560 sq. ft. of land area.

Apartment Building A building arranged, intended, or designed to be occupied by three (3) or more families each living in its own separate dwelling unit.

Basement An area below the first floor having part but not more than one-half of its height above average mean grade of the immediately adjoining building. A basement shall not be used as the sole living quarters within a dwelling.

Billboard The surface of any building or structure which is available for hire for advertising goods or services not provided on the premises.

Building Any structure having a rigid roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel. Each portion of a building, on separate lots and separated from other portions by a fire wall, or a common wall shall be considered as a separate structure.

Campground Any area or tract of land used to accommodate two (2) or more parties, including tents, trailers or other camping outfits.

Code Enforcement Officer The person duly authorized by the Town to carry out the duties as prescribed herein and shall be used synonymously with the term Building Inspector.

Corner Yards In districts where yards are required:

Such corner yards, located at the intersection of two (2) streets, shall be deemed to have a side rather than a front yard between the principle building and side street. Such side yard shall not be less than the front yard requirements of uses located on the side street.

Such corner yards, located at the intersection of two (2) streets, shall be deemed to have a side rather than a rear yard between the principle building and the abutting property on the side street. Such side yard shall not be less than the side yard requirements of uses located on the side street.

All such side yards described above shall conform with the specific regulations related to yard space and related building height contained in the district provisions of this Code.

<u>Coverage</u>	That percentage of the plot or lot area covered by the building area.
<u>Dwelling</u>	A building designed or used as the living quarters for one (1) or more families. The term shall not be deemed to include motel, rooming house, lodging house, hotel, inn, or trailer.
<u>Dwelling Unit</u>	A room or group of rooms forming a habitable unit for one (1) family with facilities for living, sleeping, cooking, and eating. It shall comprise at least 650 square feet of habitable floor space, not including the basement. The term shall not be deemed to include trailer.
<u>Family</u>	An individual, or two (2) or more persons related by blood, marriage or adoption, living together as a single household unit, or a group of not more than three (3) persons, who are not related by blood, marriage or adoption, living together as a single housekeeping unit.
<u>Half Story</u>	Shall be construed as meaning one-half (1/2) of the habitable floor area of the floor beneath and under a pitched roof.
<u>Height of Building</u>	The height of buildings shall be the vertical measurement from average mean grade of the immediately adjoining ground to the highest point of the structure. This shall not be deemed to include chimneys, spires or other similar non-habitable structures.
<u>Home Occupation</u>	An occupation or profession which is: customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes; conforms with the following conditions:

- 1) The occupation or profession shall be carried on wholly within the principle building or within a building or other structure accessory thereto.
- 2) Not more than one (1) person outside the family shall be employed in the home occupation.
- 3) There shall be no exterior display, no exterior sign (except as expressly permitted by the regulations of this document), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principle building.
- 4) No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking shall be generated.

Hotel

A building of ten (10) or more rooms in which lodging or boarding and lodging capabilities are provided and offered to the public for compensation and in which ingress and egress to and from rooms are made primarily through a common entrance or lobby or office. As such, it is open to the public in contradistinction to a lodging house or a motel, which are herein separately defined.

Junk Yard

A lot or part thereof, in any way exposed to the elements, which is used for the sale or for the storage of secondhand products or materials, or for the storage of two or more automobiles or trucks which cannot pass the State inspection test in their existing conditions and/or are inoperable.

Lodging House

A building other than a hotel or motel with more than three (3), but less than ten (10) rooms where lodging with or without meals are provided for compensation.

Lot

A recorded parcel of land having frontage upon an approved street or private right-of-way.

Mobile Home

A detached totally self-contained and non-sectional residential dwelling unit designed for transportation, after fabrication, on streets or highways arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for location on jacks or other temporary or permanent foundations and connections to approved utilities. A mobile home shall contain not less than 650 square feet of floor area. Mobile homes manufactured after September 1, 1974, shall be approved and certified by the Maine State Housing Authority or a State approved agent prior to locating in Madawaska.

Mobile Home

A contiguous parcel of land having a minimum area of ten (10) acres and

<u>Park</u>	plotted for the development of a minimum of ten (10) mobile home lots which are to be rented, leased or sold.
<u>Motel</u>	A building or group of detached or connected buildings designed, intended or used primarily to provide sleeping accommodations for travelers and having a parking space adjacent or convenient to a sleeping room. An automobile court, a tourist court, or motor lodge with more than one (1) unit shall be deemed to be a motel.
<u>Net Residential Acreage</u>	The gross available acreage less the area required for streets or access and less the areas of any portions of the site which are unsuitable for development because of topography, natural drainage or subsoil conditions.
<u>Net Residential Density</u>	Net residential density shall mean the number of dwelling units per net residential acre.
<u>Nonconforming Use</u>	A building, structure or use of land existing at the time of adoption of this Code and which does not conform to the regulations of the district or zone in which it is situated.
<u>Normal High Water Mark</u>	That line on the shores and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. In places where the shore or bank cannot be easily determined (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.
<u>Parking Space</u>	Parking space shall mean an area of not less than 200 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be construed as to be usable year round and all parking spaces shall be suitably surfaced with bituminous binder, concrete, asphalt, gravel, or crushed stone.
<u>Piggery</u>	A building or area or portion thereof or an enclosure used or designed for the keeping of one (1) or more pigs for commercial purposes.
<u>Project Cost</u>	Project cost will be materials and labor necessary to complete the project. Local cost for materials and labor shall be used regardless of the source of material and labor.
<u>Public Uses</u>	Any building or use held, used or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal.

<u>Public Utility</u>	Include every common carrier, gas company, natural gas pipeline company, electrical company, telephone company, telegraph company, water company, public heating company, wharfinger and warehouseman, as those terms are defined in this section, and each thereof is declared to be a public utility.
<u>Renovations</u>	Repairs and upkeep that do not change the existing external square footage.
<u>Rooming House</u>	Any dwelling in which more than three (3) persons, whether individually or as families is housed for compensation with or without meals. This shall be deemed to include fraternities and sororities.
<u>Setback from Water</u>	The minimal horizontal distance from the normal high water mark to the nearest part of the structure.
<u>Shore Frontage</u>	The width of the lot as it fronts the shore as measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water mark.
<u>Sign</u>	Any structure or part of the structure attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word 'sign' does not include the flag, pennant or insignia of any nation, state, city or other political unit. Temporary display of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event is not considered a sign.
<u>Special Exception</u>	A special exception is a use that would not be appropriate generally or without restriction throughout the district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such districts as special exceptions, if specific provision for such special exceptions is made in Chapter I of this Code.
<u>Street</u>	<p>A way established or maintained under public authority, or a private way approved by the Planning Board and plotted, dedicated and recorded, or a way shown on a plan of a subdivision duly approved by the Planning Board.</p> <p>1) <u>Arterial Streets</u> Major traffic routes connecting communities or substantial portions of communities.</p>

2) Collector Streets

Any street that carries the traffic to and from the major arterial streets to local access streets, or directly to destinations, or to serve local traffic generators.

3) Local Residential Streets

Any street which affords direct access to houses and places of business which do not generate significant amounts of traffic. These streets are always to be designed and constructed so as to discourage through traffic of any type.

Street Line

The exterior line of a street right-of-way which separates it from abutting lots.

Street Frontage

The width of the lot as it fronts the street.

Structure

Any production or piece of work, artificially built up or composed of parts, and joined together in some definite manner excluding fences.

Trailer

Trailer shall mean any vehicle including campers used or so constructed as to permit its being used as a conveyance on the public streets and highways and may be duly licensed such and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons. A trailer shall not be construed as a mobile home for the purpose of this Code.

Trailer Park

An area occupied or designed to be occupied by trailers for seasonal use only from May through October.

Variance

A variance is a relaxation of the term of this Code where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship.

As used in this Code, a variance is authorized only for height, area, and size of structure or size of yard and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming uses in the particular district or adjoining district.

Yard

An unoccupied space, open to the sky, on the same lot with a building or structure.

Yard Front

An open space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot as it abuts long a public or private street.

Yard Rear

An open space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard Side

An open space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

SECTION IV

ADMINISTRATION

A.

ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Code. If the Code Enforcement Officer shall find that any of the provisions of this Code are being violated, he shall notify by certified mail the person (s) responsible for such violations. Indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal activity; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

B.

LEGAL ACTION AND VIOLATIONS

When a violation of any provisions of this Code is found to exist, the attorney for the Town upon notice from the Town Manager or Code Enforcement Officer as directed by the Board of Selectmen, is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this Code, the same to be brought in the name of the Town.

C.

FINES

Any person, firm or corporations being the owner of or having control or use of any building or premise, who violates provisions hereof, shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than \$20.00 nor more than \$200.00 for each day such violation is permitted to exist after notification thereof. All fines collected hereunder shall inure to the Town.

D.

BUILDING PERMIT

No building or other structure shall be erected, moved, added to, or externally enlarged without a permit therefor, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. The Code Enforcement Office shall maintain a public record of all building permits. A permit for which work has not commenced within one year shall expire. If the building or part is not substantially completed within two (2) years of the issuing of the permit, the permit shall lapse. It may be renewed upon application. The building permit shall not be required if market value of the work is \$15,000.00 or less,

Any accessory building or structure that does not exceed 500 square feet of usable floor space and does not exceed 21 feet in height, meets all required setbacks, and must not be used for habitation, will not require a permit.

E.

APPLICATION

- 1) Any increase in external square footage, an application and building permit will be required. No building permit or application is needed for renovations, upkeep, maintenance, and repairs of existing structures not to exceed a fair market value of \$15,000; this will include materials and labor.
- 2) Wherever on-site subsurface disposal is contemplated, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and shall be subject to prior obtainment of a plumbing permit. Such evidence shall be furnished in compliance with the Maine State Plumbing Code.
- 3) All developments shall be in conformance with the procedures, standards and requirements of this and other applicable Town and State rules and regulations.
- 4) A developer or his authorized agent shall obtain the Planning Board's final approval when any development (excluding a single dwelling on an oversized lot) is proposed in which the total contiguous area is:
 - a) Equal to, or greater than, three (3) times the minimum lot size for that district, or

D.

