TOWN OF ARUNDEL LAND USE ORDINANCE

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# SECTION 1 PREAMBLE

## 1.1 AUTHORITY

This ordinance has been enacted under the authority of the provisions of Title 30-A §3001-3006 and §4351-4358 of the Maine Revised Statutes Annotated, as amended, and any other enabling statutes.

## 1.2 SHORT TITLE

This ordinance and the accompanying Official Land Use Map shall be known as and may be cited as the "Land Use Ordinance, Town of Arundel, Maine", herein referred to as this "Ordinance".

## 1.3 PURPOSE

The purpose of this ordinance is to promote the health, safety, and general welfare of the residents of the town by implementation of the policies of Comprehensive Plan; to encourage the most appropriate use of land throughout the municipality; to preserve the character of the town; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to prevent housing development in unsuitable areas; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; to preserve the public's investment in the highway network; and to provide for adequate public services. (Amended June 13, 2007)

## 1.4 JURISDICTION

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Arundel.

# SECTION 2 DEFINITIONS OF TERMS

## 2.1 CONSTRUCTION OF LANGUAGE

In the interpretation and enforcement of this ordinance, all words other than those specifically defined herein shall have the meaning implied by their context in the ordinance or their ordinary dictionary meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration, or table, the text shall control. The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity. The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular. The word "shall" and "will" are mandatory, the word "may" is permissive. The word "lot" includes the words "plot" and "parcel". The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied". The words "town" or "municipality" means the Town of Arundel, Maine.

## 2.2 DEFINITIONS

In this ordinance the following terms shall have the following meanings:

**ACCESS STRIP:** A contiguous strip of land with a minimum width of 50 feet that is owned in fee with an estate lot and provides legal road frontage on a public street or approved private way. (Adopted June 9, 2010)

**ACCESSORY APARTMENT:** A separate dwelling unit that has been added on, or created within, a single family house for the purpose of providing separate living accommodations. (Adopted June 11, 2008)

**ACCESSORY USE OR STRUCTURE:** A use or structure which is customarily incidental and subordinate to the principal use or structure. Accessory uses or structures, when aggregated, shall not subordinate the principal use or structure. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure. (Amended June 13, 2007)

**ACRE**: 43,560 square feet of horizontal land area.

**ADJACENT GRADE**: The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**AGE RESTRICTED COMMUNITY:** A residential development that is designed and operated in compliance with the Federal Older Persons Act of 1995 in that 80% of all occupied dwelling units contain at least one resident 55 years of age or older, a maximum of 20% of the units are occupied by residents between the ages of 19 and 54 and no children under the age of 19 years old can establish permanent residency. All residential unit types, except mobile homes, are permitted, along with recreational facilities, and non-residential commercial and service operations designed to meet the needs of the residents. (Adopted June 10, 2015)

**AGGRIEVED PARTY**: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance. Owners or persons are precluded from appeals of permits issued by town boards unless they participate in the board's proceedings.

**AGRICULTURE**: The cultivation of soil, producing or raising crops, including gardening, as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof, but not forestry management, timber harvesting activities, or the cultivation of medical marijuana. (Amended June 10, 2015)

**AGRICULTURAL BUILDING:** Buildings or structures located on a farm and used for the sole purpose of providing shelter for agricultural implements, farm products, hay, grain, livestock, poultry or other horticultural products. Said structure shall not be a place of human habitation nor shall it be used by the public. (Adopted June 13, 2007)

**AGRICULTURAL PROCESSING AND DEMONSTRATION FACILITY:** An agricultural facility with a demonstration component which processes a substance produced by living animals (e.g. eggs, milk, wool, honey, beeswax, etc.) and produces a finished product suitable for sale to the general public. The use shall have an educational program which demonstrates, among other things, the entire source to consumer cycle of the

primary product. The use may include a small percentage of related items offered for sale as an accessory use, provided that the overwhelming percentage of the retail product mix consists of items produced (or used in the production process) on-site. (Adopted November 13, 2007)

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

**ALTERNATIVE STRUCTURE/FACILITY:** Clock towers, steeples, light poles, water towers, utility distribution structures, and/or alternative-design mounting structures that camouflage or conceal the presence of antennas or towers. (Adopted April 15, 1998)

**ANIMAL HUSBANDRY:** The raising of animals for commercial gain, including livestock, poultry, the breeding of any domesticated animals, including cats and dogs. (Amended June 13, 2007)

**ANIMAL UNIT:** 1000 pounds of live animal weight. (Amended June 13, 2007)

**ANIMATED SIGN:** A sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display. (Adopted June 10, 2015)

**ANTENNA:** Any apparatus designed for telephonic, radio, television or similar communications through the sending and/or receiving of electromagnetic transmission. (Adopted April 15, 1998)

**APARTMENT:** A dwelling unit contained within or attached to a multifamily dwelling or a mixed-use building. (Amended June 13, 2007)

**AREA OF SPECIAL FLOOD HAZARD**: The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Subsection 7.4.B. (Amended June 11, 2003)

**ARTERIAL COLLECTOR (STREET):** A local street or highway which serves as a major traffic way for travel between and through the community, including the following streets:

| | | | | |
|---|---|---|---|---|
| Brimstone Road | Campground Road | Curtis Road, west of the Irving Road | | Downing Road |
| Irving Road | Limerick Road | Log Cabin Road | Mountain Road | New Road |
| Old Post Road | River Road | Sinnott Road | State Route 111 | State Route 35 |
| Thompson Road | U.S. Route 1 | (Amended November 7, 2000) | | |

**ARTIST OR CRAFTSMAN STUDIOS:** A business or commercial establishment which provides working space for artists or craftspeople including facilities for classes or demonstrations. Activities may include the sales of arts and crafts produced on site as well as any supplies or materials necessary for these activities. (Adopted June 10, 2015)

**AUTO REPAIR GARAGE:** A business establishment where motor vehicles and/or their related engines, parts and equipment are repaired, reconditioned or rebuilt. (Adopted November 7, 2000)

**AUTOMOBILE SERVICE STATION:** A business establishment where gasoline, or other motor vehicle fuel, kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including the sale of minor vehicle maintenance products and accessories and the sale of convenience foods, beverages, and sundries. The servicing and repair of automobiles may be conducted as an accessory use on the premises, however body, frame, or fender straightening or repair and the storage of unregistered automobiles is not permitted. (Amended June 15, 2011)

**AUTOMOBILE GRAVEYARD:** A yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A MRSA, Section 101, subsection 42, or parts of the vehicles, except . (Amended June 13, 2007)

1. An area used for the storage of vehicles or vehicle parts by an auto repair garage for 180 calendar days or less;

2. An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a governmental agency;

3. An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A MRSA, chapter 5;

4. An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A MRSA, Section 851;

5. An area used for temporary storage of vehicles by an establishment that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

6. An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A MRSA, Section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

**BACK LOT**: A lot that lacks adequate lot frontage on a street or private way to meet the minimum lot dimensional requirements in Section 6.3. (Adopted June 9, 2010)

**BANNER:** Any sign of lightweight fabric or similar material having no permanent frame and which is mounted to a pole, building or other object. National flags, state or municipal flags shall not be considered banners.

**BANNER, COMMERCIAL**: A temporary sign advertising a commercial product or service constructed from lightweight fabric or similar material which lacks a permanent frame and is attached to a building, pole, or similar object. (Adopted June 10, 2015)

**BANNER, CULTURAL:** A temporary sign, constructed from lightweight fabric or similar material which lacks a permanent frame and is attached to a building, pole, or similar object, and announces community and cultural events or the activities of non-profit organizations serving the public interest. (Adopted June 10, 2015)

**BANQUET HALL**: An establishment, capable of seating a minimum of 100 persons at tables, which is rented by individuals or groups to accommodate private functions including, but not limited to, banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: 1) kitchen facilities for the preparation or catering of food; and 2) the sale of alcoholic beverages for on-premises consumption only during scheduled events and not open to the general public. (Adopted June 10, 2015)

**BASAL AREA:** The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark. (Adopted June 9.2010)

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year alternately referred to as the 100 year flood.

**BASEMENT**: An area of the building having its floor sub grade (below ground level) on all sides.

**BED & BREAKFAST**: A single family dwelling, in which lodging or lodging and breakfast are offered to the lodgers for compensation, offering no more than three bedrooms for lodging purposes.

**BEDROOM:** A room in a dwelling unit which is not a bathroom, kitchen, living room, or dining room and which meets all of the following characteristics:

1. Has 100 square feet of floor area or more;

2 Has a door or a doorway no wider than 42 inches in which a door may be hung;

3 Meets the ingress and egress standards of the Arundel Building Code. (Adopted January 24, 2000)

**BOARDINGHOUSE:** Any residential structure where lodging and/or meals are provided to lodgers for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner; provided, however, that this term does not include a residential care facility or correctional pre-release facility. (Amended November 25, 1996) (Amended June 13, 2007)

**BOAT LAUNCHING FACILITY:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

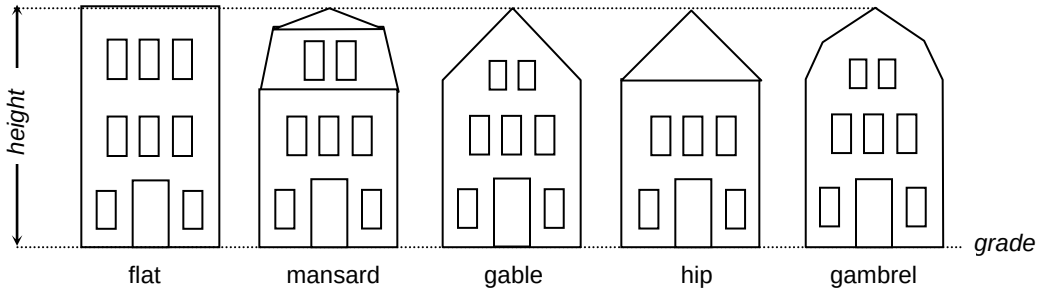
**BUFFERING:** The application of plant material, earthwork, fencing, structures, or any combination thereof that visually obstructs 76%-100% of a land use activity(s) from a specified vantage point(s) on another property(s). Visual obstruction shall be maintained on a year round basis. In general, buffering shall be applied to separate residential and non-residential uses in all zoning districts. (Adopted June 10, 2015)

**BUILDING**: Any structure having a roof supported by columns or walls for the shelter of persons, animals, or personal property. (Amended June 11, 2003)

**BUILDING SIGN FRONTAGE:** A ratio used in determining the amount of sign area permitted on a lot or building, calculated by measuring the linear distance of that portion of the building fronting a public street or private way, improved driveway, or parking lot approved by the Arundel Planning Board. (Adopted June 10, 2015)

**BUILDING TRADESMAN:** A workman in a skilled trade, including a craftsman or an artisan. (Adopted June 13, 2007)

**BUILDING HEIGHT:** The vertical distance measured between the average finished grade of the ground at the front of a building to the highest point of the roof not including chimneys, spires, uninhabitable towers, or similar accessory structures not intended for human occupancy. (Amended June 13, 2007)




**BUREAU:** State of Maine Department of Conservation's Bureau of Forestry (Amended June 9, 2010).

**BUSINESS:** Any full or part-time enterprise or commercial facility, whether operated for profit or not-for-profit. (Amended June 13, 2007)

**CAMPGROUND**: Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

**CANOPY:** As applied to forestry and timber management, the more or less continuous cover formed by tree crowns in a wooded area. (Amended June 9, 2010)

**CEMETERY:** A burial place for human or pet remains. (Amended June 13, 2007)

**CERTIFICATE OF COMPLIANCE:** A document signed by the Code Enforcement Officer stating compliance with all of the provisions of this ordinance. (Amended June 13, 2007)

**CHANGE OF USE:** The conversion of a principal use from one classification to another. (Amended June 13, 2007)

**CHANGEABLE LETTER SIGN:** A sign on which all or part of the message is composed of removable characters. (Adopted November 7, 2000) (Amended June 13, 2007)

**CHANNEL**: A natural or artificial watercourse with a mineralized bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

**CHURCH:** A building used by an organization to hold regularly attended religious services. (Amended June 13, 2007)

**CLUB:** A voluntary non-profit organization where members meet regularly to perform charitable works either by direct hands-on efforts or by raising money for other organizations. A service club is defined by its service mission, and by its membership benefits, such as social occasions, networking, and personal growth opportunities encourage involvement. Clubs offering alcoholic beverages to the public on the premises shall be governed by the conditions of a tavern, as defined herein. (Adopted June 10, 2015)

**CLUSTER DEVELOPMENT**: A development for residential, commercial, industrial (or any combination of the above) purposes, in which individual lot sizes are reduced in exchange for the creation of common open space, a reduction in the size of road and utility systems, and the retention of the natural characteristics of the land.

**COASTAL WETLANDS**: All tidal and subtidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or during the maximum spring tide level as identified in the National Ocean Service Tide Tables.

**CODE ENFORCEMENT OFFICER:** The administrative official designated by the town manager to enforce this ordinance, also referred to as C.E.O. (Amended June 13, 2007)

**COLLOCATION:** Locating by attachment or otherwise, more than one telecommunication facility (use) on a tower or alternative tower structure. (Adopted April 15, 1998)

**COMMERCIAL SERVICE:** A business other than a personal service business, home business, or professional office, engaged in the provision of a service and not goods or commodities. Examples include but are not limited to banks and other financial institutions, cleaning or repairing businesses, pet grooming, bottle redemption centers or funeral homes. (Amended June 10, 2015)

**COMMERCIAL USE:** The use of lands, buildings, or structures, other than a "home occupation," the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of the rental of residential buildings and/or dwelling units. (Amended June 13, 2007)

**CONDITIONAL USE**: A use permitted only after review and approval by the Planning Board or Staff Review Committee. A Conditional Use is a use that would not be appropriate without restriction, but which is permitted provided that all performance standards and other requirements of this ordinance are met. Any use not specifically allowed as either a permitted or a conditional use in a zoning district is specifically prohibited. (Amended June 11, 2008; June 13, 2012, June 10, 2015)

**CONGREGATE CARE FACILITY:** A type of medical care facility in which individual or family units have a private bedroom or living quarters, but share with other residents a common dining room, recreational facilities, and community facilities. Medical care can be provided in graduated levels ranging from periodic household maintenance and home health care to round the clock intensive medical care. (Adopted June 10, 2105)

**CONSTRUCTED**: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered a part of construction.

**CONTRACTOR YARD 1:** A yard, building, or combination thereof in which no more than four vehicles consisting of no more than one (1) Code 25 or Code 30 and one (1) Code 35 and Code 40 vehicle as illustrated in Figure 8.29-1 are stored along with equipment, building supplies, and/or earth material for use by a building, construction, or landscape tradesman solely for the conduct of the contract business and not for on-site display or resale to the general public. Asphalt paving businesses are excluded from Contractor Yard 1. (Adopted June 10, 2015)

**CONTRACTOR YARD 2:** The principal place of business for a building, construction, or landscape contractor operating a fleet of four (4) or more construction /commercial vehicles and customarily consisting of offices, display areas, storage yards for building supplies, earth material, construction vehicle storage, and fueling storage facilities not exceeding 10,000 gallons in capacity and used exclusively for the fueling of the vehicles stored on-site. (Adopted June 10, 2015)

**CONVENTION CENTER:** A facility, with a minimum floor area of no less than 10,000 square feet, designed and used for conventions, conferences, seminars, product displays, recreation activities and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption. Lodging facilities, restaurants, and retail establishments may be associated with a convention center. (Adopted June 10, 2015)

**CORRECTIONAL PRE-RELEASE FACILITY:** A facility which provides food, shelter and/or guidance or counseling services on-site to parolees, persons in correctional pre-release programs or persons on probation. This term does not include residential care facilities s defined herein. (Adopted November 25, 1996)

**CUT-OFF FIXTURE**: An outside lighting fixture that is designed to minimize the amount of light which is not directed towards the ground. In order to be considered a cut-off fixture a minimum of 90% of the total lamp lumens must be directed below 80° from vertical and no more than 2.5% of the total lamp lumens may be allowed above a horizontal line from the bottom of the fixture. A cut off fixture may be either a pole-mounted or wall-mounted fixture. (Adopted June 14, 2000)

**DAY CARE CENTER: A** facility registered with or licensed by the state and that provides care or instruction during the day to thirteen (13) or more children. The term also includes centers that provide day care to the elderly or adults with handicaps. (Adopted November 7, 2000) (Amended June 13, 2007)

**DAY CARE HOME:** A residential home occupied by the applicant and registered with or licensed by the state, as required, and that provides care or instruction during the day to three to twelve (3-12) children, exclusive of children who may be living in the home that is serving as the day care center. The term also includes centers that provide day care to the elderly or adults with handicaps. (Adopted June 13, 2007)

**DBH (Diameter Breast Height):** The diameter of a standing tree measured 4.5 feet from ground level. (Adopted June 9, 2010)

**DECK:** An uncovered structure with a floor, elevated above ground level. (Adopted November 7, 2000)

**DEVELOPMENT:** Any change caused by individuals or entities to any real estate, including but not limited to the construction of buildings or other structures; or construction of additional and/or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; the storage of equipment or materials, the storage, deposition, or extraction of materials; or public or private sewage disposal systems or water supply facilities. (Amended June 11, 2003) (Amended June 13, 2007)

**DIGITAL ELECTRONIC MESSAGE SIGN:** A sign or portion thereof that displays electronic, non-pictorial, text information defined via different combinations of light emitting diodes (LED's), fiber optics, or other illumination devices within the display area. Display can consist of static or scrolling display of text or symbolic messages. Electronic changeable copy signs do not include official or time and temperature signs. (Adopted June 10, 2105)

**DIGITAL FUEL PRICE SIGNAGE**: Digital LED electronic message board providing a static display of the current price of fuel sold at a retail automobile service station as defined herein. (Adopted June 10, 2105)

**DIGITAL GRAPHIC DISPLAY SIGN:** A sign or portion thereof that displays electronic, static images, static graphics and/or text information, via different combinations of light emitting diodes (LED's), fiber optics, other illumination devices within the display area and where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. (Adopted June 10, 2105)

**DIGITAL SIGNAGE:** Shall mean *Digital Electronic Message Sign*, *Digital Graphic Sign*, *Digital Time/Temperature Sign*, and *Digital Fuel Price Sign* as defined herein. (Adopted June 10, 2105)

**DIGITAL TIME/TEMPERATURE SIGNS**: Any sign which electronically displays exclusively current time and temperature information. (Adopted June 10, 2105)

**DIMENSIONAL REQUIREMENTS:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, and height.

**DISPOSAL**: The discharge, deposit, injection, dumping, leaking, spilling, incineration, or placing of any solid waste in or on any land, air or water so that the solid waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters. (Amended November 7, 2000)

**DISRUPTION OF SHORELINE INTEGRITY:** The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions. (Adopted June 9, 2010)

**DISTRICT**: A specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

**DRIVE-THRU FACILITIES:** Any use in which, goods, food, services, or money is dispensed directly to occupants of a motor vehicle. (Adopted June 10, 2015)

**DRIVEWAY:** A vehicular access-way serving two lots or less. (Amended June 13, 2007)

**DWELLING:** Any building designed or used only for residential purposes.

1. **Single-Family Dwelling**: A building containing only one (1) dwelling unit for occupation by not more than one (1) family. (Amended June 13, 2007)
2. **Two-Family Dwelling** (Duplex): A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. **Multi-Family Dwelling**: A building containing three (3) or more dwelling units for occupation by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units. (Amended June 13, 2007)

**DWELLING UNIT:** A room or suite of rooms designed and equipped exclusively for use by one family for habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Except for dwelling units located in the shoreland zone, the term does not include recreational vehicles including those that are associated with a campground and seasonal cottages that are part of a seasonal resort (Amended June 13, 2007) (Amended November 13, 2007) (Amended June 9, 2010)

**EDUCATIONAL FACILITY** (Adopted November 7, 2000)

**Public, Private and Parochial School:** An institution for education or instruction that satisfies either of the following requirements:

A) the school is not operated for a profit or as a gainful business; or

B) the school teaches courses of study which are sufficient to qualify attendance there as compliance with State compulsory education requirements.

**College:** An institution accredited by the State of Maine to grant a post-secondary degree.

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

**ELEVATED BUILDING:** A building without a basement built in Zones AE or A, as shown on the Flood Insurance Rate Map, with the top of the lowest floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts" and adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. “Elevated building” also includes a structure elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of floodwaters. (Amended June 11, 2003) (Amended June 13, 2007)

**ELEVATION CERTIFICATE**: An official form (FEMA Form 81-31, July 2000, as amended) that is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and is required as a condition for purchasing flood insurance. (Amended June 11, 2003)

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

**ESTATE LOT:** A lot with access established to a street or approved private way via a minimum 50-foot wide access strip owned in fee and contiguous to the estate lot. (Adopted June 9, 2010)

**EXPANSION OF A STRUCTURE**: an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, and greenhouses.

**EXPANSION OF USE**: the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

**EXPANSION, SUBSTANTIAL**: An increase in non-residential floor space, within or attached to a structure, by 1,000 sq. ft., or expansion of the lot area in use by 10,000 sq. ft. or more, since 1979. (Adopted June 12, 1996)

**EXTRACTION**: The removal of earth material from a site for commercial purposes or sale.

**FAA:** Federal Aviation Administration (Adopted April 15, 1998)

**FAMILY**: One or more persons occupying a premises and living as a single housekeeping unit.

**FARM RETAIL:** A permanent structure used to store, display, and sell agricultural and animal husbandry products produced on the site and other lands farmed by the principal owner. Prepared packaged foods, baked goods, handicrafts, Christmas trees and wreaths, agricultural hand implements and supplies manufactured by non-owner producers are permitted as secondary and seasonal uses in a Farm Retail operation. (Adopted June 13, 2012)

**FARM STAND:** A temporary structure not exceeding 200 square feet located on private property used for the sales of products such as fruit, vegetables, flowers, herbs, plants, unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods and home-made handicrafts. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a farm stand. (Adopted June 13, 2007)

**FCC:** Federal Communications Commission (Adopted April 15, 1998)

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

**FINISHED GRADE:** The average elevation of the ground surface within 5 feet of a building. (Adopted June 13, 2007)

**FLEA MARKET:** The sale of used or new merchandise, customarily involving the lease of sales space (indoors or outdoors) to others. (Amended June 13, 2007)

**FLOOD(ING):**

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

   (1) the overflow of inland or tidal waters.

   (2) an unusual and rapid accumulation or runoff of surface waters from any source.

B. The collapse or subsidence of land along the shore of a body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph A(1) of this definition. (Amended June 11, 2003)

**FLOOD INSURANCE STUDY:** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations. (Amended June 11, 2003)

**FLOOD INSURANCE RATE MAP:** The official map on which the Federal Insurance Administrator has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town of Arundel. (Amended June 11, 2003)

**FLOODPLAIN:** Any land area susceptible to being inundated by water from any source. (Amended June 11, 2003)

**FLOOD PLAIN MANAGEMENT**: The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations. (Adopted June 12, 1996)

**FLOOD PROOFING:** Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. (Amended June 11, 2003)

**FLOODWAY**: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and in Zone A on the Flood Insurance Rate Map is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain. (Amended June 11, 2003)

**FLOOR AREA**: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

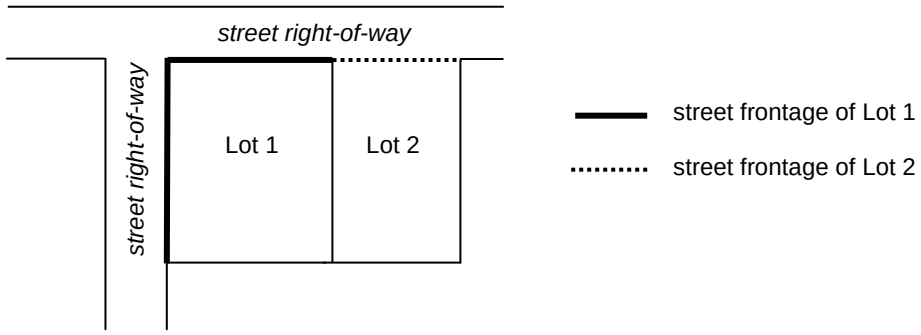
**FOREST MANAGEMENT ACTIVITIES:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads. (Adopted June 9, 2010)

**FOREST STAND:** A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit. (Adopted June 9, 2010)

**FORESTED WETLAND**: A freshwater wetland dominated by woody vegetation that is 20 feet tall or taller. (Amended June 14, 2000)

**FOUNDATION**: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

**FRONTAGE, STREET:** See STREET FRONTAGE.(Amended June 9, 2010)




**FRONTAGE, SHORE:** See SHORE FRONTAGE (Amended June 9, 2010)

**FUNCTIONALLY WATER-DEPENDENT USES**: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas,

navigation aides, basins and channels, industrial uses dependent upon water borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters. (Amended June 11, 2003)

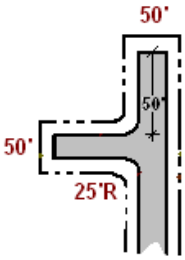
**GARDEN CENTER:** An agricultural related business establishment primarily involved in the retail sale of lawn and garden supplies, nursery stock, seeds, and seedlings. and not exceeding 2500 square feet in floor area. (Amended June 13, 2007)

**GOLF COURSE:** The ground or course laid out to facilitate the playing of the game of golf. For the purpose of this Ordinance a golf course may be public or privately owned, shall consist of 9 or more holes, and may support accessory uses such as practice putting greens, a driving range, maintenance facilities, clubhouse facilities containing meeting rooms, changing rooms, retail sales of golf equipment and apparel, food and alcoholic beverage service, and similar activities associated with but subordinate to the play of golf. Miniature golf courses are excluded from the definition of a golf course. (Adopted June 15, 2011)

**GREAT POND**: Brimstone Pond (Amended June 14, 2000)

**GROUND COVER:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor. (Adopted June 9, 2010)

**HAMMERHEAD**: An alternative terminus to a private way in which a 90 degree backup lane is provided to the tangent of the travel lane. (Adopted June 9, 2010)




**HARVEST AREA**: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest. (Adopted June 9, 2010)

**HAZARDOUS WASTE**: Those wastes designated as hazardous by the Maine Board of Environmental Protection in accordance with 38 M.R.S.A. Sec. 1303-A but not including wastes resulting from personal residential household or agricultural activities.

**HEALTH CLUB:** A public or private facility providing exercise and/or weight-lifting equipment, aerobics, yoga, gymnastics, swimming, sauna, or similar type facilities for the promotion of exercise and health maintenance. (Adopted June 10, 2015)

**HEALTH SERVICES:** Health care facilities as well as establishments providing support to the medical profession and patients, such as medical and dental laboratories, blood banks, oxygen, and miscellaneous types of medical supplies and services. (Adopted June 10, 2015)

**HISTORIC STRUCTURE**: any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

   a.) By an approved state program as determined by the Secretary of the Interior, or

   b.) Directly by the Secretary of the Interior in states without approved programs. (Adopted June 12, 1996)

**HOME OCCUPATION / HOME BUSINESS:** An occupation, profession, activity, or use carried on as an accessory use in a dwelling or structure accessory thereto that is customary, incidental and secondary to the use of a dwelling unit for residential purpose, and which does not alter the residential character of the dwelling. (Amended June 13, 2007)

**HYDRIC SOILS:** Poorly drained or very poorly drained soils as listed by the U.S.D.A. Natural Resources Conservation Service. (Amended June 13, 2007)

**HYDROPHYTIC VEGETATION:** Vegetation that is specifically adapted to submerged or saturated soil conditions and is classified by the U.S. Fish and Wildlife Service, U.S. Department of Agriculture, in the National List of Plant Species that Occur in Wetlands (NERC-88/18.19 or updated version). (Adopted June 9, 2010)

**IMPERMEABLE SURFACE**: The surface of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, stone, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas include, but are not limited to, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and macadam or other surfaces which similarly impede the natural infiltration of stormwater. (Adopted June 13, 2007)

**INDUSTRIAL**: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**INN**: A building, which contains a dwelling unit occupied by an owner or resident manager, in which lodging or lodging and meals are offered to the general public for compensation, in which the entrances and exits to or from these rooms are made through a lobby or other common room.

**INDIVIDUAL PRIVATE CAMPSITE:** An area of land which is not otherwise developed and not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms. An individual private campsite does not include the use of a tent or recreational vehicle by visitors to the occupants of a dwelling. (Amended June 13, 2007)

**INTENSIFICATION**: An increase in use or activity which will generate 10% or more (A.A.D.T.) traffic trips in accordance with the Institute of Traffic Engineers Trip Generation Manual or a use which requires an increase in parking by 10 or more spaces. (Adopted June 12, 1996)

**INTERMITTENT STREAM:** A free-flowing drainage outlet containing flowing water for less than three months out of the year. There must be the presence of aquatic vegetation and a defined channel devoid of topsoil. (Amended June 13, 2007)

**JUNKYARD:** A yard, field, or other outside area used to store, dismantle or otherwise handle: (Amended June 13, 2007)

1. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances, or furniture;
2. Discarded, scrap and junked lumber; or
3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material.

**KENNEL:** A facility where dogs, cats, or other household pets are temporarily housed for commercial purposes, for instance when their owners are away.

**LED SIGNS:** Type of electronic variable message sign made up of thousands of tiny lights called light emitting diodes (LEDs) that can emit full color in various intensity and can either portray a static graphic or images that appear to move with video-like quality. (Adopted June 10, 2015)

**LEVEL 1:** A business establishment with a gross floor area less than 7,500 square feet and less than 2,500 square feet of outdoor display or storage of merchandise. (Adopted June 13, 2007)

**LEVEL 2:** A business establishment with a gross floor area of at least 7,500 square feet but less than 15,000 square feet, or with at least 2,500 square feet of outdoor display or storage of merchandise. (Adopted June 13, 2007)

**LEVEL 3:** A business establishment with a gross floor area of at least 15,000 square feet. (Adopted June 13, 2007)

| Building Size<br>Outdoor Storage & Display Area | Less than 7,500 sq. ft. GFA | At least 7,500 sq. ft, but less than 15,000 sq. ft. GFA | 15,000 sq. ft. GFA or more |
|---|---|---|---|
| Less than 2,500 sq. ft. outdoor storage or display | Level 1 | Level 2 | Level 3 |
| At least 2,500 sq. ft. outdoor storage or display | Level 2 | Level 2 | Level 3 |

**LICENSED FORESTER**: A forester licensed under 32 M.R.S.A. Chapter 76. (Amended June 9, 2010)

**LOCALLY ESTABLISHED DATUM**: An elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (N.G.V.D.) or any other established datum and is used in areas where Mean Sea Level data is too far from specific site to be practically used.