BUILDING PERMIT

No building or other structure shall be erected, moved, added to, or externally enlarged without a permit therefor, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. The Code Enforcement Office shall maintain a public record of all building permits. A permit for which work has not commenced within one year shall expire. If the building or part is not substantially completed within two (2) years of the issuing of the permit, the permit shall lapse. It may be renewed upon application. The building permit shall not be required if market value of the work is \$1,000.00 or less.

Any accessory building or structure that does not exceed 500 square feet of usable floor space and does not exceed 21 feet in height, meets all required setbacks, and must not be used for habitation, will not require a permit.

E.

APPLICATION

- 1) Any increase in external square footage, an application and building permit will be required. No building permit or application is needed for renovations, upkeep, maintenance, and repairs of existing structures not to exceed a fair market value of \$1,000.00; this will include materials and labor.
- 2) Wherever on-site subsurface disposal is contemplated, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal and shall be subject to prior obtainment of a plumbing permit. Such evidence shall be furnished in compliance with the Maine State Plumbing Code.
- 3) All developments shall be in conformance with the procedures, standards and requirements of this and other applicable Town and State rules and regulations.
- 4) A developer or his authorized agent shall obtain the Planning Board's final approval when any development (excluding a single dwelling on an oversized lot) is proposed in which the total contiguous area is:
 - a) Equal to, or greater than, three (3) times the minimum lot size for that district,
or

- b) At least 60,000 square feet or more and located in a business or industrial zone.
- 5) The developer or his authorized agent shall also obtain final Planning Board approval before:
 - a) Any contract or offer for the conveyance of the proposed development (or portion thereof) has been made,

Any subdivision into three (3) or more lots has been recorded by the proper registry of deeds,
 - b) A building permit for any structure within the development is issued, and
 - c) Any improvements (including installation of roads or utilities) have been made.
- 6) The Code Enforcement Officer shall approve or deny an application for a Building Permit within fourteen (14) working days of receiving said application.
- 7) No building or other structure shall be erected and no alteration of the natural contour of the land by grading or filling for any purpose shall be permitted in an area subject to periodic flooding. (Generally as described in Chapter II, Section I-E)

F.

CERTIFICATE OF OCCUPANCY

It shall be unlawful to use or occupy or permit the use of occupancy of, any building and/or premise, or both or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefor by the Code Enforcement Office and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this Chapter.

No building permit shall be issued until an application has been made for a Certificate of Occupancy. The Certificate of Occupancy shall be issued by the Code Enforcement Officer in conformity with the provisions of this Code upon completion of the work.

A temporary Certificate of Occupancy may be issued by the Code Enforcement Officer for a period of six (6) months during construction or alterations for partial occupancy of a building pending its completion, provided that such temporary

certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

G.

FEE

Application for a building permit shall be accompanied by a fee which shall be established by the Board of Selectmen.

SECTION V

APPEALS

A.

BOARD OF APPEALS

- 1) A Board of Appeals, hereafter in this section designated as “the Board” is hereby established. The Board shall consist of five (5) members who shall be residents and registered voters of the Town of Madawaska and shall be appointed by the Board of Selectmen of the Town. The term of office of the members of the Board shall be three (3) years, except that the five (5) members first appointed shall serve respectively for one (1) term of one year, two (2) terms of two (2) years, and two (2) terms of three (3) years. A vacancy in the office of a member shall be filled for the unexpired term only. No business of the Board shall be transacted under this Code unless three (3) members thereof are present. Any member of the Board may be removed for cause by the Board of Selectmen upon written charges and after public hearing, for which at least a ten (10) day notice shall be given in the same manner as the notice for meetings of the Town of Madawaska. The members of the Board shall receive no compensation for their services. The Board shall select a chairman and secretary from its own membership and shall adopt from time to time such rules and regulations as it may deem necessary to carry out the duties conferred on it by this Code.
- 2) The Board shall keep minutes of its proceedings, recording the vote of each member upon each matter coming before the Board for vote, and indicating the absence, or failure to vote, as the case may be, of any member. The minutes of the Board’s proceedings, and all the writings required by this Ordinance to be made by the Board shall be a public record.
- 3) A municipal officer or spouse thereof shall not serve as a member.
- 4) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

B.

POWERS AND DUTIES

Appeals shall lie from the decision of the Code Enforcement Officer to the Board and from the Board to the Superior Court in accordance with Maine Law. The Board shall have the following powers and duties:

- 1) Administrative Appeals: To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Office in the enforcement of this Code. The action of the Code Enforcement Officer may be modified or reversed by the Board by majority vote of those present and voting. In no case will any affirmative vote carry without at least (3) three members voting in the affirmative.
- 2) Special Exceptions: To hear and decide only those special exceptions which are authorized by this Chapter and which are specifically listed as special exceptions. To decide such questions as are involved in determining whether such special exceptions should be granted; and by majority vote of those present and voting to grant such special exceptions with such conditions and safeguards as are appropriate under this Code, or to deny such special exceptions when not in harmony with the purposes and intent of this Chapter. In no case will any affirmative vote carry without at least three (3) members voting in the affirmative.
- 3) Variance Appeals: To hear and decide, by majority vote of those present and voting upon appeal, in specific cases such variance from the terms of this Code will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship. In granting any variance, the Board shall prescribe conditions and safeguards as are appropriate under this Code. In no case will any affirmative vote carry without at least three (3) members voting in the affirmative.
- 4) Miscellaneous Appeals: To hear and decide by majority vote of those present and voting those appeals specifically mentioned herein: 1) to permit variations in nonconformance as prescribed in Chapter 1, Section II of this Code, and 2) permit variations in the Standards contained in Chapter II, Section II of this Code. In no case will any affirmative vote carry without at least three (3) members voting in the affirmative.

C.

CONDITIONS

- 1) In hearing appeals under this Section, the Board shall determine:

- a) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts;
 - b) That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district wherein the proposed use is to be located or in adjacent use districts;
 - c) That the safety, the health, and the welfare of the Town will not be adversely affected by the proposed use and its location; and
 - d) That the use will be in harmony with and promote the general purposes and intent of this Code.
- 2) In making such determination, the Board of Appeals shall also give consideration, among other things, to:
- a) The character of the existing and probable development of uses in the district and the peculiar suitability of such district for the location of any of such uses;
 - b) The conservation of property values and the encouragement of the most appropriate uses of land;
 - c) The effect that the location of the proposed use may have upon the congestion or undue increase of vehicular traffic congestion on public streets or highways;
 - d) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent (whether liquid, solid, gaseous or otherwise) that may be caused or created by or as a result of the use;
 - e) Whether the use, or materials incidental thereto or produced thereby, may give off obnoxious gases, odors, smoke or soot;
 - f) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration or noise;
 - g) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or recreational facilities, existing, or proposed by the Town or by other competent Governmental agencies;

- h) To the necessity for paved off-street parking;
- i) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason or use, or by the structures to be used therefor, or by the inaccessibility of the property or structures thereon for convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of person upon such plot;
- j) Whether the use, or the structures to be used therefor, will cause an overcrowding of land or undue concentration of population;
- k) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof;
- l) Whether the proposed use will be adequately screened and buffered from contiguous properties;
- m) The assurance of adequate landscaping and provision for natural drainage;
- n) Whether the proposed use will provide for adequate pedestrian circulation;
- o) Whether the proposed use anticipates and eliminates potential nuisances created by its location;
- p) The satisfactory compliance with all applicable performance standard criteria contained in Chapter II of this Code.

Before granting any special exceptions, the Board may refer the appeal application to the Planning Board for a report prior to the closing of the agenda of its next regularly scheduled meeting. The Planning Board report shall be considered informational in character and may take into consideration the effect of the appeal proposal upon the character of the neighborhood or any other pertinent data in respect to the Madawaska Comprehensive Plan.

The Planning Board report shall be submitted to the Board for its consideration prior to the officially scheduled time of the public hearing on the appeal.

D.

APPEAL PROCEDURE

- a) In all cases, a party aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within thirty (30) days after receipt of a written decision from the Code Enforcement Office by certified mail. The appeal

shall be filed with the Madawaska Town Manager on forms to be approved by the Board, and the aggrieved party shall specifically set forth on said form the grounds for said appeal.

- b) Following the filing of an appeal, the Town Manager/Code Enforcement Officer shall notify the forthwith the Board and Planning Board, and the appeal shall be in order for hearing at the next called meeting of the Board of Appeals following by at least ten (10) days mailing of notices but within thirty (30) days appeal.
- c) Before making a decision on an appeal, the Board shall hold a public hearing. In all appeals the Town Manager shall notify by mail only the owners of property abutting the property and directly across the public right-of-way including waterways for which an appeal is taken, of the nature of the appeal and of the time and place of the public hearing thereon. Notice of all appeals shall be published in a newspaper of general circulation at least seven (7) days prior to the public hearing and in at least three (3) public places within the Town.
- d) For the purposes of this section, the owners of property shall be considered to be the parties listed by the Tax Assessor for the Tow as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board.
- e) The Code Enforcement Officer or his delegated alternate shall attend all hearings and may present to the Board all plans, photographs, or other material they deem appropriate for an understanding of the appeal.
- f) The appellant's case shall be heard first. The aggrieved party may appear by agent or attorney. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman. Hearings may be continued to other times.
- g) Written notice of the decision of the Board shall be sent to the appellant, the Code Enforcement Officer, the Planning Board and the municipal officers within thirty (30) days of the date of the hearing of the appeal and within seven (7) days of the decision.
- h) Appeals granted under the provision of this Chapter by the Board shall expire if the work or change involved is not commenced within six (6) months of the date on which the appeal is granted, and/or if the work or change is not

substantially completed within one (1) year of the date on which such appeal is granted, unless as otherwise provided for in the appeal.

- i) If the Board shall deny an appeal, another appeal of a similar nature shall not be brought before the Board within one (1) year from the date of the denial, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.
- j) The appellant shall pay a fee to the Town of Madawaska to cover the cost of notification and advertisements concerning an appeal. These fees to be determined by the Board of Selectmen.
- k) In all appeals where the Planning Board has jurisdictional review, such review shall be conducted prior to the Board's hearing of the appeal. In cases involving development review powers (subdivision reviews), the Planning Board shall have issued its decision prior to the Board's hearing of the appeal.

SECTION VI

RURAL FARM AND FOREST – RF

A.

PURPOSE

Much of the prevailing character of the Town of Madawaska is rural and is actively being farmed. It is the intent of this Section to protect the natural rural quality and farm land properties from development sprawl by prescribing the most appropriate uses and standards. To this end, the following shall apply.

B.

PERMITTED USES

1. Dwellings
2. Public and private open space recreational uses including only golf courses, ski areas, sportsmen and game clubs. All other recreational uses will be considered as special exceptions.
3. Any agricultural building or use except sawmills, piggeries, or the raising of livestock for commercial purposes.
4. Accessory uses and buildings.
5. Public utility facilities including substations, pumping stations and sewage treatment plants.

C.

SPECIAL EXCEPTIONS

1. Cemeteries
2. Campgrounds
3. Sawmills, piggery, the raising of livestock for commercial purposes.
4. Rooming house
5. Riding stable, commercial kennel, or veterinary hospital
6. All other recreational uses
7. School, hospital, municipal building or use, church, or any other institution or educational, religious, philanthropic, fraternal or social nature.
8. Home occupations
9. Mineral resource extraction
10. Neighborhood commercial facilities not exceeding 1,000 ft² in building area.

D.

STANDARDS

1. The general standards of performance of Chapter II shall be observed.
2. The following space standards shall apply:

Maximum net residential density	one (1) dwelling unit/net residential acres
Minimum land area per dwelling unit	40,000 sq. ft.
Minimum lot sizes	40,000 sq. ft.
Minimum street frontage	150 ft.
Minimum front yard	50 ft.
Maximum building coverage	15%

Minimum rear and side yards 5 ft.

**Buildings higher than 40 feet shall have side and rear yards not less than 50% of building height.*

Maximum building height 35 ft.

Minimum distances between principle buildings on the same lot shall be the height equivalent of the taller building.

Minimum setback from streams,
Water bodies, and wetlands 100 ft.

3. In the case of planned unit or clustered residential development, the above standards may be modified in accordance with special provisions of Chapter II, Section IV of this Code and with the condition that:

- a) Sewerage and water shall be provided.
- b) A minimum land area of ten (10) acres shall be provided
- c) The maximum net density shall not exceed two (2) dwelling units per net residential acre.

SECTION VII

LOW DENSITY RESIDENTIAL – LDR

A.

PURPOSE

To provided areas adjacent to the developed urban areas of Madawaska for future residential growth consistent with economic utility servicing. To this end, residential development shall not exceed the net residential development density allowable herein and may preferably occur in accordance with the provisions of Chapter II, Section IV of this Code.

B.

PERMITTED USES

- 1. Dwellings
- 2. Public open space recreational uses
- 3. Accessory uses and buildings

C.

SPECIAL EXCEPTIONS

1. Rooming house
2. Public utility facilities including substations, pumping stations and sewage treatment facilities.
3. Cemeteries
4. Neighborhood convenience commercial facilities not exceeding 1000 square feet in building area intended to serve the immediate area in which it is constructed, excluding gas stations
5. Recreation activity buildings and grounds operated for profit
6. Home occupations
7. Hospitals, nursing homes, homes for the aged and similar buildings and uses
8. Schools (including day nursery), municipal or state buildings or use, church, or any other institutions of educational, religious, philanthropic, fraternal, political or social nature which is not used for residential occupancy.

D.

STANDARDS

1. The general standards of performance of Chapter II shall be observed.
2. The following space standards shall apply:

Maximum net residential density	two (2) dwelling units/net residential acre
Minimum land area per dwelling unit	20,000 sq. ft.
Minimum lot size	20,000 sq. ft.
Minimum street frontage	100 ft.
Minimum front yard	30 ft.
Maximum building coverage	25%

Minimum rear and side yards 5 ft.

**Buildings higher than 30 ft. shall have side and rear yards not less than 50% of the building height.*

Maximum building height 35 ft.

Minimum setback from streams 100 ft.

Minimum distance between principle buildings on the same lot shall be the height equivalent of the taller building.

3. In the case of planned unit or clustered residential developments, the above standards may be modified in accordance with the special provisions of Chapter II, Section IV of this Code and with the conditions that:
 - a. Sewerage and water shall be provided.
 - b. A minimum of land area of ten (10) acres shall be provided except as otherwise prescribed herein.
 - c. The maximum net density shall not exceed six (6) dwellings per net residential acre.

SECTION VIII MEDIUM DENSITY RESIDENTIAL – MDR

A. PURPOSE

To preserve the physical, aesthetic and social quality of Madawaska newly developed urban area and consistent with this stated goal, to provide therein for the location of a variety of residential uses in accordance with the standards of this Code. To this end, residential development shall not exceed the net residential density allowable herein and may preferably occur in accordance with the provisions of Chapter II, Section IV of this Code.

B. PERMITTED USES

1. Dwellings, exclusive of mobile homes
2. Public –owned open space residential uses

3. Accessory uses and buildings

C.

SPECIAL EXCEPTIONS

1. Rooming house or apartment building.
2. Professional offices
3. Funeral Homes
4. Private recreational uses exclusive of drive-in theaters
5. Public utility facilities including substations, pumping stations and sewage treatment facilities.
6. School (including day nursery), hospital, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature, which is not used for residential occupancy.
7. Home occupations

D.

STANDARDS

1. The general standards of performance of Chapter II shall be observed.
2. The following space standards shall apply:

Maximum net residential density	4 dwelling units/ net residential acre
Minimum land area per dwelling unit	10,000 sq. ft.
Minimum lot size	10,000 sq. ft.
Minimum street frontage	100 ft.
Minimum front yard	30 ft.
Maximum building coverage	25%

Minimum rear and side yards, all buildings 5 ft.

Maximum building height 30 ft.*

**Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.*

Minimum setback from streams,
water bodies and wetlands 100 ft.

Minimum distance between principal buildings on the same lot shall be the height equivalent of the taller building.

3. In the case of planned unit or clustered residential developments, the above standards may be modified in accordance with the special provision of Chapter II, Section IV of this code and with the conditions that net residential:
 - a) Sewage and water shall be provided
 - b) A minimum land area of 1 acre shall be provided
 - c) The maximum net density shall not exceed 10 dwelling units per net residential acre.

SECTION IX

HIGH DENSITY RESIDENTIAL – HDR

A.

PURPOSE

To preserve the physical, aesthetic and social quality of Madawaska's urban area and, consistent with this stated goal, to provide therein for the location of residential uses in accordance with the standards of this code. To this end, residential development shall not exceed the net residential density allowable herein and may preferably occur in accordance with the provisions of Chapter II, Section IV of this code.

B.

PERMITTED USES

1. Dwellings, exclusive of mobile homes
2. Public-owned open space recreational uses

3. The taking of boarders or the leasing of rooms by resident families
4. Accessory uses and buildings

C. SPECIAL EXCEPTIONS

1. Room house or apartment building
2. Professional offices
3. Funeral Homes
4. Private recreational uses exclusive of drive-in theaters
5. Public utility facilities including substations, pumping stations and sewage treatment facilities
6. School (including day nursery), hospital, municipal or state building or use, church, or any other institution of educational, religious, philanthropic, fraternal, political or social nature, which is not used for residential occupancy.
7. Home occupation

D. STANDARDS

1. The general standards of performance of Chapter II shall be observed.
2. The following space standards shall apply:

Maximum net residential density	6 dwelling units/net resident acre
Minimum land area per dwelling unit	7000 sq. ft.
Minimum lot size	7,000 sq. ft.
Minimum street frontage	50 ft.
Minimum front yard	30ft.
Maximum building coverage	25%

Minimum rear and side yard, all buildings 5ft. *

Maximum building height 35 ft.*

**Building higher than 30 feet shall have side and rear yards not less than 50% of building height.*

Minimum setback from streams, water bodies and wetlands 100ft.

Minimum distance between principal buildings on the same lot shall be the height equivalent of the taller building.

3. In the case of planned unit or clustered residential developments, the above standards may be modified in accordance with the special provisions of Chapter II, Section IV of this code and with the conditions that net residential:

- a) Sewage and water shall be provided
- b) A minimum land area of 1 acre shall be provided
- c) The maximum net density shall not exceed 10 dwelling units per net residential acre.

SECTION X

RESOURCE PROTECTION – RP

A.

PURPOSE

To further the maintenance of safe and healthful conditions, prevent and control potential water pollution sources, protect spawning grounds: fish, aquatic life, bird and other wildlife habitat, and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty. To this end, no structures will be permitted except as herein defined.

B.

PERMITTED USES

1. Outdoor conservations and recreational uses not operated for profit
2. Piers, docks, wharves, breakwaters, causeways, and uses projecting into water bodies subject to proper state and federal laws, excluding those involving structures designed to be occupied or operated as retail outlet.

C.

SPECIAL EXCEPTIONS

1. Structures assessor to permitted uses and nonconforming uses
2. Agricultural uses and practices
3. Recreational uses operated for profit upon showing that water quality will not be adversely affected and potential flood damage would be at a minimum.
4. Conservation practices designed to stabilize or enhance natural or man-made conditions
5. Public facilities for educational, scientific or religious purposes
6. Public utilities

D.

STANDARDS

1. The general standards of performance of Chapter II shall be observed.
2. All decisions on Special Exceptions and Variance Appeals or changes to district boundary lines shall be transmitted to the Maine State Planning Office with return receipts retained as a permanent record of the Board of Appeals.
3. Minimum setback from normal high water of any structure other than B.2 or C.6 above. 100 ft.
4. Minimum shore frontage 150 ft.

SECTION XI

COMMERCIAL— C

A.

PURPOSE

To provide general retail sales, services and business space within the Town of Madawaska in locations capable of conveniently serving community-wide and/or regional trade areas.

B.

PERMITTED USES

1. Dwellings
2. Professional offices

3. Retail and wholesale businesses and service establishments, but excluding used car lots and junk yards and those specifically mentioned under Subsection C following.
4. Accessory uses and buildings including home occupations
5. Public utility facilities including substations, pumping stations and sewage treatment facilities.
6. Public buildings

C. SPECIAL EXCEPTIONS

1. Used car lot
2. Motel, hotel, rooming house or apartment building
3. Gasoline station and/or repair garage provided: (a) it not be located within 1,000 feet of an existing station or private residence, and (b) it not be located within 150 feet of an existing structure.
4. Funeral home
5. Place of assembly, including theater
6. Transportation
7. Warehousing and storage
8. Research laboratories
9. Manufacturing operations provided that they conform to the provisions of Chapter II.