**LODGING:** Building(s) providing overnight accommodations to itinerate guests for remuneration including hotels, motels, bed & breakfast establishments and inns but excluding boarding houses. Lodging facilities may also include restaurants, taverns, and other facilities as secondary and subordinate uses to the lodging use. (Adopted June 10, 2015)

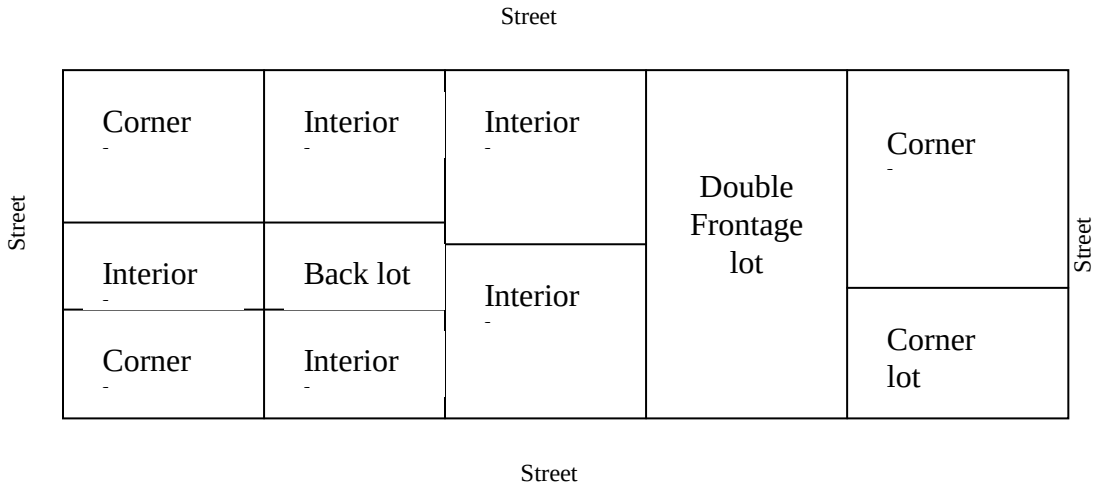
**LOT:** A contiguous area of land, with ascertainable boundaries established by deed, boundary lines on a recorded subdivision plan, or other instrument of record. not to include rights of way. (Amended June 13, 2001) (Amended June 13, 2007; June 9, 2010)

**Lot, Back**: A lot that does not abut a street or private way.

**Lot, Corner**: A lot with at least two contiguous sides abutting a street.

**Lot, Double Frontage**: A lot with at least two noncontiguous sides abutting a street.

**Lot, Interior**: Any lot other than a back lot, corner lot, or double frontage lot. (Amended Jan. 24, 2000)



**LOT AREA**: The total horizontal area within the lot lines.

**LOT COVERAGE:** The percentage of a lot covered by buildings, parking areas, driveways, sidewalks, patios, and other impermeable surfaces. (Amended June 13, 2007)

**LOT FRONTAGE:** The contiguous street frontage of a parcel of land required to meet the dimensional requirements of a zoning district. (Adopted June 9, 2010)

**LOT LINES:** The lines bounding a lot as defined below: (Amended January 24, 2000)

1. **Front Lot Line**: On an interior lot, the line separating the lot from the street. On a corner or double frontage lot, the lines separating the lot from either street. On a back lot, the line closest to and most parallel to the street from which vehicular access to the lot is gained.
2. **Rear Lot Line**: The lot line opposite the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of lesser dimension. (Amended June 13, 2007)
3. **Side Lot Lines**: Any lot lines other than the front lot line or rear lot line.

**LOT OF RECORD:** A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file in the York County Registry of Deeds. (Amended June 13, 2007)

**LOT WIDTH:** An alternative term for lot frontage. (Adopted January 24, 2000) (Amended June 13, 2007;June 9, 2010)

**LOWEST FLOOR**: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure useable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements in Subsection 7.4.G.12. (Amended June 11, 2003)

**LOW IMPACT MANUFACTURING:** Establishments engaged in the manufacturing, assembly, research, or processing of products and goods with all the operations occurring entirely within an enclosed structure not exceeding 6000 square feet of floor area unless otherwise specified in a zoning district, producing no objectionable noise, glare, odor, vibrations, smoke, or dust associated with the operations detectable outside the building, and where there is no outdoor storage of raw materials or products, unless otherwise permitted in the specific zoning district. (Adopted June 13, 2007, amended June 10, 2015)

**MANUFACTURED HOUSING UNIT:** Structures 14 or more feet in width and 750 square feet or more in area, transportable in two or fewer sections, which were constructed in a manufacturing facility and transported to a building site and designed to be used as dwellings when connected to the required utilities. For Section 7.4 Floodplain Management only, this also includes structures less than 14 feet in width, park model trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. (Amended June 12, 1996) (Amended June 13, 2007)

**MANUFACTURING**: The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing.

**MARINA**: A shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for water-craft and their equipment and accessories.

**MARKET VALUE:** The estimated price a property will bring in the open market and under prevailing market conditions as determined by a Certified Real Estate Property Appraiser. (Amended June 13, 2007)

**MEDICAL FACILITIES:** Buildings and facilities providing medical diagnostics, treatment, rehabilitation, and patient care to persons under the supervision of health care professionals licensed to practice in the State of Maine, including but not limited to hospitals, medical clinics, nursing homes, physical rehabilitation facilities, and hospices. (Adopted June 10, 2015)

**MEDICAL MARIJUANA-CAREGIVER PRODUCTION FACILITY:** A facility used by a designated *"Primary Caregiver"* licensed by the State of Maine to cultivate, prepare, and distribute medical marijuana to no more than six (6) qualified patients under the regulatory specifications and rules of 22 MRSA §2423-A. (Adopted June 10, 2015)

**MEDIUM IMPACT MANUFACTURING:** Establishments engaged in the manufacturing, assembly, research, or processing of products and goods with all the operations occurring entirely within an enclosed structure not exceeding 50,000 square feet of floor area unless otherwise specified in a zoning district, producing no objectionable noise, glare, odor, vibrations, smoke, or dust associated with the operations detectable outside the building, and where outdoor storage of raw materials or products is not visible nor produces noise, odor, or vibration nuisances to adjacent properties. (Adopted June 10, 2015)

**MINERAL EXPLORATION:** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition. (Adopted June 14, 2000)

**MINERAL EXTRACTION:** Any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the removed product, away from the extraction site. (Adopted June 14, 2000)

**MOBILE HOME**: A manufactured housing unit constructed prior to June 15, 1976.

**MOBILE HOME PARK:** A plot of land under unified ownership approved by the Town for the placement of three (3) or more manufactured housing units. (For floodplain management purposes, two (2) or more manufactured housing units). (Amended June 12, 1996) (Amended June 13, 2007)

**MONOPLOE:** A telecommunications tower consisting of a single pole (non-latticed), constructed without guy wires or ground anchors. (Adopted April 15, 1998)

**MOTEL OR HOTEL:** A building or group of buildings built or converted to accommodate for a fee travelers who are staying for 30 days or less. A motel or hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers. A motel is distinguished from a hotel only in that the sleeping rooms of a motel are accessed from the exterior of the building or from exterior hallways, parking is typically adjacent to the sleeping rooms. (Amended November 7, 2000) (Amended June 13, 2007)

**MOVIE THEATRE:** A facility where motion pictures are shown to the public and where food and beverages may be served. (Adopted June 10, 2015)

**MULTI-FAMILY DEVELOPMENT**: A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings, or any combination of buildings containing three or more dwelling units. (Adopted January 24, 2000)

**MUSEUM:** A non-profit institution or establishment operated principally for the purpose of preserving and exhibiting structures and/or objects of historical, cultural, scientific or artistic interest and containing associated facilities for meetings, education, restoration, and demonstration purposes. Sale of goods and services related to the museum's principle purpose is permitted as a subordinate and incidental use on the property. (Adopted June 13, 2012)

**NATIONAL GEODETIC VERTICAL DATUM (NGVD):** The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program. NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)." (Adopted June 11, 2003)

**NEIGHBORHOOD CONVENIENCE STORE:** A retail business of less than 2,500 square feet of floor sales area intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not motor vehicle fuels. (Amended June 13, 2007)

**NEON SIGN:** A sign manufactured utilizing neon tubing, which is visible to the viewer. (Adopted June 10, 2015)

**NEON TUBING:** Electric discharge, cold cathode tubing manufactured into shapes that form letters, parts of letters, skeleton tubing, outline lighting, and other decorative elements or art forms, in various colors and diameters and filled with inert gases. (Adopted June 10, 2015)

**NET DEVELOPMENT DENSITY (NDD):** The area of a parcel suitable for building development, calculated by subtracting the area of site constraints as identified below from the total parcel area;

*1) All wetlands and hydric soils;*

*2) All watercourses;*

*3) Slopes in excess of twenty-five (25) percent.* (Adopted June 10, 2015)

**NET RESIDENTIAL ACREAGE**: The gross acreage available for development excluding the area for streets or access and the areas which are unsuitable for development including areas of hydric soils, ponds, any portion of the site which is cut off from the main portion of the site by an existing road, water body, or similar physical condition which interrupts the continuity of the site, and slopes of 25% or more. (Amended November 7, 2000) (Amended June 13, 2007)

**NET RESIDENTIAL DENSITY**: The number of dwelling units per net residential acre.

**NEW CONSTRUCTION:** Structures for which the start of construction commenced on or after June 14, 1995 or the effective date of any amendment to this ordinance as well as any subsequent improvements to these structures. (Adopted June 11, 2003) (Amended June 13, 2007)

**NIT:** A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter. (Adopted June 10, 2015)

**NON-CONFORMING DEVELOPMENT:** A property which consists of a use that is permitted in the district in which it is located, on a lot that meets the dimensional requirements of this ordinance, and a structure that meets the setback and height requirements, but that does not comply with all of the standards of Sections 6, 7, or 8 of this Ordinance. (Adopted June 13, 2007)

**NON-CONFORMING LOT:** A lot that does not meet the minimum lot area, lot frontage, shore frontage, or access requirements of this Ordinance. (Amended June 10, 1997) (Amended June 13, 2007; June 9, 2010)

**NON-CONFORMING STRUCTURE:** A structure that does not meet the setback or height requirements of this ordinance. (Adopted June 13, 2007)

**NON-CONFORMING USE:** The use of land or structures that is not permitted in the district in which it is located. (Adopted June 13, 2007)

**NORMAL HIGH WATER MARK (OR LINE) OF COASTAL WATERS:** Along coastal or tidal waters, the elevations at which vegetation changes from predominately aquatic predominantly terrestrial. By way of illustration, coastal or tidal vegetation includes, but is not limited to: salt marsh grass salt meadow hay, black arrow grass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris or water line left by non-storm tidal action. (Amended June 13, 2007)

**NORMAL HIGH WATER MARK (OR LINE) OF INLAND WATERS:** 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. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond grasses, and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark 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. In the case of wetlands adjacent to the Kennebunk River or Brimstone Pond, the normal high water mark is the upland edge of the wetland, and not the edge of the open water.(Amended June 13, 2007)

**NURSING HOME**: A facility in which nursing care and medical services are performed under the general direction of persons licensed to provide medical care in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related medical services. .(Adopted November 7, 2000)

**OFFICE**: A place of business where activities such as bookkeeping, accounting, telephone sales, and telecommunications take place, but where there are no retail sales. (Adopted November 7, 2000; Amended June 10, 2015)

**OFFICIAL BUSINESS DIRECTION SIGN:** Shall mean a sign licensed by the Maine Department of Transportation which indicates to the traveling public the route to public accommodations, facilities commercial service areas and points of scenic, historical, cultural, recreational, educational and religious interest. (Amended June 13, 2007)

**PARKING SPACE**: An area, exclusive of drives or aisles, for the parking of vehicles.

**PERMITTED USES:** A use that is permitted by right in a zoning district. Any use not specifically allowed as either a permitted or a conditional use in a zoning district is specifically prohibited. (Adopted June 10, 2015)

**PENDING APPLICATION:** Any complete application that has been filed in compliance with this ordinance and deemed complete by the permitting authority. (Amended June 13, 2007)

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

**PERSONAL SERVICE:** An establishment primarily engaged in providing services involving the non-medical care of a person such as but not limited to, hairdresser, barber, beautician, massage therapist, tanning salon, and similar establishments. (Adopted November 7, 2000; Amended June 13, 2007; Amended June 10, 2015).

**PET DAY CARE CENTER:** A commercial facility providing professional daytime boarding and care for domesticated pets, but not for exotic species or wild animals. (Adopted June 10, 2015)

**PIERS, DOCKS, WHARVES, AND USES PROJECTING INTO WATER BODIES:**

1. **Temporary**: Structures that remain in the water for less than seven (7) months in any period of twelve (12) consecutive months. (Amended June 13, 2007)
2. **Permanent**: Structures that remain in the water for seven (7) months or more in any period of twelve (12) months. (Amended June 13, 2007)

**PLANNED DEVELOPMENT**: Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases, including shopping centers, industrial parks and office/business parks. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings.

**PORTABLE SIGN:** A sign that is designed to be moveable and not securely attached to the ground or a building. Any sign that is not attached to a building shall be considered a portable sign unless its supports are inserted into the ground. (Adopted November 7, 2000) (Amended June 13, 2007)

**POWERED SPORTS FACILITY:** A commercial recreational facility in which a track, course, or other accommodations are provided for the use of power sports vehicles such as ATVs, Motorcycles, Go-Karts, "dirt bikes", and other motorized vehicles operated by a driver. (Adopted June 10, 2015)

**PRINCIPAL STRUCTURE**: The structure in which the primary use of the lot is conducted.

**PRINCIPAL USE**: The primary use to which the premises are devoted, and the main purpose for which the premises exist.

**PRIVATE ROAD**: A private way.

**PRIVATE WAY:** A privately-owned road within a 50 foot right-of-way constructed to standards specified in Section 7.7.B of the Land Use Ordinance and providing legal vehicular access to lots lacking required street frontage on a public street. (Adopted June 9, 2010)

**PROFESSIONAL OFFICES**: The place of business for doctors, lawyers, accountants, architects, surveyors, real estate or insurance agents, psychiatrists, psychologists, counselors, and the like, but not including financial institutions or personal services (such as hair dressers, beauticians, masseuses, etc.).