D. STANDARDS

1. The general standards of performance of Chapter II shall be observed
2. The following space standards shall apply:

Minimum lot size	40,000 sq. ft.
Minimum street frontage	75 ft.

Minimum front yard 10 ft.

Minimum side and rear yards 10 ft.

(Except as may otherwise be required by the buffer provisions of this code and except where the side and/or rear yards abut a residential district in which case a minimum of 20 ft. shall be required.)

Maximum building height 40 ft.

Minimum setback from streams,
water bodies and wetlands 75 ft.

Maximum building or outdoor None;
(Except that stored material coverage side, rear, and front yards shall be maintained.)

3. For new construction, the standards for the rear, side, and front set back will be 10 ft. For existing structures, the standards for the rear, side and front set back will be 10 ft. or no less than the closest point of the building to the property line.

SECTION XII

INDUSTRIAL – I

A.

PURPOSE

To provide areas within the Town of Madawaska for manufacturing, processing, treatment, and research, and to which end all the performance standards set forth in this Code shall apply.

B.

PERMITTED USES

1. Wholesale, retail and storage business uses
2. Manufacturing, processing and treatment
3. Research facilities
4. Accessory uses and buildings
5. Public utility facilities including substations, pumping stations and sewage treatment plants.

C.

SPECIAL EXCEPTIONS

1. Municipal and Governmental uses
2. Billboards

D.

STANDARDS

1. The general standards of performance of Chapter II shall be observed
2. The following space standards shall apply:

Minimum area of lot	None
Minimum street frontage	None
Minimum front yards	50 ft.
Minimum side and rear yards	30 ft. except as otherwise required by the buffer provisions of this code and except where the side and/or rear yards abut a residential district in which case a minimum of 50 ft. or 50% of the building outdoor stored material height, whichever is greater, shall be required.

Maximum building height	None*
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**Minimum distances between principle buildings on the same lot shall be equivalent of the taller building.*

Minimum setback from streams, water bodies and wetlands	100 ft.
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CHAPTER II

GENERAL STANDARDS OF PERFORMANCE

Notwithstanding any other provisions of this code, any use that may be obnoxious or injurious because of the production or emission of odor, dust, smoke, refuse

matter, fumes, noise, vibration or waste materials, or that may be dangerous to the health or safety of the community or its disturbance or annoyance, is prohibited until plans for the effective control and/or elimination of same are presented to and approved by the Board of Appeals. When the effects of use are uncertain, the Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to insure compliance with all requirements of this code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

SECTION I

ENVIROMENTAL

A.

AGRICULTURE

- 1) All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land", as amended or revised, published by the University of Maine and Maine Soil and Water Conservation Commission in July, 1972, as amended and/or revised.
- 2) Where soil is tilled, an untilled filter strip at least fifty (50) feet in width of natural vegetation shall be retained between the tilled ground and the normal high water mark of the surface water areas.
- 3) Agricultural practices shall be conducted to minimize soil erosion, sedimentation and contamination, and to maximum nutrient enrichment of ground and surface waters.

B.

AIR POLLUTION

- 1) All air pollution control shall comply with minimum State requirements and detailed plans shall be submitted to the State of Maine Department of Environmental Protection for approval, before a building permit is granted. No objectionable odor, dust or smoke shall be detectable beyond the property line. These requirements do not apply to residential structures.

C.

BUFFER AREAS

- 1) Any nonresidential yard space abutting an existing or potential residential area shall be maintained as a buffer strip by the developer. Such buffer area shall be at least the depth of side and rear yards required under district provisions for the purpose of eliminating any adverse effects upon the environmental or aesthetic qualities of abutting properties or any type of nuisance affecting the health, safety, welfare and property values of the residents of Madawaska.

D. EARTH MATERIAL REMOVAL

- 1) Top soil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Code and provided that nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The following standards and requirements shall be met:
 - a) The applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site illustration showing the property lines and names of all abutting owners and ways, indicating by not greater than 5-foot contour intervals related to U.S. Geodetic Survey data the location and slope of the grades existing and as proposed upon completion of the extraction operation, and detailing proposed fencing, buffer strips, signs, lighting, parking, and loading areas, entrances and exits, together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.
 - b) Said plans and statement shall promptly be submitted with the recommendations of the Code Enforcement Officer to the Planning Board its consideration with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation, and upon implementation of the Comprehensive Plan. The Planning Board may recommend changes to the applicant for resubmission to the Planning Board. The Planning Board shall promptly call and hold a public hearing on the final application in the same manner as provided for final subdivision review.
 - c) The Planning Board shall render a written decision as to whether, and under what conditions, the proposed operation may be permitted consistent with the intent and objectives of this Code. If the Planning Board approves the application, it may condition the Special Permit upon such alterations in the proposed operation, or upon the performance or omission of such acts, as it may deem proper to assure attainment of the

objectives set forth in the preceding sentence, and it may require filing with the Town Clerk a commercial surety bond, a certified check or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance to all conditions imposed or otherwise applicable.

- 2) The Planning Board shall impose such conditions upon any Special Permit issued under this Subsection D as they deem necessary or desirable to assure compliance with the following requirements:
 - a) No part of any extraction operation shall be permitted within 100 feet of any property or street line, and natural vegetation shall be left and maintained on the undisturbed land.
 - b) No standing water shall be permitted in any extraction site during or after extraction operations, except when permitted under strict conditions regarding fencing, safe levels of coliform bacteria count and treatment to prevent breeding of harmful insects.
 - c) No slopes steeper than 3 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 3 feet high is erected to limit access to such locations.
 - d) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operations.
 - e) Any top soil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased.
 - f) Upon completion of active extraction operations, the land shall be left so that natural storm drainage and water courses leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

- g) The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with residents of the Town.
 - h) Loaded vehicles shall be suitable covered to prevent dust and contents from spilling or blowing from the load and for any debris or soil left on the public ways the Town may require same to be removed at the expense of the operator and all trucking routes and methods shall be subject to approval by the Chief of Police.
 - i) All access/egress roads leading to/from the extraction site to public ways shall be treated with oil, stone, calcium or other suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.
 - j) No equipment, debris, junk or other material shall be permitted at an extraction site except those directly relating to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
 - k) Following the completion of extraction operations at any extraction site or at any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board; all debris, stumps, boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of 2 feet of soil. Sufficient top soil or loam shall be retained to cover all disturbed areas, so that they shall be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control", as amended or revised, published by the Main Soil and Water Conservation Commission.
- 3) Issuance and Renewal of Permits. Special Permits shall be issued in accordance with the foregoing provisions for a period not to exceed one year, and they shall be renewable only upon application by the owner, after a finding by the Planning Board that the conduct of the operation has been substantially in accordance with any and all conditions imposed or material representations made in connection with the original Special Permit; and upon such additional and altered conditions as the Planning Board may deem necessary in accordance with Subsection 1 (c) above.

E.

FLOOD PLAIN AREAS

Land abutting the lakes, rivers, streams and ponds subject to flooding through storm or seasonal actions, generally referred to as flood plain areas, and may be used for woodland, grassland, agricultural or outdoor recreational use. The Code Enforcement Officer shall maintain a map showing known flood plain areas, and no building shall be constructed therein. Flood plain areas shall be considered as those areas within the 100 year frequency flood plain as identified by an authorized Federal or State agency, or where such identification is not available, are located on flood plain soil identified as described in the Aroostook County Soil Survey to comprise the following soil types: Alluvial-Ondawa fsl; Podunk fsl; Rumney fsl; Saco sl.

F.

NOISE ABATEMENT

- 1) During any consecutive 8-hour period noise may not exceed an average of 65 dba (re 20 micronewtons/m²) measured at any property boundary line. During the peak activity of 60 minutes in a 24-hour period a noise may not exceed 40 dba when measured at property boundary line.

G.

PREVENTION OF EROSION

- 1) No person shall perform an act or use land in a manner which would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow in the Town. This shall not affect any extractive operations complying with the standards of performance specified elsewhere in the Code.
- 2) All development shall generally comply with the provisions of the "Environmental Quality Handbook Erosion and Sediment Control", as amended or revised, published by the Maine Soil and Water Conservation Commission. Special consideration will be given to the following:
 - a) Select a site with the right soil properties, including natural drainage and topography, for the intended use.
 - b) Utilize for open space those areas with soil unsuitable for construction.
 - c) Preserve trees and other vegetation wherever possible
 - d) Hold lot grading to a minimum by fitting the development to the natural contour of the land, and avoid substantial areas of excessive grade.

- e) Spread jute matting, straw or other suitable material in critical areas subject to erosion during construction
- f) Construct sediment basins to trap same from runoff waters during development. Expose as briefly as possible, as small an area of subsoil as possible during development and for as short a period as possible.
- g) Dispose of increased run-off caused by changed land formation, paving or construction and avoid sedimentation in run-off channels, on or off the site.
- h) Plant permanent vegetation and install structures as soon as possible for the purpose of soil stabilization and revegetation.
- i) Locate, construct and maintain logging or wood-lot roads in conformance with the erosion prevention provisions of "Permanent Logging Roads for better Woodlot Management", as amended or revised, published by the U.S. Department of Agriculture.

H.

RADIATION

1. Dangerous radiation shall not exist at the property line in accordance with applicable State and Federal Laws.

I.

SHORELAND AREA PROTECTION

1. The following standards are pursuant to Maine Revised Statutes, Part 7, Chapter 424, Section 4811, Shoreland Areas.

"To aid in the fulfillment of the state's role as trustee of its waters and to promote public health, safety and the general welfare, it is declared to be in the public interest that shoreland areas defined as those land areas any part of which are within 250 feet of the normal high water mark of any pond, lake, river or salt water body be subjected to zoning and subdivision controls. The purpose of such controls shall be to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty."

Shoreland areas intentionally embrace and overlay parts of other Madawaska Zoning Districts in order that the purpose of the Shoreland Control Law can best be served.