**PUBLIC FACILITY:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity. For purposes of this ordinance, a public facility shall be treated in the same manner as a privately owned facility of a similar nature. (Amended June 13, 2007)

**PUBLIC UTILITY:** Facilities for the transmission or storage of electricity, gas, oil, water, sewage, or electronic signals, either above or below ground, but not including the single or multiple locations of street poles subject to Municipal Officer review. (Adopted June 12, 1996) (Amended June 13, 2007)

**RECENT FLOODPLAIN SOILS:** The following soil series as described and identified by the National Cooperative Soil Survey: (Adopted June 9, 2010)

| | | |
|---|---|---|
| Fryeburg | Hadley | Limerick |
| Lovewell | Medomak | Ondawa |
| Alluvial | Cornish | Charles |
| Podunk | Rumney | Saco |
| Suncook | Sunday | Winooski |

**RECREATIONAL FACILITY, COMMERCIAL:** Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to miniature golf courses, tennis courts, indoor sports facilities, ice rinks, and amusement parks. (Amended June 10, 2015)

**RECREATIONAL FACILITY, PASSIVE:** A recreation facility that is not operated for profit and is open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, but not including campgrounds or commercial recreational facilities. (Amended June 10, 2015)

**RECREATIONAL RENTALS:** A business that rents recreational and sporting equipment to the general public for short term use including but not limited to equipment such as bicycles, canoes and kayaks, skateboards, and powered vehicles limited to motor scooters and motor bicycles. (Adopted June 10, 2015)

**RECREATION VEHICLE:** A vehicle or vehicular attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, or motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with a State Division of Motor Vehicles. (Amended June 13, 2007)

**REPLACEMENT SYSTEM**: A septic system intended to replace:

1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or

2) any existing overboard wastewater discharge.

**RESEARCH FACILITY**: A laboratory or other facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development of end products as an extension of such investigation. Such a facility does not engage in the manufacture or sale of products, except as incidental to the main purpose of research and investigation. (Adopted November 7, 2000)

**RESIDENTIAL CARE FACILITY:** A residential structure which provides shelter and support services as an integral function of the facility. This term does not include a correctional pre-release facility or shelter and services to family members related by blood, marriage, or adoption. (Adopted Nov. 25, 1996 - Amended June 10, 1997) (Amended June 13, 2007)

**RESIDUAL:** Solid wastes generated from municipal, commercial or industrial facilities that may be suitable for agronomic utilization. These materials may include: food, fiber, vegetable and fish processing wastes; dredge materials; sludges; dewatered septage; and ash from wood or sludge fired boilers. (Adopted November 7, 2000)

**RESIDUAL BASAL AREA:** The average of the basal area of trees remaining on a harvested site. (Adopted June 9, 2010)

**RESTAURANT:** An establishment that serves food and beverages primarily to persons seated within the building. This includes outdoor cafes, decks, and picnic tables.

**RESTAURANT, TAKE OUT**: An establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly or heated in a device such as a microwave. Orders are not generally taken at the customers table, and food is generally served in disposable wrapping or containers.

**RETAIL:** The sale of goods or commodities directly to the consumer. For the purposes of this Ordinance, the term retail sale business shall include salesrooms or showrooms, but not an automobile service station, a garden center, a farm stand or a restaurant. (Amended June 13, 2007; Amended June 11, 2008) (Amended June 10, 2015)

R**IGHT-OF-WAY:** An area or strip of land described in a recorded deed and dedicated to the purpose of providing access to a parcel or parcels of land other than the land on which the right-of-way crosses. No land in the right-of-way may be used to meet any dimensional requirements of this ordinance. (Adopted January 24, 2000)

**RIPRAP:** A permanent, erosion-resistant ground cover constructed of large, loose, angular or sub-angular (rounded) stone.. (Amended June 13, 2007)

**RIVER**: The freshwater portions of the Kennebunk River. (Amended June 14, 2000)

**RIVERINE**: Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc. (Adopted June 12, 1996)

**ROAD**: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles. (Adopted January 24, 2000)

**SALT MARSH:** Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed. (Adopted June 9, 2010)

**SALT MEADOW:** Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas. (Adopted June 9, 2010)

**SCHOOLS:** Institutions that that provide on or off-site organized and systematic education of students in curriculums mandated by the State of Maine or provide accredited post secondary school education or provide instruction in technical, scientific, artistic, professional, vocational, or religious careers.

**Schools:** Public and private educational institutions, including: boarding schools; community colleges, colleges and universities; elementary, middle, and junior high schools; high schools; and military academies. Does not include pre-schools and child day care facilities (see "Child Day Care Facilities").

**Schools, Specialized**: Public and private educational institutions offering instruction in the following: art; ballet and other dance; computers and electronics; drama; driver education; language; music; and other similar activities. Includes business, secretarial, and vocational schools: establishments providing courses by mail; professional schools (law, medicine, etc.); seminaries/religious ministry training facilities. Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. (Adopted June 10, 2015)

**SCREENING:** The application of plant material, earthwork, fencing, structures, or any combination thereof that visually obstructs 33%-74% of a land use activity(s) from a specified vantage point(s) on another property(s). Visual obstruction shall be maintained on a year round basis. In general, screening shall be applied to separate non-residential uses on adjacent properties. (Adopted June 10, 2015)

**SEASONAL COTTAGE:** A detached one-story single unit structure, designated as part of an overall Seasonal Resort, made up of a room or group of rooms containing cooking, sleeping, bathing and sanitary facilities and that is not occupied between January 1 and April 30. As a requirement of this designation, water service to the unit shall be turned off during the same period. (Adopted November 13, 2007)(Amended Nov. 24, 2014)

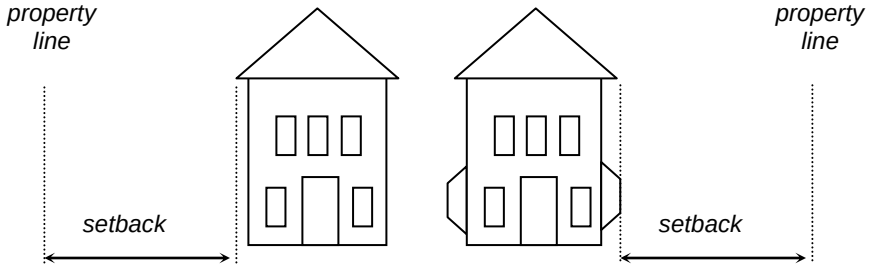
**SEASONAL PARKING AREA OR LOT**: A parking area or lot generally used for a time period of up to eight (8) months between May 1 and December 31. (Adopted November 2, 2010) (Amended Nov. 24, 2014)

**SEASONAL RESORT:** A business consisting of a minimum of twenty (20) seasonal cottage units as part of a comprehensively planned and designed development operated by an identified management group on a minimum of 10 acres. The seasonal cottage units may be occupied for a time period of up to eight (8) months between May 1 and December 31. Such a resort would also typically have associated guest amenities including, but not limited to, a community center, swimming pool facilities, convenience store and active and/or passive recreational facilities. The resort's management group would be responsible for operating and maintaining the complex, including providing year 'round maintenance and on-site security. (Adopted November 13, 2007) (Amended Nov. 24, 2014)

**SECONDARY CONTAINMENT TANK**: A tank meeting the requirements of the 1996 edition of the NFPA 30 Flammable and Combustible Liquids Code having an inner and outer wall with an interstitial space between and having means for monitoring the interstitial space for a leak in either wall. (Adopted November 7, 2000)

**SELF-STORAGE FACILITY:** A business establishment that provides individual spaces for lease or rent to individuals for the storage of personal property. (Adopted June 15, 2005)

**SETBACK:** The horizontal distance from a lot line to the nearest part of a building or structure.




**SETBACK FROM WATER OR WETLAND:** The horizontal distance from the normal high water mark or upland edge of wetland to the nearest part of a structure. (Amended June 13, 2007)

**SHOPPING CENTER:** Two or more retail stores or service establishments, containing 10,000 square feet or more of gross floor space, on one lot. (Amended June 13, 2007)

**SHORE FRONTAGE:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline. (Adopted June 9, 2010)

**SHORELAND ZONE:** The land area within 250 feet of the normal high-water line of Brimstone Pond, the Kennebunk River, or Goff's Mill Brook, within 250 feet of the upland edge of a coastal wetland including all areas affected by tidal action; within two hundred fifty(250) feet of the upland edge of a Resource or Shoreland wetland; within one hundred (100) feet of the high-water line of a stream, or within fifty (50) feet of the high water line of a tributary stream. (Adopted June 14, 2000) (Amended June 13, 2007) (Amended June 9, 2010)

**SHORELINE:** The normal high-water line or upland edge of an inland or coastal wetland. (Amended June 9, 2010)

**SIGN**: A name, identification, description, display, notification or illustration which is affixed to, painted, or represented, directly or indirectly upon a building, structure, parcel or lot and which related to an object, product, place, activity, person, institution, organization or business on the premises.

**SIGN AREA:** The area of a sign is the space within a parallelogram, which encloses the limits of the advertising message, illustration, insignia, surface or a space of a similar nature, together with any frame, color or other material which is an integral component of the display and is used to differentiate such sign from a wall or other background but excluding supporting posts or brackets. When a sign consists of individual letters, numerals, symbols or other similar components painted on or attached to a building, without a definitive background or frame area, the total area of the sign shall be the area of the parallelogram surrounding the sign wording, message or logo. (Amended June 13, 2007)

**SIGN, CANOPY:** Any sign that is part of or attached to an awning or canopy. For purposes of this ordinance, a canopy or awning is any fabric, plastic, or structural protective cover over a door, window, entrance, or outdoor service area.

**SIGN, MARQUEE**: Any sign or permanent roof-like structure designed and constructed to serve as a sign, utilizing manually or electronically changeable copy for the purpose of advertising events at a movie or other type of theater.

**SIGN, POLITICAL**: A political sign is any sign normally denominated as such.

**SIGN, POLITICAL CAMPAIGN:** A political sign for or against a candidate, measure on an election ballot, proposition or other issue submitted to the electorate for a vote.

**SIGN, POST**: A sign supported by one or more upright poles, columns or braces placed in or on the ground and not attached to any building or structure.

**SIGN, PROJECT IDENTIFICATION**: A sign naming a residential subdivision, commercial or industrial development site where there are multiple lots or businesses (more than 3). (Adopted June 12, 1996)

**SIGN, SANDWICHBOARD:** A freestanding portable sign consisting of two (2) board faces of no greater dimensions than two (2) feet by three (3) feet each, hinged at the top. The faces of Sandwichboard signs in the DB-1 District shall consist of either black chalkboards, dark reader boards with lighter removable lettering, white boards with black lettering, or a permanent sign designed in conformance with the standards of Section 7.2.5 of this Ordinance. (Adopted June 10, 2015)

**SIGN, TEMPORARY**: A display, informational sign, banner, or other advertising device constructed of cloth, canvas, fabric, wood, metal or other material, with or without a structural frame, and intended for a limited period of display.

**SIGNS, TEMPORARY OFF-PREMISES FARM STAND:** A temporary sign displayed off the premises of the agricultural operation that advertises agricultural products produced on the premises for sale to the public. (Adopted June 15, 2011)

**SKID ROAD OR SKID TRAIL:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. (Adopted June 9, 2010)

**SLASH:** The residue, specifically treetops and branches, left on the ground after a timber harvest. (Adopted June 9, 2010)

**SOLID WASTE**: Solid, material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material, and landscape refuse, but excepting fill material which consists solely of mineral material (soil) and rock, and also not include hazardous waste, biomedical waste, septic tank sludge, or agricultural wastes. The fact that a solid waste, or constituent of the waste, may have value, be beneficially used, have other use, or be sold or exchanged, does not exclude it from this definition. (Adopted November 7, 2000)

**SOLID WASTE FACILITY:** Any land area, structure, location, equipment or combination of them, used for the handling of solid waste. These include but are not limited to solid waste transfer stations, landfills, incinerators, processing facilities, storage facilities and agronomic utilization sites. The following facilities are not included:

(1) A facility that employs controlled combustion to dispose of waste generated exclusively by an institutional, commercial or industrial establishment that owns the facility;

(2) Lime kilns; wood chip, bark and hogged fuel boilers; kraft recovery boilers and sulfite process recovery boilers which combust solid waste generated exclusively at the facility; and

(3) An industrial boiler that combusts mixed paper, corrugated cardboard or office paper to generate heat, steam or electricity if:

(a) The mixed paper, corrugated cardboard or office paper would otherwise be placed in a landfill;

(b) The market value of the mixed paper, corrugated cardboard or office paper as a raw material for the manufacture of a product with recycled content is less than its value to the facility owner as a fuel supplement;

(c) The mixed paper, corrugated cardboard or office paper is combusted as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels combusted in the industrial boiler; and

(d) The boiler combusts no other forms of solid waste except as provided in this subparagraph.

For the purposes of this ordinance there are five types of solid waste facilities:

**AGRONOMIC UTILIZATION:** The land application of residuals in a controlled manner in order to:

(1) Increase the nutrient content of the soil at a rate commensurate with the nutritional needs of the crop to be grown and the assimilative capacity of the soil;

(2) Otherwise improve agricultural soil conditions; or

(3) Provide some other horticultural benefit.

**DISPOSAL FACILITY:** A solid waste facility for the incineration or landfilling of solid waste. Facilities that burn material-separated, refuse-derived fuel, either alone or in combination with fuels other than municipal solid waste or refuse-derived fuels, are not solid waste disposal facilities.

**PROCESSING FACILITY:** Any land area, structure, equipment, machine, device, system, or combination thereof, other than incinerators, which is operated to reduce the volume or change the chemical or physical characteristics of solid waste. Processing facilities include but are not limited to facilities which employ shredding, baling, mechanical and magnetic separation, and composting or other stabilization techniques to reduce or otherwise change the nature of solid waste. Composting of animal manure generated on the site shall not constitute a processing facility

**TRANSFER STATION:** Any solid waste facility constructed and managed to receive, store, accumulate, and/or consolidate solid waste in sufficient volume to be able to containerize solid waste for efficient transportation to another facility.

**OTHER FACILITY:** A solid waste facility that does not meet the definition of the previous four types of facilities.

(Adopted November 7, 2000)

**SPECIAL EVENT:** Any temporary activity serving a specific event or activity. A Town permit for such a special event may be required. (Adopted April 15, 1998)

**SPECIAL WASTE**: Any waste emanating from sources other than typical domestic and commercial establishments that is not readily compatible within a waste facility at which it may be handled. A waste is considered special when it exists in such an unusual quantity or such a chemical or physical state, or any combination thereof, as to disrupt or impair effective waste management or threaten public health, human safety or surrounding natural resources when it is to be handled at a waste facility that is not appropriately located, designed, or operated to receive such waste.

**STAFF REVIEW COMMITTEE**: A committee comprised of the Code Enforcement Officer, Town Planner, Road Foreman, and Fire Chief, or their designee. (Amended June 13, 2007; June 11, 2008; June 13, 2012)

**START OF CONSTRUCTION:** The first placement or permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured housing unit on a foundation. For the purposes of Section 7.4, start of construction does not include land preparation, such as clearing, grading and filling; nor does it include the excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied nor part of the main structure. For a substantial improvement, the start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building. (Added June 11, 2003)

**STREAM:** The outlet of Brimstone Pond or the confluence of two (2) perennial streams as depicted on the Kennebunk, 1983, Biddeford, 1975 photorevised, and Kennebunkport, 1975 United States Geological Survey 7.5 minute series topographic maps to the point where the body of water becomes a river. (Amended June 14, 2000) (Amended June 13, 2007)

**STREET**: An existing state, county, or town way; a way dedicated for public use and shown upon a subdivision plan approved by the Planning Board and recorded in the York County Registry of Deeds; or a way dedicated for public use and shown on a plan duly recorded in the York County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways that have been discontinued or abandoned, nor shall it include a private easement or right of way not dedicated for public use. (Amended January 24, 2000)

**STREET FRONTAGE:** The portion of a property lot line, measured in horizontal distance that directly abuts a public street or approved Private Way. Any property line that can be defined as "street frontage" is also defined as the "front lot line" of a parcel. .(Adopted June 9, 2010)

**STRUCTURE:** Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on or in the ground, including buildings, billboards, gas or liquid storage tank that is principally above ground, signs, commercial park rides and games, carports, porches, decks and other building features, but not including sidewalks, field or garden walls, fences, flagpoles, driveways, and parking lots. For the purposes of Section 7.4 Floodplain Management only, a structure is only a building and a gas or liquid storage tank that is principally above ground. (Amended June 12, 1996) (Amended June 11, 2003) (Amended June 13, 2007)

**STRUCTURE HEIGHT:** The vertical measurement from a point on the ground from the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finish grade around the structure, to the highest point of the structure. Telecommunication facilities shall be measured from ground level (including the height of the base-pad) to the highest point on the tower, including attached antennas. Transmitting devices co-located on alternative support structures shall extend no more than twelve feet (12) above the support structure. (Amended April 15, 1998) (Amended June 13, 2007)

**SUBDIVISION:** See Arundel Planning Board Subdivision Regulations. (Amended June 13, 2007)

**SUBSTANTIAL DAMAGE**: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (Adopted June 12, 1996) (Amended June 11, 2003)

**SUBSTANTIAL IMPROVEMENT:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (Amended June 13, 2007)

1. Any project for improvement of structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local codes enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a historic structure, provided the alteration will not preclude the structure's continued designation as a historic structure. (Amended June 12, 1996)

**TAVERN:** An establishment where drink is served to or consumed by the public. The fact that food is also served does not disqualify an establishment from being a tavern. (Adopted November 2, 2010)

**TELECOMMUNICATION STRUCTURE / FACILITY:** Any structure, antenna, tower, or other device of any height which supports or provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services (unless otherwise Exempted in 8.13.B). (Adopted April 15, 1998)

**THEATER:** A facility for the production of live performances such as plays and concerts. (Adopted June 13, 2007)

**TIDAL AREA**: Any land or water area upon which tidal action occurs.

**TIMBER HARVESTING:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction or for the conversion of forest to some other land cover. (Amended June 13, 2007)

**TOWER:** Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carriers, cellular telephone towers, alternative tower structures, and similar structures. (Adopted April 15, 1998)

**TRIBUTARY STREAM**: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**TRUCK TERMINAL**: Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another, or used for the garaging of the trailer portion of a tractor trailer unit, and/or a storage facility for a motor freight business consisting of one or more truck tractors. On-site repair facilities dedicated only for the trucks associated with the terminal. The terminal shall not be used for long-term or permanent accessory storage or warehousing for principal land uses at other locations. (Adopted June 15, 2011)

**UPLAND EDGE OF A WETLAND:** The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of an inland wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller. (Amended June 9, 2010)

**VAPOR BARRIER:** Natural or synthetic material such as *Tyvek*, *Housewrap*, tarpaper, or roofing felt used as a vapor barrier installed between the sheathing and the siding on the exterior of a building. (Adopted June 10, 2015)

**VARIANCE:** A relaxation of the terms of this ordinance that relate to dimensional requirements such as lot size, setback, or lot coverage. (Amended June 13, 2007)

**VEGETATION:** All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level. (Adopted June 9, 2010)

**VEHICLE**: An automobile, truck or motorcycle. (Adopted November 2, 2010)

**VETERINARY HOSPITALS:** Any building used for the diagnosis and treatment of animals under the supervision of a licensed veterinarian. Such facilities shall not provide long-term lodging for animals on a fee basis and shall not be construed as a home occupation, kennel, or a professional office under the definitions and terms of this Ordinance. (Adopted June 13, 2007)

**VIEWSHED ANALYSIS:** The land area in which a new structure is visible with unaided viewing. An analysis of this area shall entail various perspectives throughout Arundel and for a distance of one mile from the proposed structure. (Adopted April 15, 1998) (Amended June 13, 2007)

**VIOLATION:** The failure of a structure or development to comply with the provisions or standards of this ordinance. (Adopted June 12, 1996) (Amended June 10, 1997) (Amended June 13, 2007)

**VOLUME OF A STRUCTURE**: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**WAREHOUSE:** A building, other than a self-storage warehouse, where materials are held in storage for commercial purposes or as part of a business operation. (Adopted June 13, 2007)

**WASTE**: This term shall include hazardous waste, solid waste, special waste, sludge, and septage.

**WATERBODY**: An impounded area of water, including but not limited to ponds, lakes, streams, and tidal waters, but excluding drainage ditches and other manmade structures constructed principally for stormwater control purposes. (Amended June 9, 2010)

**WATERCOURSE:** A periodic or perennial free-flowing body of water within a channel, including but not limited to streams, brooks, tributaries, and drainage swales. (Adopted June 9, 2010)

**WATER CROSSING**: Any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossing.

**WETLAND:** A coastal wetland or an inland wetland. (Adopted June 14, 2000) (Amended June 9, 2010)

**WETLANDS ASSOCIATED WITH BRIMSTONE POND AND THE KENNEBUNK RIVER**: Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river. (Amended June 13, 2007)

**WETLAND, COASTAL: A**ll tidal and subtidal lands including all areas below any definable debris line left by tidal action; all areas with vegetation present that is tolerant of saltwater and that occurs primarily in a saltwater or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the national ocean service. Coastal wetlands may include portions of coastal sand dunes. (Adopted June 9, 2010)

**WETLAND, CONTIGUOUS:** An inland, coastal, or jurisdictional wetland measuring a minimum of 100 horizontal feet in width for a lateral distance of 100 horizontal feet. Wetlands separated by roads, dikes, or topography for a horizontal distance of less than 100 feet shall be regarded as contiguous. (Adopted June 9, 2010)

**WETLAND, INLAND:** Land areas periodically inundated by fresh surface water or groundwater creating a condition whereby a predominance of hydrophytic (wetland) vegetation, hydric soils, and wetland hydrologic conditions exist, as defined and classified by the *Federal Manual for Identification and Delineation of Jurisdictional Wetlands* as published by the U.S. Fish and Wildlife Service (1989). Inland wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. (Adopted June 9, 2010)

**WETLAND, RESOURCE:** A wetland exhibiting any of the following physical and environmental properties:

1. A non-forested inland wetland of ten (10) or more acres in area or a non-forested inland wetland contiguous to a water body in which the combined surface area of the wetland and waterbody exceeds ten (10) acres and rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008;
2. Non-forested wetlands rated as “high” value (Score 5-6) or “moderate” value (Score 3-4) in the 2007 Arundel Comprehensive Plan and depicted on the Arundel Wetlands Map, dated 2001, as prepared by the Department of Conservation Maine Natural Areas *Beginning with Habitat Program*
3. A coastal wetland or any watercourse or waterbody subject to tidal influence;
4. Any wetland associated with Brimstone Pond and the Kennebunk River. (Adopted June 9, 2010)

**WETLAND, SHORELAND:** A forested or non-forested inland wetland of ten (10) or more acres and or an inland wetland contiguous to a waterbody in which the combined surface area of the wetland and waterbody exceeds ten (10) acres and not rated as a moderate or high value waterfowl and wading bird habitat by the Department of Inland Fisheries and Wildlife or rated below a moderate value of 3-4 as depicted on the Arundel Wetlands Map, dated 2001, as prepared by the Department of Conservation Maine Natural Areas *Beginning with Habitat Program.* (Adopted June 9, 2010)

**WHOLESALE SALES:** A place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. (Adopted June 13, 2007; Amended June 11, 2008; Amended June 10, 2015)

**YARD SALE:** The term "yard sale" shall include so-called garage sales, porch sales, tag sales, and the like. Unless they occur on more than five consecutive days or more than twice a year, they shall not be considered to be retail sales. (Amended June 13, 2007)

# SECTION 3 OFFICIAL LAND USE MAP

## 3.1 OFFICIAL LAND USE MAP

Zones are located and bounded as shown on the Official Land Use Map, dated June 13, 2007 that is a part of this ordinance and described in Section 13. The Shoreland Zone boundaries and the boundaries of the subdistricts within that zone are determined by the terms of section 6.4.D, and any delineation of them on the Official Land Use Map shall be for reference only and shall not supersede or modify such boundaries as created in that section. The scale of the Official Land Use Map does not allow the exact location of that zone and its subdistricts to be accurately shown. Therefore their boundaries must be determined from the measured distances from the indicated features. (Amended June 14, 2000) (Amended June 13, 2007)

## 3.2 CERTIFICATION OF LAND USE MAP

The Official Land Use Map is certified by and attested by the Town Clerk under the following words: "This is the Official Land Use Map referred to in Subsection 3.2 of the Land Use Ordinance of the Town of Arundel," together with the date of the most recent change to the map. The official copy and a duplicate shall be located in the office of the Town Clerk. (Amended June 14, 2000)

## 3.3 CHANGES OF THE OFFICIAL LAND USE MAP

If changes are made in the zone boundaries or other matter portrayed on the Official Land Use Map such changes shall be made on the Official Land Use Map within 14 days after the amendment has been adopted together with an entry on the Official Land Use Map as follows:

"On (insert date) by official action of the Town, the following change(s) was (were) made: (insert brief description of the nature of change)." Immediately beneath the entry the Town Clerk shall place his/her signature.

## 3.4 REPLACEMENT OF OFFICIAL LAND USE MAP

In the event that the Official Land Use Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of Selectmen may by resolution adopt a new Official Land Use Map. The new Official Land Use Map may correct drafting and other errors or omissions in the prior Official Land Use Map, but no such corrections shall have the effect of amending the Official Land Use Map. (Amended June 14, 2000)

## 3.5 AVAILABILITY

A certified copy of this Ordinance and Map, shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies will be made available to the public for a reasonable cost, at the expense of the person making the request.

# SECTION 4 ESTABLISHMENT OF DISTRICTS

## 4.1 LAND USE REQUIREMENTS

Except as hereinafter specified, no structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, or altered unless in conformity with all of the regulations herein specified for the district in which it is located.

## 4.2 CLASSIFICATION OF DISTRICTS

For the purpose of this ordinance, the Town is hereby divided into the following districts:

### 4.2.A RESIDENTIAL DISTRICTS

4.2.A.1 Urban Residential Districts to be known as "R-1". (Amended June 13, 2007)

4.2.A.2 Suburban Residential Districts to be known as "R-2". (Amended June 13, 2007)

4.2.A.3 Rural Residential Districts to be known as "R-3". (Amended June 13, 2007)

4.2.A.4 Rural Conservation Districts to be known as "R-4" (Adopted June 13, 2007)

### 4.2.B COMMERCIAL DISTRICTS

4.2.B.1 Downtown Business 1 District to be known as "DB1" (Adopted June 10, 2015)

4.2.B.2 Downtown Business 2 District to be known as "DB2" (Adopted June 10, 2015)

4.2.B.3 Townhouse Corner District to be known as "TC" (Adopted June 11, 2015)

4.2.B.4 Alfred Road Business District to be known as "AR" (Adopted June 11, 2015)

4.2.B.5 Business / Office Park / Industrial District to be known as "BI" (Adopted June 13, 2007)

4.2.B.6 Gateway District to be known as "GW" (Adopted June 11, 2015)

4.2.C Natural Resource Conservation District to be known as "NRC" (Adopted June 13, 2007)

### OVERLAY DISTRICTS

4.2.D The Shoreland Zone is divided into three districts: (Amended June 14, 2000;June 9, 2010)

4.2.D.1 Resource Protection District to be known as "RP". (Amended June 14, 2000)

4.2.D.2 Shoreland Overlay District to be known as "SO". (Amended June 14, 2000)

4.2.D.3 Stream Protection District to be known as "SP". (Adopted June 9, 2010)

4.2.E Mobile Home Park Overlay District to be known as "MH".

4.2.F Telecommunication Facility Overlay Zones identified as "TFZ I", "TFZ II" and "TFZ III". (Adopted April 15, 1998)

# SECTION 5 GENERAL PROVISIONS

## 5.1 NON-CONFORMANCE

### 5.1.A General

All buildings, whether being erected, demolished, altered, or repaired, all parcels of land and the uses of all buildings and land in the Town of Arundel must be in conformance with the provisions of this Ordinance, except those which by the provisions of this Section become nonconforming. All buildings, parcels of land and the uses thereof which are not in conformance with the provisions of this Ordinance are prohibited. (Amended June 10, 1997)

5.1.A.1 **Continuance, Enlargement, Reconstruction**: Any non-conforming structure, legally existing on the effective date of this ordinance, may be continued but may not be extended, expanded, reconstructed, enlarged, or structurally altered except as specified as follows:

5.1.A.2 **Transfer of Ownership**: Non-conforming structures, non-conforming lots of record, and non-conforming uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this ordinance.

5.1.A.3 **Restoration or Replacement**: This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernization which do not involve expansion of the non-conforming use or structure; and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require. Any non-conforming use or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent, may be restored or reconstructed within two (2) years of the date of said damage or destruction, provided that:

5.1.A.3.a Any non-conforming structure shall not be enlarged except in conformity with this ordinance and the Maine State Plumbing Code, and

5.1.A.3.b Any non-conforming use shall not be expanded in area. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

5.1.A.3.c Any structure subject to flood management provisions sustaining substantial damage shall not receive substantial improvement, except in conformity with this ordinance. (Amended 6/12/96)

### 5.1.B. Non-Conforming Use

5.1.B.1 **Resumption Prohibited**: A building or structure in which a non-conforming use is discontinued for a period exceeding two years, or which is superseded by a conforming use, may not again be devoted to a non-conforming use, even if the owner has not intended to abandon the uses. Resumption of a residential use of a structure in the shoreland district is permitted, provided that the structure has been used or maintained for residential purposes within the preceding five (5) year period.