2. The following conditions, limitations, or standards shall apply to any use permitted in the Town of Madawaska on land located adjacent to the high water mark of any shoreland area described above.
 - a) The excavation of channels and boat basins, wildlife management impoundments and other such excavations are subject to the condition that no fill or other material shall be placed below the high water mark of shoreline except as may be necessary for bank stabilization and as will not be an impediment to the natural flow of water even in the time of flood.
 - b) Within 75 feet of the normal high water mark no principal building shall be constructed or placed except as otherwise provided in Chapter I of this code. No portion of any septic tank, leaching field or area, seepage pit or cesspool shall be located within 100 feet of the normal high water mark and no refuse, garbage, trash, timber slash, rubbish, or debris shall be placed herein. Setbacks from shorelines for all subsurface sewage disposal shall not be reduced by variance.
 - c) The guidelines of the Section I, Subsection G: "Erosion Prevention" shall be fully observed.
 - d) Tree harvesting or other development operations shall be conducted in such a manner that a well distributed stand of trees is retained along the shoreline. Where such clearing extends to the shoreline, a cleared opening or openings not greater than 30 feet per every 100 feet of shoreline (measured along the normal high water mark) may be created in a strip extending 50 feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.
 - e) Roads shall be located, constructed and maintained in such a manner that minimal erosion results. Additionally, road crossings of water courses shall be kept to a minimum and bottoms of culverts shall be installed at stream bed elevation.

- f) Wherever soil in excess of 20,000 sq. ft. is tilled and lies either wholly or partially within 250 feet, measured horizontally of the normal high water mark, such tillage shall be carried out in conformance with the provisions of a conservation plan which meets the standards of the State Soil and Water Conservation District. The number of the plan shall be filed regardless of any nonconforming land uses existing at the effective date of this Code.

J.

SOIL SUITABILITY

1. In all districts the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal, and where on-site septic disposal is proposed, shall be subject to prior obtainment of a plumbing permit.
2. The requirements and standards of the State of Maine Department of Environmental Protection, Department of Health and Welfare, and the most current edition of the State Plumbing Code shall be met.

K.

WASTE-WATER POLLUTION

1. Waste water to be discharged into Madawaska Sewer System, should they be available, shall be in such quantities and/or of such quality as to be compatible with standards established by the Town.
2. To meet those standards, the Town may require that such wastes shall undergo pretreatment or full treatment at the site in order to render them acceptable for the sewage system.
3. The disposal of waste water by means other than a public system must comply with the laws of the State of Maine and the Town concerning water pollution. Where a public sanitary sewer system is located within 150 feet of the property line as measured along the public way the Town shall require participations in said sewer. Wherever the requirements of this Code are at variance with other rules and regulations of the Town, the most restrictive shall govern. In any case, entrance into the public sewers is mandatory if any portion of the building is within 150 feet of the public sewer line.
4. Proposed discharge of sanitary wastes to any water body shall be subject to the issuance of State of Maine Department of Environmental Protection licenses; further no such off-site discharge shall be allowed unless same is buried or not visible to a point below normal low water, and is secured against

damage and uncovering by high flowage periods, erosion or other foreseeable action.

SECTION II

PARKING, LOADING AND TRAFFIC

A.

ACCESS AND PARKING LAYOUT

- 1) General business district land uses shall be subject to requirements regarding the preparation and implementation of plans to eliminate visual and safety concerns associated with highway development. The Planning Board shall review all plans and proposals under the term of this Code and after consulting with the Road Commissioner shall approve or deny plans prior to submission of a building permit application. Consideration shall be given to, but not limited to, the following standards:
 - a. Sight distances along the public right-of-way
 - b. Aesthetic and visual sighting from the public right-of-way
 - c. Disruptive effects on adjacent public access points
 - d. Overall traffic safety considerations
 - e. Traffic signalization requirements
 - f. Movement of vehicles related to use of the facility
 - g. Snow removal
- 2) In front of areas zoned or potentially zoned for commercial use, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space. In no case shall the street have a right-of-way less than 60 feet in width, or have less than two 12-foot wide travel lanes and two 8-foot parallel parking lanes.
- 3) The Town through the Code Enforcement Officer reserves the right to designate, in conjunction with the State of Maine Department of Transportation, all ingress and egress points to public highways and to select areas for the grouping and placement of signs and traffic directions.

- 4) Traffic flow in parking areas shall be clearly marked with signs and/or surface directions.
- 5) Off-street parking shall be constructed in accordance with State of Maine Department of Environmental Protection standards and guidelines.

B.

CORNER CLEARANCES

For purpose of traffic safety in all districts, no structure other than public utility structures and traffic control devices may be erected and no vegetation other than shade trees, may be maintained at a height three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the traveled public ways for twenty feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents. The Town shall be held harmless with respect to violations and related accidents. However, the Town shall direct a continued program designed to identify intersections having traffic safety problems.

C.

OFF-STREET LOADING STANDARDS

1. The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

Office buildings, hotels and motels with a gross floor area of more than 100,000 square feet require one (1) bay.

Retail, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following:

5,001 to 40,000 sq. ft.	1 bay
40,001 to 100,000 sq. ft.	2 bays
100,001 to 160,000 sq. ft.	3 bays
160,001 to 240,000 sq. ft.	4 bays
240,001 to 320,000 sq. ft.	5 bays
320,001 to 400,000 sq. ft.	6 bays

Each 90,000 square feet over 400,000 square feet require one (1) additional bay

2. Each loading bay shall have minimum dimensions of 14 feet by 70 feet and may be located either within or without a building. Every part of such loading bay shall be located completely off the street. In case motor vehicles larger than the dimensions of the minimum loading bay habitually serve a given

building, additional space shall be provided so that such vehicle shall park or stand completely off the street.

3. The provisions of this section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches, or services provided that same are in compliance with all applicable State and local traffic regulations.
4. The Board of Appeals shall have full authority to waive the requirements of this Section where it may be shown that appropriate parking and loading spaces will be maintained sufficient for the intended use.

D.

OFF-STREET PARKING STANDARDS

1. Off-street parking, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any district.
2. The following minimum off-street parking and loading requirements shall be provided and maintained in case of new construction, expansions and changes of use which necessitate increased parking requirements. Such parking may be provided in the open air in spaces each ten feet wide by twenty feet long, or spaces each ten feet wide by twenty feet long, or spaces dimensioned as may be required to suit the particular use or in garages. All spaces shall be accessible from lanes of adequate size and location.

Automobile, truck and tractor repair
tractor repair and filling stations:

1 parking space for each
regular employee, plus 1
space for each 50 sq. ft. of
floor area used for service
work

Dwellings:

2 vehicle spaces per each
dwelling unit

Motels, hotels, tourist, homes,
rooming houses, or other rooming
spaces associated with a permitted use:

1 parking space for each
sleeping room

Schools:

Nursery School- 2 parking
spaces for each nursery
room plus 1 space for each

adult instructor

Elementary School- 1

parking space for each adult
employee plus 15 parking
spaces for each 100
students, or major fraction
thereof of total enrollment

Senior High Schools- 1

parking space for each adult
employee plus 20 parking
spaces for each 100
students, or major fraction
thereof, of total enrollment.

Hospitals:

1 parking space for each 500
square feet or major fraction
thereof, of floor area,
exclusive of basement.

Nursing Homes:

1 parking space for every 4
Beds

Theaters, auditoria, churches, arenas:

1 parking space for every 4
seats or for every 100 square feet, or
major fraction thereof, of assemblage
space if no fixed seats.

Mortuary Chapels:

5 parking spaces for each chapel

Retail Stores:

3 square feet of parking for each
square foot of retail sales floor area.

Bowling Alley:

4 parking spaces for each bowling
lane.

Restaurants:

1 parking space for each square feet,
or major fraction thereof, of floor
area not used for storage or food
preparation.

Drive-in restaurants, snack bars and diners:

Minimum 25 parking spaces plus 4 square feet of parking for each square foot of floor space in excess of 2,500 square feet.

Offices, professionals, and public buildings:

1 parking space for each 500 square feet, or major fraction thereof, of floor area exclusive of bulk storage area.

Mobile Homes:

2 vehicle spaces per each mobile home

Transportation Terminals:

In addition to meeting all applicable standards as enumerated above, transportation terminals shall meet the following: 1 parking space for each employee, 1 parking space for each three seats of the terminal's major carrier vehicle and 1 parking space for each rented vehicle to be based on-site.

Industries and Businesses:

1 parking space for each 1,000 square feet of floor area, or major fraction thereof, for that part of every business, manufacturing and industrial building not catering to retail trade.

3. Required off-street parking in all residential and business districts shall be located on the same lot as the principal building or within 100 feet measured along lines of access for business and industrial except that where it cannot reasonably be provided on the same lot, the Board of Appeals may authorize residential off-street parking to be located on another lot within 300 feet of the residential uses and a reasonable distance from business and industrial uses served as measured along lines of public access. Such parking areas shall be held under the same ownership or lease as the residential uses served and evidence of such control or lease shall be required.

4. Where off-street parking for more than six vehicles is required or provided, the following construction requirements shall apply:

- a. Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the Code Enforcement Officer. When access to parking areas is available from more than one street, the location of points of ingress and egress shall have the approval of the Planning Board.
 - b. The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well compacted and with a wearing surface equivalent in qualities of compaction and durability to fine gravel.
 - c. A system of surface drainage shall be provided in such a way that the water run-off shall not run over or across any public sidewalk or street or adjacent property.
 - d. Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.
5. The Boards of Appeals may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility will substantially meet the intent of the requirements by reasons of variation in the probably time of maximum use by patrons or employees among such establishments.
6. The Board of Appeals shall have full authority to waive the requirements of this Section where it may be shown that appropriate parking and loading spaces will be maintained sufficient for the intended use.

SECTION III

SIGNS

A.

GENERAL

1. All signs shall be painted and constructed so as to be in good taste and conformity to the general character and architecture of the area.

SECTION IV

RESIDENTIAL

A.

CLUSTERED OR PLANNED UNIT RESIDENTIAL DEVELOPMENT

Notwithstanding other provisions of this Code relating to space and bulk, the Planning Board, in reviewing and approving proposed residential developments located in the Town, may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design in accordance

with the following standards. This shall not be construed as granting variances to relieve hardship.