5.1.B.2 **Structure Non-Conforming As To Use:** Any legally established, non-conforming structures as to use, existing on the effective date of this ordinance and / or made non-conforming by the provisions of this ordinance or any amendments made thereto, may be continued subject to the following provisions of this section. These provisions shall not apply to home occupations or to structures and uses that were not legally established. (Amended June 13, 2007)

5.1.B.2.a Residential dwellings, that are non-conforming uses, may be enlarged as long as the dimensional requirements of the district in which they are located are met. (Amended June 13, 2007)

5.1B.2.b Non-Residential buildings or structures, that are non-conforming uses, may be enlarged, expanded, reconstructed or rebuilt by no more than 50% in area, calculated over the lifetime of the structure, from the date that said structure is made non-conforming, provided such expansion is approved by the Planning Board and meets the performance standards established in Section 7 and Section 8 and all dimensional requirements of the district in which they are located are met. (Amended June 13, 2007)

5.1.B.2.c A non-conforming use of a structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure that were arranged or designed for such use prior to the adoption of this ordinance. Such extension throughout the building shall comply with the regulations in Subsection 5.1B.2.b above. (Amended June 13, 2007)

5.1.B.3 **Change of Use:** A non-conforming, legally existing use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board. The determination of the appropriateness shall include consideration of the probable effects on traffic safety by volume and type, parking, noise, potential for litter, wastes generation, fumes, odors, erosion and sedimentation. The performance standards in Section 7 and Section 8 of this Ordinance shall apply to such requests to establish new non-conforming uses. (Amended June 9, 2010)

5.1.B.4 **Use of Land**: A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

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

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

5.1.C **Non-Conforming Structures**:

5.1.C.1 **Enlargements Controlled**

5.1.C.1.a General Provisions

A nonconforming structure is one that does not meet the setback requirements, does not meet the building height requirement, or is on a lot that exceeds the maximum lot coverage requirements. A non-conforming structure may be added to, reconstructed or enlarged only if the addition, reconstruction or enlargement is not closer to the lot line to which the existing structure does not meet the setback requirement, is no taller than an existing structure that does not meet the building height requirements, does not make the maximum lot coverage more nonconforming, or a variance is obtained. In addition, state laws must be adhered to. (Amended June 13, 2001) (Amended June 11, 2003) (Amended June 11, 2008, June 9, 2010)

5.1.C.1.b Telecommunication Facilities

A telecommunication facility/structure or alternative structure used for wireless telecommunications purposes which existed prior to the effective date of the telecommunications amendments to this Ordinance and which was in compliance with the Land use Ordinance prior to the effective date of said amendments, may continue in existence as a nonconforming structure. (Adopted April 15, 1998)

Enlargements to or expansions of telecommunication structures/facilities located outside the telecommunications overlay zones and legally existing prior to the enactment of the Telecommunication Structure/Facility amendments to this ordinance shall be permitted if the enlargements conform to all requirements, other than siting, of the then current telecommunications structure/facilities ordinance. Routine maintenance, including replacement of an existing tower or antenna with a new tower or antenna similar in structure and height, shall be permitted for existing telecommunication towers upon issuance of a building permit issued by the Code Enforcement Officer. New construction other than routine maintenance shall comply with the requirements of this ordinance. The Code Enforcement Officer and/or Town Planner shall

determine whether expansion proposed for a nonconforming telecommunication facility satisfies the standards of 8.13. (Adopted April 15, 1998)

5.1.C.1.c Patios, Decks and Porches

The addition of an open patio, with no structures elevated above ground level, shall not constitute the expansion of a non-conforming structure, except within the Shoreland Overlay District. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a non-conforming structure, except within the Shoreland Overlay District. (Amended June 12, 1996, June 10, 1997, June 13, 2001, June 9, 2010)

The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure so long as the first floor space of the structure is not increased. (Amended June 13, 2001; June 9, 2010)

5.1.C.2 **Lack of Required Parking or Loading Space**: The use of a structure which does not provide the minimum off-street parking and/or loading spaces, shall not be enlarged, expanded, or altered, unless the minimum parking/loading requirements are provided for the existing and proposed uses, or a variance is obtained. (Amended June 13, 2001)

5.1.C.3 **Conditional Use:** Existing, lawful, structures made non-conforming by this ordinance, may receive conditional use approval in accordance with the provisions of this ordinance, regardless of the fact that the existing structure may not be in conformance in regards to setbacks, building height and lot coverage.

5.1.D **Non-Conforming Lots of Record**:

5.1.D.1 **Single Vacant Lots**: Excluding lots in approved subdivisions subject to Section 5.1.E., a vacant non-conforming lot of record may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership at the time of or since adoption or amendment of this ordinance, and that all provisions of this ordinance except lot area and frontage can be met. Variances to setback or other requirements not involving lot area or frontage shall be obtained from the Board of Appeals. (Amended November 7, 2000)

5.1.D.2 **Built Lots**: A non-conforming lot of record, that was built upon prior to the enactment or subsequent amendment of this ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this ordinance except lot area, lot width or frontage. If any proposed enlargements cannot meet the dimensional requirements of this ordinance, a variance pursuant to Section 10.4 is necessary before any building permits are issued. ( Amended June 10, 1997)

5.1.D.3 **Contiguous Built Lots**: If two or more contiguous lots of record are in same or common ownership at the time of or since adoption or amendment of this ordinance, and if all or some of the lots do not meet the dimensional requirements of this ordinance, and if the existing structure is not accessory to a use on the adjoining lot in common ownership and is used as a separate conforming use for that district the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and Plumbing Code are complied with. (Amended June 10, 1997)

5.1.D.4 **Contiguous Lots - Vacant or Partially Built**: If two or more contiguous lots are in same or common ownership of record at the time of or since adoption or amendment of this ordinance, and if any of these lots do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and if one or more of the lots is vacant, or contains only an accessory structure, the lots shall be combined to the extent necessary to meet the dimensional standards of the district in which it is located, except as provided by Section 5.1.E. (Amended June 10, 1997)

5.1.E **Vested Rights**

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when actual construction has begun, or in the case of pending applications, when the review process on a complete

application commences. For such construction to be legal at the time it is commenced the owner must be in possession of and in compliance with validly issued permits, both state and local. Lots within any subdivision, legally recorded in the York County Registry of Deeds, made non-conforming by this ordinance are deemed to have vested rights for 5 years from the effective date of this ordinance. A pending application shall be deemed complete when so designated by a formal vote of the Planning Board.

## 5.2 Non-Conformance in a Shoreland Zone District (Adopted June 9, 2010)

### 5.2.A. Non-Conforming Structures in the Shoreland Zone

**5.2.A.1** **Expansions**. A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

(a) After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 5.2.A.3 and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 5.2.A.2 Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 5.2.A.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

**5.2.A.2** **Relocation.**

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

**5.2.A.3 Reconstruction or Replacement**.

a. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 5.2.A above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 5.2.A.2 above.

b. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

c. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 5.2.A.2 above, the physical condition and type of foundation present, if any.

**5.2.A.4 Change of Use of a Non-conforming Structure**.

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

## 5.2.B Non-conforming Uses in the Shoreland Zone

**5.2.B.1** **Expansions:** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 5.2.A.1(a) above.

**5.2.B.2** **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

**5.2.B.3** **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 5.2.A.4 above.

## 5.2.C. Non-conforming Lots in the Shoreland Zone

5.2.C.1 **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

5.2.C.2 **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

5.2.C.3 **Contiguous Lots** - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

b) Any lots that do not meet the frontage and lot size requirements of Section 5.2.C.1 are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

## 5.2.D. Special Exceptions in the Resource Protection District.

Excepting structure setback requirements, the Planning Board may approve a permit for one (1) single family residential structure on an existing lot located in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

5.2.D.1. **No Alternative Location:** There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

5.2.D.2 **Pre-existing Lot of Record:** The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

5.2.D.3 **Minimum Site Standards:** All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

5.2.D.4 **Maximum Building Footprint:** The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

5.2.D.5 **Minimum Setback:** All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

## 5.2.E. Disability Variances in the Shoreland Zone

The Arundel Board of Appeals may grant a variance to an owner of a residential dwelling located within the shoreland zone for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

5.2.E.1 **Application Process:** Any applicant seeking a Disability Variance within the Shoreland Zone shall file a variance appeal and shall be reviewed by the Arundel Zoning Board of Appeals in accordance with the provisions of Section 10.4 of this Ordinance and Sections 5.2.E. 2 and 5.2.E. 3 below.

5.2.E.2 **DEP Notification:** A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

5.2.E.3 **Limitations:** The Arundel Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

## 5.3 Principal Residential Buildings (Section added June 9, 2010)

Except for multifamily buildings approved by the Planning Board under Conditional Use Review or Subdivision Review, no lot shall be developed with more than one principal residential building. Existing lots containing more than one principal residential building may be subdivided only if each subdivided lot remains in conformance with the space and bulk requirements for the zoning district in which it is located.

5.3.A. **Duplexes Permitted**: Where permitted in each zoning district, buildings containing only two (2) dwelling units may be constructed on a single lot, provided that the lot size is at least 150% of the minimum district requirement, and no less than 80,000 square feet of area within the shoreland zone when the duplex building is located within the shoreland zone.

# SECTION 6 DISTRICT REGULATIONS

## 6.1 BASIC REQUIREMENT

Permitted uses and Conditional Uses in all districts shall conform to all applicable specifications and requirements. A Plumbing Permit, Building Permit, and/or Certificate of Occupancy shall be required for all buildings, uses of land and buildings, and sanitary facilities, according to the provisions of this ordinance, the Arundel Building Code, the Maine Subsurface Wastewater Disposal Rules and the Maine Plumbing Rules. (Amended June 13, 2007)

## 6.2 DISTRICT REGULATIONS

Land uses permitted in each district, in conformance with the General Performance Standards in Section 7 and where appropriate, the Specific Performance Standards of Section 8, are shown in the following table. Mobile home parks are permitted only in the Mobile Home Park Overlay District. A telecommunication structure/ facility is permitted only in the Telecommunication Facility Overlay Zones. In order to be permitted in the other overlay districts, a use must be listed as a permitted or conditional use in both the overlay district and the underlying district. (Amended June 14, 2000)

| | | | |
|---|---|---|---|
| **R-1** | Urban Residential District | **DB1** | Downtown Business 1 District |
| **R-2** | Suburban Residential District | **DB2** | Downtown Business 2 District |
| **R-3** | Rural Residential District | **TC** | Townhouse Corner District |
| **R-4** | Rural Conservation District | **AR** | Alfred Road Business District |
| **SO** | Shoreland Overlay District | **BI** | Business / Office Park / Industrial District |
| **NRC** | Natural Resource Conservation District | **GW** | Gateway District |
| **RP** | Resource Protection District | | |
| **SP** | Stream Protection District | | |

(Amended June 12, 1996, June 14, 2000, November 7, 2000, June 15, 2005, November 14, 2005, June 13, 2007, June 9, 2010; June 10, 2015)

| Land Use by Districts | R-1 | R-2 | R-3 | R-4 | DB1 | DB2 | TC | AR | BI | GW | NRC | RP | SO | SP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Accessory Structure | P | P | P | P | See Section 8.21 for use table | See Section 8.22 for use table | See Section 8.23 for use table | See Section 8.24 for use table | See Section 8.25 for use table | See Section 8.26 for use table | C | C[3] | P | C[3] |
| Accessory Use | P | P | P | P | | | | | | | P | P | P | P |
| Agriculture | P | P | P | P | | | | | | | P | C | P | C[1] |
| Aquiculture | P | P | P | P | | | | | | | X | C | C | C |
| Agricultural Processing and Demonstration Facility | X | X | X | C | | | | | | | X | X | X | X |
| Animal Husbandry | | | | | | | | | | | | | | |
| *5 or less animal units* | C | C | C | P | | | | | | | P | X | P | C |
| *more than 5 animal units* | X | X | C | P | | | | | | | C | X | C | X |
| Auto Repair Garage | X | X | X | X | | | | | | | X | X | X | X |
| Automobile Service Station | X | X | X | X | | | | | | | X | X | X | X |
| Bed and Breakfast, Boardinghouse | C | C | C | C | | | | | | | X | X | C | X |
| Business Retail Sales, Level 1 | X | X | X | X | | | | | | | X | X | X | X |
| Business Retail Sales, Level 2 | X | X | X | X | | | | | | | X | X | X | X |
| Business Retail Sales, Level 3 | X | X | X | X | | | | | | | X | X | X | X |
| Business – Service, Level 1 | X | X | X | X | | | | | | | X | X | X | X |
| Business – Service, Level 2 | X | X | X | X | | | | | | | X | X | X | X |
| Business – Service, Level 3 | X | X | X | X | | | | | | | X | X | X | X |
| Business - Wholesale Sales, Level 1 | X | X | X | X | | | | | | | X | X | X | X |
| Business - Wholesale Sales, Level 2 | X | X | X | X | | | | | | | X | X | X | X |
| Business - Wholesale Sales, Level 3 | X | X | X | X | | | | | | | X | X | X | X |
| Business Office | X | X | X | X | | | | | | | X | X | X | X |
| Campground | X | X | C | C | | | | | | | X | X | C[3] | X |
| Cemetery | C | C | C | C | | | | | | | X | X | X | X |
| Church, Parish House | C | C | C | C | | | | | | | X | X | X | X |
| Clearing for removal of vegetation for activities other than timber harvesting | P | P | P | P | | | | | | | P | C[1] | C[1] | C[1] |
| Club | X | X | X | X | | | | | | | X | X | X | X |
| Correctional Pre-Release Facility | X | X | X | X | | | | | | | X | X | X | X |
| Day Care Center | X | X | X | X | | | | | | | X | X | C | X |
| Day Care Home | C | C | C | C | | | | | | | C | C | C | X |
| Educational Facility | | | | | | | | | | | | | | |
| *Public, Private, or Parochial School* | C | C | X | X | | | | | | | X | X | X | X |
| *College* | X | X | X | X | | | | | | | X | X | C | X |
| *Commercial School* | X | X | X | X | | | | | | | X | X | C | X |
| Farm Retail | X | C | C | C | | | | | | | C | X | C | X |
| Filling and earth moving activity of greater than 10 cubic yards but less than 100 cubic yards | P | P | P | P | | | | | | | C[3] | C[3] | C[3] | C[9] |

| Land Use by Districts | R-1 | R-2 | R-3 | R-4 | DB1 | DB2 | TC | AR | BI | GW | NRC | RP | SO | SP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Filling and earth moving activity of greater than 100 cubic yards | P | P | P | P | See Section 8.21 for use table | See Section 8.22 for use table | See Section 8.23 for use table | See Section 8.24 for use table | See Section 8.25 for use table | See Section 8.26 for use table | P | C[3] | C[3] | C [9] |
| Fire prevention activities | P | P | P | P | | | | | | | P | P | P | P |
| Forest management activities except for timber harvesting & land management roads | P | P | P | P | | | | | | | P | P | P | P |
| Garden Center | X | X | X | P | | | | | | | X | X | C | X |
| Golf Course | X | X | C | C | | | | | | | X | X | C | X |
| Home Occupation / Home Business | P | P | P | P | | | | | | | X | X | P | C |
| Hospital | X | X | X | X | | | | | | | X | X | X | X |
| Individual Private Campsite | P | P | P | P | | | | | | | P | P | P | C |
| Inn | X | X | X | X | | | | | | | X | X | C | X |
| Junkyard, Automobile Graveyard | X | X | X | X | | | | | | | X | X | X | X |
| Kennel | X | X | X | C | | | | | | | X | X | X | X |
| Land Management Roads | P | P | P | P | | | | | | | C | C | P | C [9] |
| Low Impact Manufacturing | X | X | X | X | | | | | | | X | X | C | X |
| Manufacturing | X | X | X | X | | | | | | | X | X | X | X |
| Marinas | P | P | P | P | | | | | | | P | X | C | C |
| Mineral Extraction | X | X | C | C | | | | | | | X | X | C | X |
| Mobile Home Park | | | | | | | | | | | X | X | X | X |
| Motel, Hotel | X | X | X | X | | | | | | | X | X | X | X |
| Motorized vehicular traffic on existing roads and trails | P | P | P | P | | | | | | | P | P | P | P |
| Museum | X | C | C | C | | | | | | | C | C | C | X |
| Neighborhood Convenience Store | X | X | X | X | | | | | | | X | X | X | X |
| Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking | P | P | P | P | | | | | | | P | P | P | P |
| Nursing Home | X | C | X | X | | | | | | | X | X | X | X |
| Personal Service Business | X | X | X | X | | | | | | | X | X | X | X |
| Pet Day Care Facility | X | X | X | C | | | | | | | X | X | X | X |
| Pier, Dock, Wharf, Causeway and Uses Projecting into Waterbodies | | | | | | | | | | | | | | |
| *Temporary* | P | P | P | P | | | | | | | P | P | P | P |
| *Permanent* | C | C | C | C | | | | | | | C[3] | C[3] | C[3] | C[3] |
| Professional Office | X | X | X | X | | | | | | | X | X | X | X |
| Public Facility | P | P | P | P | | | | | | | P | C | C | C |
| Public Utility | C | C | C | C | | | | | | | C[7] | C | C | C |