1. There shall be compliance with the State and local codes and ordinances.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered.
3. There shall be no approval, without appeal, of any proposed development which exceeds the allowable net residential densities permitted in the district in which it is located. For the purposes of this Code, net residential density shall be established by the area of residual space available for residential development after deduction of vehicular rights-of-way and land not buildable because of drainage, subsurface conditions or other natural impediments.
4. Residual open space shall be usable for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life, wildlife cover and the like. The use of any open space may be further limited or controlled at the time of final approval where necessary to protect adjacent properties or uses. Residual open space shall be dedicated to the recreational amenity and environmental enhancement of the development and shall be recorded as such. Such dedications may include private covenants or arrangements to preserve the integrity of open spaces and their use for agricultural or conservation purposes.
5. The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in his proposal.
 - A. Orientation: buildings and other improvements shall respect scenic vistas and natural features.
 - B. Drainage: adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.
 - C. Water Supply: adequate provision shall be made for both ordinary use as well as special fire needs.

- D. Utilities: utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.
 - E. Recreation: facilities shall be provided consistent with the development proposal.
 - F. Buffering: planting, landscaping, disposition and form of buildings and other improvements, fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.
 - G. Buildings: disposition of buildings shall recognize the need for natural light and ventilation
- 6. For purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.
 - 7. The developer shall file with the town at the time of submission of final plans a performance guarantee. This may be tendered in the form of a certified check payable to the Town, a savings account passbook issued in the name of the Town, or a faithful performance bond running to the Town and issued by a surety company acceptable to the municipality. The conditions and amount of such check, passbook or performance bond shall be determined by the Town Manager with the advice of concerned departments or agencies. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing the entire street grading, paving, storm drainage, and utilities or other improvements specified in the final plan, and shall guarantee the satisfactory completion of all specified improvements.
 - 8. Common open space shall be dedicated after approval of the project. There shall be no further subdivision of this land nor buildings constructed upon it without further planning review which would cause the net residential density to exceed the density permitted in that district.
 - 9. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:
 - a) it shall not be used for future building lots; and

- b) a part or all of the common open space may, at the option of the Town be dedicated for acceptance by the Town for operation as a municipal recreation facility.
- 10. If any or all of the common open space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to final plot approval.
- 11. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.
- 12. This neighborhood association shall have the responsibility of maintaining the common open space(s).
- 13. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Town assessments.
- 14. The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or the developer or subdivider.

SECTION V

SITE DESIGN STANDARDS

A.

MINIMUM STANDARD FOR STREET DESIGN AND CONSTRUCTION

The design of streets shall provide for proper continuation of streets from adjacent development and for proper projection of streets into adjacent unsubdivided and open land.

B.

ACCEPTANCE OF STREETS AND WAYS

- 1. A street or way constructed on private lands by the owner(s) thereof and not dedicated for public travel prior to the date of enactment of this ordinance shall be laid out and may be accepted as a public street or way by the Board of Selectmen only upon the following conditions:

A. The owner(s) shall give the Town a deed to the property within the boundaries of the street at the time of its acceptance by the Town.

B. A plan of said street or way shall be recorded in the Aroostook County Registry of Deeds at the time of its acceptance.

C. A petition for the laying out and acceptance of said street or way shall be submitted to the Board of Selectmen upon a form to be prescribed by the Madawaska Road Commissioner. Said petition shall be accompanied by a plan, profile, and cross section of said street or way as follows:

1. A plan drawn when practical to a scale of 50 feet to 1 inch, and to be on one or more sheets of paper not exceeding 24 inches by 36 inches in size. Said plan shall show the north point, the location and ownership of all adjoining lots of land, passage ways, street lights, electric lines, boundary monuments, water ways, topography, and natural drainage courses with contour at not greater than 2 feet intervals, all angles, bearings, and radii necessary for the plotting of said street, lots, their reproduction on the ground, the distance to the nearest established street or way, together with the stations of their side lines.

2. A profile of said street or way drawn to a horizontal scale of 50 feet to 1 inch, and a vertical scale of 5 feet to 1 inch. Said profile shall show the profile of the side lines and center line of said street or way and the proposed grades thereof. Any buildings abutting on said street or way shall be shown on said profile.

3. A cross section of said street or way drawn to a horizontal scale of 5 feet to 1 inch and a vertical scale of 1 foot to 1 inch.

4. The location and size of the proposed water and/or sewer mains in accordance with this Code.

2. Said street or way shall be previously constructed in accordance with the following specifications:

A. General. All streets shall intersect at right angles wherever possible, but under no circumstances shall they intersect at an angle of less than sixty (60°) degrees. "T" intersections formed on opposite sides of the same collector street shall not be closer than 200 feet center line to center line. Street lines at intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. Curves in general shall have a minimum center line radius of 100 feet. Curb lines radii at street intersections should be at least 20 feet. A dead-end street or cul-de-sac shall not exceed 1,000 feet in length and shall be provided with a suitable turn around at the closed end. When a turning circle is used, it shall have a minimum outside radius of 50 feet. Grades of all streets shall be reasonably minimized, but in no case shall the grade be less than 0.5% or more than 6%, for collector and arterial streets and not less than .5% or more than 10% for residential streets, unless specifically approved by the Planning Board and the Madawaska Road Commissioner. The construction of all streets will include the removal of all stumps, roots, brush, perishable materials, and all trees not intended for preservation. All loam, loamy material, and clay shall be removed from the street or way to the depth specified by the Madawaska Road Commissioner. All streets shall have a crown to provide for proper drainage. The crown shall be a minimum of 1/8" per running foot to a maximum of 1/4" per running foot of roadway width. The right-of-way lines of all streets shall be marked with granite monuments sufficient to reproduce the right-of-way lines.

The developer will be responsible for street boundaries clearly defined and well staked out. The developer will install sewer pipes, manholes and water pipes. The developer will rough grade, as described later, all proposed new streets. The developer will install necessary culverts and storm sewers up to two feet in size. The Town will be responsible for culverts and storm sewers over two feet in size.

B. Local Residential Streets. All local residential streets shall have a minimum street right-of-way width of 50 feet. The street shall be graded to a subgrade of not less than 12 inches in the roadway location. The subgrade shall be carefully shaped and thoroughly compacted before gravel is set in place. When a minimum length of 300 feet (or the entire length of the street if it is less than 300 feet long) has been excavated to subgrade and this subgrade properly prepared for the gravel, the Madawaska Road

Commissioner shall be notified. The roadway shall be built to a minimum thickness of 12 inches with heavy road gravel which meets the approval of the Madawaska Road Commissioner.

The 50 foot minimum width of the street right-of-way shall be divided in the following manner:

1. A 28-foot roadway consisting of two ten foot lanes for traffic and 8' of space on one side of the roadway for curbside parking

C. Collector Streets. All collector streets shall be designed and constructed in accordance with the specifications for local residential streets, except that paved travelled surface shall be at least 32 feet in width.

D. Arterial Streets. All arterial streets shall have minimum right-of-way width of 68 feet and a roadway of 40 feet in width. The street shall be graded to a subgrade of not less than 12 inches in the roadway location. The subgrade shall be carefully shaped and thoroughly compacted before gravel is set in place. When a minimum length of 300 feet (or entire length of the street, if it is less than 300 feet long) has been excavated to subgrade, and this subgrade properly prepared for the gravel, the Madawaska Road Commissioner shall be notified. The roadway shall be built to a minimum thickness of 12 inches with heavy road gravel which meets the approval of the Road Commissioner.

3. All engineering work, including the setting of grade stakes necessary for the construction of the street and sidewalks, and storm sewers shall be performed by the developer at his expense.

4. Any sewers and appurtenances, drains, including house drains and catch basins which are to be built in the street or sidewalk and all underground utilities, and their respective services, shall be constructed before any road material is placed. The sole exception shall be for house connections to serve lots where no construction has begun prior to the placing of such road materials.

5. Whenever it shall be deemed necessary by the Planning Board, after consulting with the Road Commissioner that a storm sewer shall be constructed to serve the street under consideration, such storm sewer shall be completed before the gravel or road material is placed thereon. Said sewer shall be built by the developer in accordance with the following method:

A. The developer shall cause the storm sewers and appurtenances, including catch basins, to be built to the specifications of the Road Commissioner. When said street has been accepted, said sewers shall be deeded to the Town at no cost to the Town.

6. When reasonably available, a water main of at least 8 inches in diameter must exist for the use of buildings, residents and occupants of the street to be accepted. The Chief of the Madawaska Fire Department must, in writing, certify that adequate water service for sufficient fire protection exists. It shall be the policy of the Town to cause the installation of such fire hydrants as may be required for fire protection at the same time as the installation of the water main.

C. ACCEPTANCE OF STREETS AND WAYS REQUIRED BY THE PUBLIC INTEREST

Notwithstanding the provisions of any other Section hereof, the Town may at any time lay out and accept any street or way in the Town as a public street or way of said Town whenever the general public interest so requires. The cost of said street or way may be borne by said Town.

D. EASEMENTS

The Planning Board may require easements for sewerage, other utilities, drainage, and stream protection. In general, easements shall not be less than twenty feet in width. Wider easements may be required.

E. NO STREET OR WAY TO BE ACCEPTED UNTIL AFTER REPORT BY THE PLANNING BOARD AND THE MADAWASKA ROAD COMMISSIONER

No street or way shall be laid out and accepted by the Town Meeting until the Planning Board and the Road Commissioner shall have made a careful investigation thereof and shall have reported to the Board of Selectmen their recommendations in writing with respect thereto.

F. PRIVATE STREET AND WAYS

Private streets and ways may be constructed within the Town upon showing by the applicant that the public health, safety and welfare will be maintained. It shall be clearly demonstrated, in written form, that the proposed private street will be adequately maintained, will provide sufficient spaces for emergency vehicle access, will conveniently serve its intended properties and will not exceed the maximum permissible lengths established by the Town.

SECTION VI

MOBILE HOME PARKS, SEASONAL TRAILER PARKS AND CAMPGROUNDS

A.

LICENSES

No person, firm, or corporation shall establish or maintain a mobile home park, seasonal trailer park or campground within the Town without a license issued in conformity with the provisions of this Code. A mobile home park, seasonal trailer park or campground in existence prior to the adoption of this Code may be enlarged only if the extension complies with the terms as specified herein.

1. Application for a mobile home park, seasonal trailer park and/or campground license shall be filed with the Code Enforcement Officer who shall, in turn, present said application to the Planning Board for review as a subdivision except that applications for license renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein, and as contained in Chapter III of this Code. The Planning Board shall inform the Code Enforcement Officer of its decision in writing and they shall act on the application.
2. Each application for a license or a renewal thereof shall be accompanied by a fee as established by the Board of Selectmen for a mobile home park, trailer park, or campground designed for the accommodation of no more than ten mobile homes, trailers, or tent sites, and an additional fee as established by the Board of Selectmen for each additional mobile home, trailer, or tent site in excess thereof. Each such license shall expire on the first day of April next following the date of issuance. Before any license shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Village and State Ordinances and Laws have been complied with, they shall certify same.
3. Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.
4. The Board of Selectmen is hereby authorized to revoke any license issued pursuant to the terms of this Code if after due investigation they determine the holder thereof has violated any of the provisions of this or any applicable code, law or statute.

B.

TRAILER PARKS AND CAMPGROUNDS

In any district where campgrounds or trailers parks are permitted under the terms of this Code, the following regulations and minimum standards shall apply:

1. A time limit is placed on the occupancy of any one camping space on a continuing basis as follows: twelve weeks for the period May 15 to September 15 of each year, and two weeks for all other time. No trailers or mobile homes other than such as are camping units as defined herein shall be permitted within any camper park, temporarily or otherwise.
2. A campground may not be constructed on less than 5 acres of land.
3. Each tent site must be provided with a masonry or metal fireplace approved by the Fire Chief.
4. Spaces in campgrounds and trailer parks may be used by travel trailers, equivalent facilities constructed in or on automobile vehicles, tents, or other short-term shelter devices.
5. A trailer park or campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Plumbing Code and the State of Maine Department of Health and Welfare. In no case shall less than one toilet, lavatory, and shower be provided for each gender for every ten (10) camping and tent sites.
6. Trailers and tent sites shall be parked on sites containing a minimum of 4,200 square feet and having a minimum frontage along the traveled way of 70 feet, exclusive of drives and aisles.
7. Trailers shall be so parked in spaces that:
 - A. There will be a minimum of 15 feet between vehicles.
 - B. There will be a minimum of 15 feet between all trailers and the exterior boundary of the park.
 - C. There will be a minimum of 25 feet between all trailers and all public rights-of-way located inside the boundaries of the trailer park or campground. Setbacks from roads outside the trailer park will be a minimum of 150 feet.

D. No camping unit or structure shall be located less than 100 feet from any residence.

E. Buffering: planting, landscaping, disposition and form of buildings and other improvements, fencing, and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding developments.

8. The storage, collection, and disposal of refuse shall not create health hazards, rodent harborage, insect breeding areas, accident hazards, air pollution, and the like.

9. No unoccupied camping unit shall be stored or exhibited for sale for commercial purposes within the park.

C.

MOBILE HOME PARKS

Mobile home parks or subdivisions shall be constructed and installed in accordance with the following minimum standards and in accordance with Chapter II of this Code. Mobile home parks shall provide areas for the location and development of mobile homes, as defined in this code.

1. Streets – Design and construction of all mobile home park streets shall be in accordance with the specifications established in Chapter II, Section V, of this Code and with the provisions of Chapter II of this Code.
2. Utilities- Design and construction of all mobile home park utilities shall be in accordance with the specifications established in this Code. In addition, sewerage systems may be designed to collect sewage from each mobile home and dispose of it in a common septic tank disposal facility provided that the design, construction and operation of said facility are in compliance with the specifications of the State Plumbing Code. Water Systems shall be capable of delivering 250 gallons per day per lot.
3. Mobile home lot – A mobile home lot shall consist of a minimum of 10,000 square feet and shall have a minimum frontage of 70 feet. There shall be a minimum frontage of 70 feet. There shall be a minimum distance of 20 feet between mobile homes. The density provisions of this Code shall be fully complied with.
4. Setback Requirements – There shall be a minimum distance of 150 feet between mobile home lot lines and public road rights-of-way located

outside the boundaries of the mobile home park. There shall be a minimum distance of 25 feet between boundaries not fronting on a public right-of-way and mobile homes outside the park and mobile home stands. There shall be a minimum distance of 25 feet between interior park rights-of-way and mobile home stands.

5. Refuse Disposal- Each mobile home lot shall be provided with an area for refuse storage. Within a maximum of 150 feet from each mobile home lot, there shall be a flytight, watertight, and rodent-proof container, capable of storing the amount of refuse that the mobile home for which it was designed could generate in one week. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck to the Town of Madawaska disposal area at least once a week.
6. Fire Protection- Fire extinguishers shall be kept in all service buildings. A mobile home park shall provide suitable ingress and egress so that every mobile home may be readily serviced in emergency situations.
7. Responsibilities of mobile home park management – The management of mobile home parks shall be responsible for operating their respective parks in accordance with all Town codes and ordinances and all State laws and regulations. The park management shall maintain a register of all park residents and notify the Assessors of all impending arrivals, or departures, or changes in ownership. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of the park management.
8. Responsibilities of park occupants – Mobile home park occupants shall be responsible for maintaining their mobile home lots in an orderly condition and for preventing the accumulation of refuse on such lots or under the mobile home.
9. No unoccupied mobile home shall be stored or exhibited for sale for commercial purposes within a mobile home park.
10. Buffering – planting, landscaping, disposition and form of buildings, other improvements, fencing, and screening, shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.

CHAPTER III

DOCUMENTATION AND PLANNING REVIEW PROCEDURE

SECTION I

AUTHORITY AND ADMINISTRATION

A.

PURPOSE

The purpose of this chapter of the Land Use and Development Code is to provide uniform procedures and standards for observance by the Planning Board, other Officers of the Town, and developers in regulating major new development of all kinds in the Town of Madawaska. It is not the intent of this chapter to regulate the construction of a single dwelling on an oversize lot.

B.

AUTHORITY

In accordance with the provisions of Maine Revised Statutes, the following regulations governing the development of the Town are adopted by the Town of Madawaska.

C.

ADMINISTRATION

1.) The Madawaska Planning Board, hereinafter called the Planning Board, shall administer this chapter.

2.) Whenever development of any kind or use, exclusive of a single dwelling on an oversized lot, and whether occurring essentially at one time or over a period of years, is proposed for a parcel or assembly of parcels of land which in total contiguous area is equivalent to or greater in area than three times the minimum lot size as prescribed for that zone, and before any contract of offer for the conveyance of the proposed development or any portion thereof shall have been made, and before any plot of subdivision into three or more lots shall have been recorded by the proper registry of deeds, and before any permit for the erection of a structure within such development shall be issued, and before any improvements, including the installation of roads or utilities, shall be undertaken, and before the sale from the same ownership not an approved subdivision of a third lot by reference to metes and bounds shall have been made, the developer or his authorized agent shall obtain the endorsement of the Planning Board for Final Approval of such development. All developments shall be executed in strict conformance with approved plans.

3.) As of any intended development, the developer or his authorized agent shall prepare and formally submit to the Planning Board both a Preliminary Plan for study, and modification where required, and a Final Plan. The Final Plan shall not be submitted until the developer has received from the Planning Board written

notice that a legal majority of the Planning Board has approved the Preliminary Plan. These requirements may be waived by the Planning Board in accordance with Subsection F following.

D.

ENFORCEMENT

When the violation of any provision of this chapter shall be found to exist, the Town Attorney upon notice from the Town Manager is hereby authorized and directed to institute in the name of the Town any and all actions and proceedings that may be appropriate or necessary to the enforcement of the provisions of this chapter.

E.

FINES

Any person, firm, corporation, or other legal entity who conveys or offers to convey, including by rental or lease, land within a proposed development as governed by this chapter before receiving Final Approval as required by this chapter, shall be punishable by a fine of not more than \$1,000 for each conveyance, offering or agreement. Any person, firm, corporation, or other legal entity that otherwise violates any of the provisions of this chapter shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not more than \$100.00 for each offense. Each day such a violation is continued after notification thereof shall constitute a separate offense. All fines collected shall constitute a separate offense. All fines collected under this chapter shall be paid to the Town of Madawaska.

F.

VARIATION

1.) A variation in the strict application of this chapter or a provision thereof may be permitted only where in the opinion of the Planning Board, strict application to the developer and his property would cause undue hardship, or would not be in the best interest of the Town, or would be waived according to Paragraph 2 following.

2.) The Planning Board may waive the procedures leading up to the Final Approval required under Sections III and IV of this chapter when, in its opinion, the development is not of potential impact so as to require governance by this chapter or such provisions thereof. The developer may make such request in writing to the Planning Board without appearing in person before it. In so waiving the requirements of those sections, the Planning Board shall nonetheless require a satisfactory description of the nature and extent of the development proposed in drawing and otherwise as necessary to provide a basis on which to give approval.

The documents necessary to making application for a Building Permit may be sufficient for this purpose.

G. CONFLICT WITH OTHER ORDINANCES

In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the Town existing on the effective date of this Code, the provision which establishes the higher standard for the promotion of health and safety shall prevail.

H. APPEALS

An appeal from any order, relief, or denial of the Planning Board may be taken by any party to Superior Court in accordance with Maine Law.

I. SEVERABILITY

The invalidity of any section, subsection, paragraph, sentence, clause, phrase, or word of this chapter shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase, or word of this chapter; to this end, the provisions of this chapter are hereby declared to be severable.

SECTION II PREAPPLICATION

A. CONFERENCE

1) Prior to formal application for approval, the developer may appear before the Planning Board to discuss the proposed development. No binding commitments shall be made between the Town and the developer at this conference.

2) If the developer chooses to meet with the Planning Board in this manner, he shall make request by due process that he be included upon the agenda of a regular meeting of the Planning Board. At that meeting he shall appear with information sufficient to:

- a. Locate the site and identify the zoning classification
- b. Describe the site: its area, shape, and existing features, both natural, and man-made
- c. Describe the general intent of development.

3.) The Planning Board shall respond generally by indicating to the developer its concerns and by making suggestions as to what may or may not be possible.

SECTION III

PRELIMINARY PLAN

A.