| Land Use by Districts | R-1 | R-2 | R-3 | R-4 | DB1 | DB2 | TC | AR | BI | GW | NRC | RP | SO | SP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Recreational Facility | | | | | See Section 8.21 for use table | See Section 8.22 for use table | See Section 8.23 for use table | See Section 8.24 for use table | See Section 8.25 for use table | See Section 8.26 for use table | | | | |
| *Commercial* | X | X | X | X | | | | | | | X | X | X | X |
| *Passive* | C | C | C | C | | | | | | | X | X | X | X |
| Research Facility | X | X | X | X | | | | | | | X | X | X | X |
| Residential Care Facility | C | C | C | C | | | | | | | X | X | X | X |
| Residential Dwelling | | | | | | | | | | | | | | |
| *Single Family* | P | P | P | P | | | | | | | P | X[10] | P | P |
| *Two Family* | P | P | P | P | | | | | | | X | X | P | P |
| *Multi-Family* | C | C | X | C | | | | | | | X | X | C | C |
| Restaurant - Take-Out | X | X | X | X | | | | | | | X | X | C | C |
| Restaurant - Full Seating | X | X | X | X | | | | | | | X | X | C | C |
| Sawmill | X | X | C | C | | | | | | | X | X | X | X |
| Seasonal Resort[6] | X | X | X | X | | | | | | | X | C | C | C |
| Self-Storage Facility | X | X | X | X | | | | | | | X | X | X | X |
| Soil and water conservation practices | P | P | P | P | | | | | | | P | P | P | P |
| Solid Waste Facility | | | | | | | | | | | | | | |
| *Agronomic Utilization* | X | X | C | C | | | | | | | X | X | C | C |
| *Processing Facility* | X | X | X | X | | | | | | | X | X | X | X |
| *Disposal Facility* | X | X | X | X | | | | | | | X | X | X | X |
| *Transfer Station* | X | X | X | X | | | | | | | X | X | X | X |
| *Other Facility* | X | X | X | X | | | | | | | X | X | X | X |
| Tavern | X | X | X | X | | | | | | | X | X | X | X |
| Theater | X | X | X | X | | | | | | | X | X | C | C |
| Timber Harvesting | P | P | P | P | | | | | | | C | C | C | C |
| Truck Terminals | X | X | X | X | | | | | | | X | X | X | X |
| Veterinary Hospital | X | X | X | X | | | | | | | X | X | X | X |
| Warehouse, Level 1 | X | X | X | X | | | | | | | X | X | C | X |
| Warehouse, Level 2 | X | X | X | X | | | | | | | X | X | C | X |
| Warehouse, Level 3 | X | X | X | X | | | | | | | X | X | C | X |
| Wildlife Management Practices | P | P | P | P | | | | | | | P | P | P | P |
| Yard sale | P | P | P | P | | | | | | | X | X | P | P |
| Uses Similar to Permitted Uses[5] | P | P | P | P | | | | | | | P | P | P | P |
| Uses Similar to Conditional Uses[5] | C | C | C | C | | | | | | | C | C | C | C |
| Uses Similar to Prohibited Uses[5] | X | X | X | X | | | | | | | X | X | X | X |

| Land Use by Districts | R-1 | R-2 | R-3 | R-4 | DB1 | DB2 | TC | AR | BI | GW | NRC | RP | SO | SP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Timber Harvesting | P | P | P | P | See Section 8.21 for use table | See Section 8.22 for use table | See Section 8.23 for use table | See Section 8.24 for use table | See Section 8.25 for use table | See Section 8.26 for use table | C | C | C | C |
| Truck Terminals | X | X | X | X | | | | | | | X | X | X | X |
| Veterinary Hospital | X | X | X | X | | | | | | | X | X | X | X |
| Warehouse, Level 1 | X | X | X | X | | | | | | | X | X | C | X |
| Warehouse, Level 2 | X | X | X | X | | | | | | | X | X | C | X |
| Warehouse, Level 3 | X | X | X | X | | | | | | | X | X | C | X |
| Wildlife Management Practices | P | P | P | P | | | | | | | P | P | P | P |
| Yard sale | P | P | P | P | | | | | | | X | X | P | P |
| Uses Similar to Permitted Uses[5] | P | P | P | P | | | | | | | P | P | P | P |
| Uses Similar to Conditional Uses[5] | C | C | C | C | | | | | | | C | C | C | C |
| Uses Similar to Prohibited Uses[5] | X | X | X | X | | | | | | | X | X | X | X |

(Amended June 12, 1996, Nov. 25, 1996, January 20, 2000, June 14, 2000, November 7, 2000, June 13, 2001, June 15, 2005, June 13, 2007, November 13, 2007, Amended June 11, 2008, Amended June 10, 2009, Amended June 9, 2010, Amended Nov. 2, 2010, Amended June 15, 2011; June 13, 2012; June 10, 2015; June 15, 2016)

NOTE:
(1) Permit from C.E.O. required.
(2) [Repealed June 13, 2007]
(3) Not permitted in areas mapped as wildlife habitat.
(4) When a lot is located in both the Shoreland Overlay District and the Community Commercial South District the permitted uses are those listed in the Community Commercial South District. (Adopted June 14, 2000) (Amended June 13, 2007)
(5) When a proposed use is not listed in the table, the Code Enforcement Officer shall make a determination as to which listed use the proposed use is most similar. (Adopted November 7, 2000) (Amended June 13, 2007)
(6) Seasonal Resorts may include land within the RP districts, however, all standards for development will comply with Section 6.4.D.1 (Adopted November 13, 2007)
(7) Only transmission, distribution, or associated lines, towers, poles, and wires, and gas pipelines may be allowed as a conditional use in the NRC district. (Adopted June 10, 2009)
(8) Only those clearly accessory to a business use and occupied by the business owner, manager, or an employee. (Adopted June 13, 2007)
(9) Earth moving activities are limited to road and driveway stream crossings as permitted by Maine DEP and the Town of Arundel as established herein.(Adopted June 9, 2010)
(10) Special exception may be granted by the Planning Board in the event an applicant can satisfactorily meet all the conditions of Section 5.2.D. Special Exception. (Adopted June 9, 2010)
(11) A single family residential use can be permitted as a conditional use, provided the residential use is accessory and subordinate to a primary commercial operation on the property, or the residential lot has legal frontage on Proctor Road or Old Post Road. (Adopted June 15, 2011)(Amended June 12, 2013)

### 6.2.A **Lots Split by District Boundaries**

When a lot is divided by a district boundary, except the boundaries of any overlay district, the following provisions shall apply.

6.2.A.1 If any portion of the lot can meet the minimum lot area and minimum lot frontage requirements of the district in which it is located, then that portion of the lot shall be governed by the district regulations in which it is located. (Amended June 9, 2010)

6.2A.2 If a portion of the lot is smaller than 50% of the total lot and cannot meet the minimum lot area or minimum lot width requirements of the district in which it is located, then the entire lot shall be governed by the district regulations of the district which comprises the largest portion of the lot. (Amended November 7, 2000 and June 13, 2007)

## 6.3 DIMENSIONAL REQUIREMENTS (Amended June 9, 2010)

6.3.A. **MINIMUM REQUIREMENTS**: All lots and structures in all districts shall comply with the following requirements. Additional requirements may be imposed by other provisions of this ordinance. It is a violation of this ordinance to create a lot which does not meet the dimensional requirements of this section.

| DIMENSION | R-1 | R-2 | R-3 | R-4 | DB1 | DB2 | TC | AR | BI | GW | NRC | RP | SO | SP |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **LOT SIZE**[5] | 1 acre | 2 acres | 2 acres | 3 acres | **See Section 8.21 for dimensional standards** | **See Section 8.22 for dimensional standards** | **See Section 8.23 for dimensional standards** | **See Section 8.24 for dimensional standards** | **See Section 8.25 for dimensional standards** | **See Section 8.26 for dimensional standards** | 3 acres | Same as underlying district Principal uses and structures located in the shoreland zone shall meet minimum standards outlined in footnote 7. | | |
| **LOT FRONTAGE**[4] | 200 ft | 250 ft[1] | 250 ft[1] | 250 ft[1] | | | | | | | 250 ft | Same as underlying district | | |
| **FRONT YARD SETBACK**[2] | 50 ft | 75 ft | 75 ft | 100 ft | | | | | | | 100 ft | | | |
| **SIDE YARD SETBACK** | 25 ft | 25 ft | 25 ft | 35 ft | | | | | | | 35 ft | | | |
| **REAR YARD SEBACK** | 25 ft | 25 ft | 25 ft | 50 ft | | | | | | | 50 ft | | | |
| **BUILDING HEIGHT**[3] | 35 ft | 35 ft | 35 ft | 35 ft | | | | | | | 35 ft | | | |
| **LOT COVERAGE** | 30% | 20% | 20% | 20% | | | | | | | 10% | | | |
| **SHORE FRONTAGE** | | | | | | | | | | | | 200 ft for residential & recreation uses 300 ft for commercial, governmental, & institutional uses | | |
| **SHORELAND SETBACK** | | | | | | | | | | | | 250 ft | 100 ft` | 100 ft |

(BI District established November 7, 2000; Amended November 5, 2002) (DB-1, DB-2, TC, AR, and GW districts established June 10, 2015) (R-4 and NRC established June 13, 2007) (SP District established June 9, 2010; standards for RP, SO, SP amended June 9, 2010)(Amended June 10, 2015)

1 Lot frontage may be reduced to 200 ft. for lots with driveway access onto private rights of way 50 ft. wide or on streets other than arterial collector streets. (Amended January 24, 2000) (Amended June 9, 2010)
2 Front yard setback may be reduced to 50 ft. for back lots or lots without frontage on arterial collectors. Front yard setback in commercial zones may be reduced to 30 ft. from a street that is not an arterial collector. On a corner lot with frontage on an arterial collector, the setback may be reduced to 50 ft. from a street that is not an arterial collector. (Amended June 12, 1996) (Amended January 24, 2000) (Amended June 13, 2001) (Amended June 13, 2007)
3 Agricultural buildings may not exceed 45ft. in height and silos associated with an agricultural use are exempt from the maximum height. (Adopted June 13, 2007)
4 Lot frontage may be reduced to 75 ft. for lot with frontage on a cul-de-sac with a minimum radius of sixty (60) feet. (Amended June 10, 1997; June 9, 2010)
5. Minimum lot size per dwelling unit, except as otherwise allowed. (Amended January 24, 2000)
6. Site conditions shall determine the maximum density of development. (Adopted June 13, 2007)
7. Where the principal structure is located in the shoreland zone, the minimum lot size within the shoreland zone shall be no less than 40,000 square feet for each principal residential or recreational building or use and no less than 60,000 square feet for each principal building in a commercial, institutional, or governmental use. (Adopted June 9, 2010)

6.3.A.1 The front setback may be reduced to the average of the front setbacks of existing principal residential structures on lots with structures that are within 250 feet of the location of the proposed structure. (Amended January 24, 2000; June 13, 2001; June 11, 2003; June 13, 2007)

6.3.A.2 Buildings may be erected only on a lot which abuts: (1) a street; or (2) right(s)-of-way, legally created prior to June 14, 1995,which is at least 30 feet in width at all points, which provides access and/or legal frontage for no more than one lot or one building and which leads to a street; or (3) right(s)-of-way, provided a road is built within the right-of-way to the construction specifications of Section 7.7.B. (Amended January 24, 2000; June 13, 2007; June 13, 2012)

6.3.A.3 No structure may be constructed within 100 feet of the normal high water mark of waterbodies or the upland edge of wetlands in the Shoreland Zone. All new principal and accessory structures adjacent to perennial streams outside of the Shoreland Zone shall be set back at least fifty (50) feet from the normal high-water line. No structure may be constructed within 50 feet of intermittent streams. (January 24, 2000; June 13, 2007)

6.3.A.4 All residential subdivisions of more than 4 lots shall be clustered in accordance with Section 8.4. (Amended June 11, 2008)

6.3.A.5 A two-family dwelling must have a minimum lot size 150% of the minimum district requirements for a single-family dwelling. (January 24, 2000; June 13, 2007)

6.3.A.6 The dimensional requirements of this Ordinance do not apply to transmission, distribution, or associated lines, towers, poles and wires or to accessory structure of no greater than 500 square feet in area and 15 feet in height and designed to house pumping stations, telephone switching facilities, or similar equipment essential for the provision of service by a public utility. (Adopted June 10, 2009; amended June 9, 2010)

**6.4 SHORELAND ZONE** (Title amended June 14, 2000)

6.4.A **Creation of a Shoreland Zone** (Amended June 14, 2000)

6.4.A.1 **Purpose**

The purposes of the Shoreland Zone are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect inland and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas. (Amended June 9, 2010)

6.4.A.2 **Applicability:** These regulations apply to all land areas that are within: (This section Amended June 9, 2010)

a. Two hundred fifty (250) feet, horizontal distance, of a

- normal high-water line of Brimstone Pond, the Kennebunk River, and their associated wetlands;,
- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a Resource Wetland or a Shoreland Wetland,

b. One hundred (100) feet, horizontal distance, of the normal high-water line of a stream,

c. These regulations shall also apply to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

6.4.A.3 **Effective Date**

6.4.A.3.a **Effective Date and Repeal of Formerly Adopted Ordinance:** These shoreland regulations shall not become effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner of the Department of Environmental Protection for approval. If the Commissioner of the Department of Environmental Protection fails to act on this Ordinance amendment within forty-five (45) days of his/her receipt of the Ordinance, it shall be deemed approved. Upon approval of this Ordinance Amendment by the D.E.P., previously adopted or imposed shoreland zoning is hereby repealed. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance Amendment, if the Ordinance Amendment, is approved by the Commissioner. (Amended June 9, 2010)

6.4.A.3.b **Automatic Repeal and Enactment Timber Harvesting Provisions:** Section 6.4.G.13 is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5) at which time Section 6.4.G.14 of this Ordinance shall become effective. Until such time that Section 6.4.G.13 is repealed, Section 6.4.G.14 is not in effect. (Adopted June 9, 2010)

6.4.A.4 **Shoreland Districts and Land Use Map** (Amended June 14, 2000)

6.4.A.4.a. The areas to which this Section is applicable are hereby divided into the following Districts as shown on the Official Land Use Map: (Amended June 14, 2000)