APPLICATION

Written application for approval shall be filed with the Secretary of the Planning Board, together with the Preliminary Plan, at least five business days prior to a regularly scheduled meeting. Such written application shall be on forms as prescribed by the Planning Board. To contribute to the costs of administration and inspection, a fee as established from time to time by the Madawaska Board of Selectmen shall be filed with the application. No fees shall be refundable.

B.

REQUIREMENTS

The Preliminary Plan submitted by the developer shall consist of three copies of all materials necessary to provide the following information. Where practical, sheet size of drawings shall be 24" x 30". The developer may request a waiver of requirements not relevant or not of substantial import to his proposal, in which case he shall list them.

1. Names of: Project, Owner, Developer, Surveyor and/or Engineer and/or Architect.
2. Graphic and written scale, north point, date.
3. Location within the Town, abutting owners, boundaries of tract with accurate distances and bearings.
4. Zoning District classification, proposed uses, special exceptions and variances required.
5. As applicable: building areas, lot areas and lot coverage ratios; net residential density ratios; street frontages; front, side and rear setbacks; buffer strips; and distances between structures.
6. Proposed dedications to open space or public use, and proposed restrictive covenants.
7. Proposed construction schedule and phasing of improvements.
8. Identification, approximate dimensions locating and sizing major features of the development as proposed for approval, including as applicable, streets, drives, maneuvering space, parking areas, number of spaces,

easements and rights-of-way, both within and adjacent to the development; lots or other divisions of land; heights and shapes of existing and proposed structures; and other improvements and facilities.

9. Widths and cross sections, including curbs and sidewalks, longitudinal profiles and radii of curves of all existing and proposed streets as prescribed in Chapter II, Section V-B of this Code; sight lines and angles of intersection of traveled ways; directions of traffic flow; means of access for general, service, and emergency vehicles.
10. Existing and proposed topography in contours of two to five foot intervals (two foot intervals will generally be required except that the Board may require, depending on the site, five foot contours) with all elevations referred to U.S.G.S . datum, or known bench marks at the discretion of the Board, and indicating all known bench marks at the discretion of the Board, and indicating all grading and filling.
11. Location and boundaries of soil areas and their names in accord with the National Cooperative Soil Survey Classification, and identifying each soil for any separate area of one acre or larger in size. Such study shall be undertaken or approved as to its accuracy by a certified soil scientist, geologist, or Soils Engineer.
12. Location of any tests or studies made, such as sample borings, bearing studies, etc.
13. Location of existing and proposed modification of natural features such as water bodes, springs, streams, swamps, wetlands, woodlands, cleared areas, trees over 5 inch diameter, gullies, ravines, ledge, and outcroppings.
14. Proposed planting, including buffer and screening provisions as well as integration with natural features.
15. Existing pattern of surface drainage, modifications proposed to it; flow on and from existing and proposed areas.
16. Location, size, and type of existing and proposed sanitary and storm sewers identifying direction of flow. Description of proposed disposal of storm water and sewage, if connection to public storm and sanitary sewers is not proposed.
17. Location, size and type of existing and proposed water supply for both general consumption and fire protection.

18. Location of existing and proposed electric and telephone service.
19. Proposed means of snow removal, garbage and trash collection, and facilities necessary thereto.
20. Proposed storage areas, including facilities for maintenance of the proposed development.
21. Proposed outdoor recreation facilities.
22. Proposed conservation provisions.
23. Where application is made for approval of development of only a portion of a larger tract, the developer shall submit a plan indicating the general form of future development over the remainder and its relationship to the proposed development as submitted for approval.

C.

PRELIMINARY PLAN REVIEW

1. The Planning Board shall review the Preliminary Plan of the proposed development as submitted. It shall verify the provision of all information as required under the preceding Subsection B, and shall accept or deny any waivers requested as listed by the developer to undertake further studies as it deems necessary to ascertain that the public convenience, safety, health and welfare are protected, that the Town will not in the future incur extraordinary expense as a result of the development, either on or off the site, and that the environment will not be harmed unduly.
2. The Planning Board shall include in its review the following general and specific requirements that the development as proposed for approval:
 - a) Shall be in conformance with the applicable sections of the Comprehensive Plan of the Town, and will all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter II of this Code.
 - b) Will not cause congestion or unsafe conditions with respect to use of the highway or public roads, existing or proposed on or off the site.
 - c) Will not place an unreasonable burden by either direct cause or subsequent effect on the ability of the Town to provide municipal services including

utilities, waste removal, adequate roads, fire and police protection, school facilities, school transportation, recreational facilities, and others.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.
 - e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.
 - f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site. The Planning Board shall consider at least: the nature, location, and course of all potential contaminants to the air or water; and particularly in respect of pollution of water, the elevation of the proposed development above bodies of water in the vicinity, the extent of flood plains, the nature of soil and subsoil both in their function as aquifers and in their ability to adequately support waste disposal – the topography of the land and its relation to the movement and disposal of effluents, and the availability, adequacy, and suitability of streams for the disposal of effluents.
 - g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
 - h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features, and change of ground water table so that a dangerous or unhealthy condition may result.
 - i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or man-made assets.
3. The Planning Board may require the reservation of open space for recreation or school sites, drainage, or other purposes consistent with the Comprehensive Plan for the development of the Town of Madawaska. The Planning Board may require the developer to landscape such open space and to provide shade trees and ground cover.
4. The Planning Board shall decide on the acceptability of the Preliminary Plan and shall issue its approval, conditional approval, or denial. It shall note all specific aspects which do not meet with its approval either in specifically satisfying the criteria listed in Subsections B and C above, in meeting the Performance Standards stipulated in Chapter II of this Code, or in generally providing for the protection and preservation of the public's health, safety, and welfare. The

Planning Board may grant its conditional approval of any or all aspects of the Preliminary Plan pending any changes required in order to bring it into conformance with its approval, or pending the results of further studies required of the developers as provided for in Subsection C:1 above.

5. The Planning Board shall issue a written notice directed to the applicant, through its minutes or otherwise, of its decision within forty-five days after application for a proposed development has been submitted. By mutual agreement between the Planning Board and the applicant, this period may be extended as necessary to permit the developer to seek an appeal on land use from the Zoning Board of Appeals.

SECTION IV

FINAL PLAN

A.

APPLICATION

A request for Final Approval shall be made by the developer in writing to the Planning Board, and shall be accompanied by the Final Plan, a Performance Guarantee and other materials as described herein. Application for Final Approval shall be made on forms as prescribed by the Planning Board.

B.

REQUIREMENTS

1. The Final Plan shall include the original drawn on permanent transparency material and three dark-line prints, all prepared to the same scale as the Preliminary Plan unless otherwise prescribed by the Planning Board as being necessary to show all details clearly. The seal(s) of the registered professional surveyor and/or engineer, and/or architect responsible for the Final Plan shall be affixed to all sheets. The plan drawing shall list all others submitted with it to include them by reference as part of the Final Plan. It shall also provide space for the signature of a legal majority of the Planning Board and the date of approval following the words, "Approved: Town of Madawaska Planning Board". The following information shall be required:
 - a) All information required of the Preliminary Plan
 - b) The identification and location of all monuments, existing and proposed
 - c) Information sufficient to establish on the ground the exact location, direction, width and length of every street and way line, easement, property line and boundary line.

- d) The location, size and type of planting and landscaping for such parks, esplanades, or other open spaces as may be proposed or prescribed.
2. The Final Plan shall be accompanied by the following documents as applicable:
- a) Private restrictions and easements, conditions of sale and/or trusteeships, and their periods of existence.
 - b) A statement from the Superintendent of the Madawaska Water District of conditions on which the District will supply water, and approving the size and location of mains, valves and hydrants proposed.
 - c) A statement from the Fire Chief of the Town of Madawaska approving the number, size and location of hydrants and their supply mains proposed.
 - d) A statement from the Town Engineer or Department of Public Works Director if connection to public storm sewers is proposed approving the location, diameter, slope, and invert elevations of the storm sewers proposed.
 - e) Statements of approval of the means of sanitary sewerage proposed from the appropriate State Agencies having jurisdiction, together with evidence of suitability of soil and/or water bodies to dispose of the effluent from the proposed treatment of sanitary wastes and from storm water run-off.
 - f) Offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways, parks, or other open space ultimately to be dedicated for public use, or not specifically reserved by the developer.
 - g) Proof from the Board of Appeals of the granting of an appeal for a variance or special exception, if required, and any conditions imposed.

C.

PERFORMANCE GUARANTEE

The Final Plan shall be accompanied by a Performance Guarantee, or at the approval of the Planning Board, a Conditional Agreement. A Performance Guarantee may be tendered in the form of either a certified check payable to the Town of Madawaska, a savings account passbook issued in the name of the Town, or a faithful performance bond running to the Town of Madawaska and

issued by a surety company acceptable to the Town Manager. It shall be in an amount of money to be determined by the Town Manager with the advice of various Town Departments and agencies to be sufficient to cover the cost of at least furnishing, installing, connecting, and completing all the street grading, paving, storm drainage, utilities, and other improvements for public benefit or use specified in the Final Plan. It shall be conditioned upon the completion of all such improvements within two years from the date of such check or bond. A Conditional Agreement, if acceptable in lieu of a Performance Guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Building Inspector for any building on any portion of the development until the completion of all street improvements for public benefit or use specified in the Final Plan. Completion shall be determined by the Municipal Officers to their satisfaction, who shall receive written certification signed by the Town Manager, the Planning Board, the Public Works Director, and the Superintendent of the Madawaska Water District, that all improvements assured by the Performance Guarantee have been constructed in conformance with the Final Plan, as well as all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil engineer that all permanent bounds or monuments have been installed, and are accurately in place in the locations designated in the Final Plan.

D.

FINAL PLAN REVIEW

1. The Planning Board shall review the Final Plan of the proposed development as submitted. It shall verify the provision of all information as required under the above subsections, and the provision of any additional information requested during the Preliminary Review. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.
2. The Planning Board shall approve or deny the Final Plan, taking into consideration the general and specific requirements listed under this Chapter.
3. No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the issuance of Preliminary Approval.
4. The Planning Board shall issue a written notice directed to the applicant, through its minutes or otherwise, of its decision within 30 days after application for Final Approval has been submitted.