6.4.A.4.a.1. Resource Protection District
6.4.A.4.a.2. Shoreland Overlay District (Amended June 14, 2000)
6.4.A.4.a.3. Stream Protection District (Adopted June 9, 2010)

6.4. B. **Interpretation of Districts:** The boundaries of the Shoreland Zone districts described herein exists as established in Section 6.4.A.2. The depiction of the shoreland zones delineated on the Official Land Use Map is illustrative of the general location of the district. The actual boundaries of the districts shall be determined by the measurement of the distance indicated from the maps from the normal high water mark of the waterbody, or watercourse or from the upland edge of the wetland vegetation, regardless of the location of the boundary depicted on the map. (Adopted June 9, 2010)

6.4.C. Reserved (Adopted June 9, 2010)

## 6.4.D. Establishment of Districts

### 6.4.D.1 Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone: (Amended June 14, 2000)

6.4.D.1.a. Areas within 250 feet, horizontal distance, of the upland edge of all Resource Wetlands as defined herein : (Amended June 9, 2010)

6.4.D.1.a.1 Deer wintering areas;

6.4.D.1.a.2 Waterfowl and wading bird habitats, including nesting and feeding areas; and

6.4.D.1.a.3 Shorebird nesting, feeding and staging areas. (Amended June 14, 2000)

6.4.D.1.b. The 100-year floodplain along the Kennebunk River as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps (Amended June 9, 2010)

6.4.D.1.c. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

6.4.D.1.d. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, that are not part of a Resource Wetland but are contained within the Resource Protection District around a Resource Wetland or the 100-year floodplain of the Kennebunk River. (Amended June 14, 2000; June 9, 2010)

6.4.D.1.e. Land areas along the Kennebunk River subject to severe bank erosion, undercutting, or riverbed movement and lands adjacent to tidal waters that are subject to severe erosion or mass movement, such as steep coastal bluffs. (Amended June 14, 2000; June 9, 2010)

6.4.D.1.f. Areas that contain known archeological or historical sites or structures that are deserving of long-term protection as determined by the Arundel Historic Committee. (Amended June 14, 2000)

6.4.D.1.g. High and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife. (Amended June 9, 2010)

### 6.4.D.2 Shoreland Overlay District (Amended June 14, 2000)

The Shoreland Overlay shall include all lands within two hundred fifty (250) feet of the upland edge of Goff's Mill Brook and all Shoreland Wetlands as defined herein. (Amended June 9, 2010)

### 6.4.D.3 Stream Protection District (Adopted June 9, 2010)

The Stream Protection District includes all land areas within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas located within the Resource Protection and Shoreland Overlay Districts. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above cited districts, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

## 6.4.E Shoreland Land Uses

All land use activities in the Shoreland Zone, shall conform to all of the applicable land use standards in Section 6.2. The district designation for a particular site shall be determined from the descriptions above, regardless of designation on the Official Land Use Map. (Amended June 14, 2000)

### 6.4.E.1 Permitted Uses without a Permit

The following land uses in the shoreland zone do not require permits from the town: non-intensive recreational uses not requiring structures such as hunting fishing and hiking; motorized vehicular traffic on existing roads and trails; forest management activities except for timber harvesting; clearing of vegetation for approved construction and other allowed uses; fire prevention activities; wildlife management practices; soil and water conservation practices; surveying and resource analysis; and emergency operations. (Amended June 14, 2000)

### 6.4.E.2 All other Uses

All other land uses in the shoreland zone are permitted in accordance with the table in Section 6.2. (Amended June 14, 2000, June 13, 2001)

### 6.4.E.3 Prohibited Uses

Septic systems are prohibited in the Resource Protection.

### 6.4.E.4 State D.E.P. Permits

A person proposing any activity that requires a permit from the Department of Environmental Protection, pursuant to Title 38 M.R.S.A., Section 480-C, shall obtain that permit before applying for a permit under this ordinance. (Amended June 13, 2007)

## 6.4.F Principal and Accessory Structures

All new principal and accessory structures in the Shoreland Overlay District shall be set back at least one hundred (100) feet from the normal high-water mark of a waterbody, stream, or the upland edge of a wetland. The water body or wetland setback provision shall not apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water dependent uses. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. (Amended June 9, 2010)

6.4.F.1 The Planning Board may increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

6.4.F.2 Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection District shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

6.4.F.3 [Repealed June 14, 2000]

6.4.F.4 The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland district shall not exceed twenty (20) percent of the lot or a portion there of, located within the shoreland district, including land area previously developed.

6.4.F.5 Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural

Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

## 6.4.G. Special Provisions

### 6.4.G.1 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Mark of a Water Body or Within a Wetland.

6.4.G.1.a Access from shore shall be developed on stable soils not subject to slumping or mass movement and constructed so as to control erosion.

6.4.G.1.b The location shall not interfere with existing developed or natural beach areas.

6.4.G.1.c The facility shall be located so as to minimize adverse effects on fisheries.

6.4.G.1.d The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses. (Amended June 9, 2010)

6.4.G.1.e No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.

6.4.G.1.f New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act. (Adopted June 9, 2010)

6.4.G.1.g No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

6.4.G.1.h Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

6.4.G.1.i Permanent structures shall require Conditional Use plan review approval. Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C. (Amended June 9, 2010)

### 6.4.G.2 Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following: (Section 6.4.G.2 Adopted June 9, 2010)

6.4.G.2.a. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

6.4.G.2.b. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

### 6.4.G.3 Individual Private Campsites

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

6.4.G.3.a One campsite per lot existing on June 14, 1995, or thirty thousand (30,000) square feet of lot area within the shoreland district, whichever is less, may be permitted. (Amended June 13, 2007)

6.4.G.3.b Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of Brimstone Pond and the Kennebunk River and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

6.4.G.3.c Only one recreational vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle. (Amended June 9, 2010)

6.4.G.3.d The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

6.4.G.3.e A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

6.4.G.3.f When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the *State of Maine Subsurface Wastewater Disposal Rules* unless served by public sewage facilities.

6.4.G.4. **Parking Areas**

6.4.G.4.a Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities, may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.

6.4.G.4.b Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

6.4.G.4.c In determining the appropriate size of proposed parking facilities, the following shall apply: (Adopted June 9, 2010)

(1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(2) Internal travel aisles: Approximately twenty (20) feet wide.

6.4.G.5 **Roads and Driveways**

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

6.4.G.5.a Roads and driveways shall be set back at least one hundred (100) feet from the normal high-water line of Brimstone Pond and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon demonstration by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland. (Amended June 13, 2007; June 9, 2010)

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

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 6.4.G.5.a except for that portion of the road or driveway necessary for direct access to the structure. (Amended June 9, 2010)

6.4.G.5.b Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream, or wetland. (Amended June 9, 2010)

6.4.G.5.c New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

6.4.G.5.d Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation contained in Section 6.4.G.12. (Amended June 9, 2010)

6.4.G.5.e Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet. (Amended June 9, 2010)

6.4.G.5.f In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams, and wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip. (Amended June 9, 2010)

6.4.G.5.g Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply: (Amended June 9, 2010)

6.4.G.5.g.1 Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

| **Grade (Percent)** | 0-2% | 3-5% | 6-10% | 11-15% | 16-20% | 21+% |
|---|---|---|---|---|---|---|
| **Spacing (Feet)** | 250 ft | 200-135 ft | 100-80 ft | 80-60 ft | 60-45 ft | 40 ft |

*(Amended June 9, 2010)*

6.4.G.5.g.2 Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

6.4.G.5.g.3 On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

6.4.G.5.g.4 Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

6.4.G.5.h Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning. (Amended June 9, 2010)

6.4.G.6 **Commercial and Industrial Uses**: (Adopted June 9, 2010)

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to Brimstone Pond and all watercourses flowing into Brimstone Pond:

6.4.G.6.a Auto washing facilities

6.4.G.6.b Auto or other vehicle service and/or repair operations, including body shops

6.4.G.6.c Chemical and bacteriological laboratories

6.4.G.6.d Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

6.4.G.6.e Commercial painting, wood preserving, and furniture stripping

6.4.G.6.f Dry cleaning establishments

6.4.G.6.g Electronic circuit assembly

6.4.G.6.h Laundromats, unless connected to a sanitary sewer

6.4.G.6.i Metal plating, finishing, or polishing

6.4.G.6.j Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

6.4.G.6.k Photographic processing

6.4.G.6.l Printing

6.4.G.7. **Signs** (Section adopted June 9, 2010)

The following provisions shall govern the use of signs in the Resource Protection, Shoreland Overlay, and Stream Protection Districts:

6.4.G.7.a. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Shoreland Overlay District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

6.4.G.7.b. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

6.4.G.7.c. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

6.4.G.7.d. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

6.4.G.7.e. Signs relating to public safety shall be allowed without restriction.

6.4.G.7.f. No sign shall extend higher than twenty (20) feet above the ground.

6.4.G.7.g. Signs may be illuminated only by shielded, non-flashing lights.

**6.4.G.8 Storm Water Runoff** (Section adopted June 9, 2010)

6.4.G.8.a All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

6.4.G.8.b Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

**6.4. G.9 Septic Waste Disposal**

6.4.G.9.a All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

**6.4.G.10 Public Utilities**

6.4.G.10.a Where feasible, the installation of public utilities shall be limited to existing public ways and existing service corridors.

6.4. G.10.b The installation of public utilities is not permitted in a Resource Protection District or a Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

6.4.G.10.c Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit. (Adopted June 9, 2010)

6.4.G.11 **Mineral Exploration and Extraction**

6.4. G.11.a Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

6.4. G.11.b Mineral extraction may be permitted under the following conditions:

(1) A development and reclamation plan in accordance with Section 8.5 shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of 6.4.G.11.b.(3) below.

(2) No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of Brimstone Pond or the Kennebunk River or within seventy-five (75) feet of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet horizontal distance of any property line without permission of the owner of such adjacent property.

(3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards

of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. [ Note: Title 38, M.R.S.A., Section 1310 and Chapter 404 of the Department of Environmental Protection's Regulations may contain other applicable provisions regarding disposal of such materials.]
(b) The final graded slope shall be two and one-half horizontal to one vertical (2 1/2:1) slope or flatter.
(c) Top soil or loam shall be retained to provide a minimum cover of 4 inches over all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) The Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

**6.4.G.12 Agriculture**

6.4.G.12.a All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209)

6.4.G.12.b Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a Brimstone Pond or the Kennebunk River or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland district must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.

6.4.G.12.c Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland district shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

6.4.G.12.d There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a Brimstone Pond , the Kennebunk River, and coastal wetlands or within seventy-five (75) feet, horizontal distance, from streams and water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be continued.

6.4.G.12.e After June 11, 2010, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Brimstone Pond; or within seventy-five (75) feet, horizontal distance of other water bodies or coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan. (Amended June 13, 2007, amended June 9, 2010)

**6.4.G.13 Timber Harvesting** [To be repealed in accordance with the conditions of Section 6.4.A.3.b] (Section adopted June 9,2010)

In a Resource Protection District abutting a Brimstone Pond or the Kennebunk River, timber harvesting shall be limited to the following:

6.4.G.13.a Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;
(2) There is no resultant soil disturbance;
(3 The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
(4 There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

6.4.G.13.b. Beyond the 75 foot strip referred to in Section 6.4.G.13.a above, timber harvesting is permitted in accordance with 6.4.G.13.b below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

6.4.G.13.c Except in areas as described in Section 6.4.G.13.a above, timber harvesting shall conform with the following provisions:

(1) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(a) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(b) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(2) Timber harvesting operations exceeding the 40% limitation in Section 6.4.G.13.b.(1) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.

(3) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.

(4) Timber harvesting equipment shall not use stream channels as travel routes except when:

(a) Surface waters are frozen; and

(b) The activity will not result in any ground disturbance.

(5) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(6) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(7) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

**6.4.G.14 Timber Harvesting – Statewide Standards [Effective on effective date established in Section 6.4.A.3.b** (Section adopted June 9, 2010)

**6.4.G.14.a Shoreline integrity and sedimentation:** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

**6.4.G.14.b Slash treatment**. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 6.4.G.14.b does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(1) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(2) Adjacent to Brimstone Pond, the Kennebunk River and wetlands:

(a) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(b) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

**6.4.G.14.c** **Remaining Tree Cover:** Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

**(1) Option 1** (40% volume removal), as follows:

(a) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

(b) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(c) Within 75 feet, horizontal distance, of the normal high-water line of the Kennebunk River streams, and Brimstone Pond, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of the Kennebunk River, Brimstone Pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(2) **Option 2** (60 square foot basal area retention), as follows:

(a) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(b) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(c) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of the Kennebunk River or Brimstone Pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(3) **Option 3** (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

**6.4.G.14.d Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(1) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(2) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(3) Setbacks:

(a) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(b) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**6.4.G.14.e Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and Resource and Shoreland wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 6.4.G.14.g of this ordinance.

(1) Land management roads and associated ditches, excavation, and fill must be set back at least:

(a) 100 feet, horizontal distance, from the normal high-water line of a Brimstone Pond, the Kennebunk River or Resource, Shoreland, or coastal wetland;

(b) 50 feet, horizontal distance, from the normal high-water line of streams; and

(c) 25 feet, horizontal distance, from the normal high-water line of tributary streams

(2) The minimum 100 foot setback specified in Section 6.4.G.14.e(1).(a) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 6.4.G.14.e(1).(b) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(3) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

(4) New land management roads are not allowed within a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the Kennebunk River by existing vegetation.

(5) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 6.4.G.14.g. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(6) Road closeout and discontinuance. Maintenance of the water control installations required in Section 6.4.G.14.e.(5) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

(7) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 6.4.G.14. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

(8) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 6.4.G.14.e (1) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(9) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

**6.4.G.14.f** **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(1) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining

water crossing sizes as required in Section 6.4.G.14: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(2) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 6.4.G.14. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 6.4.G.14

(3) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(4) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of inland wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(5) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

(a) A map showing the location of all proposed permanent crossings;
(b) The GPS location of all proposed permanent crossings;
(c) For any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
(d) A statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(6) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 6.4.G.14.f (6).(a)-(e) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

(a) Concentrated water runoff does not enter the stream or tributary stream;
(b) Sedimentation of surface waters is reasonably avoided;
(c) There is no substantial disturbance of the bank, or stream or tributary stream channel;
(d) Fish passage is not impeded; and,
(e) Water flow is not unreasonably impeded.

Subject to Section 6.4.G.14.f (6) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(7) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

(a) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

(b) Temporary bridge and culvert sizes may be smaller than provided in Section 6.4.G.14.f. (7) (a) above if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. Use of temporary skidder bridges;
2. Removing culverts prior to the onset of frozen ground conditions;
3. Using water bars in conjunction with culverts;
4. Using road dips in conjunction with culverts.

(c) Culverts utilized in river, stream and tributary stream crossings must:

1. Be installed at or below river, stream or tributary stream bed elevation;
2. Be seated on firm ground;
3. Have soil compacted at least halfway up the side of the culvert;
4. Be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. Have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(d) River, stream and tributary stream crossings allowed under Section 6.4.G.14, but located in flood hazard areas (i.e. A zones) as identified on the Arundel Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(e) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(8) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(a) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 6.4.G.14.f (9) below.

(b) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

(c) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(9) **Land management road closeout**. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

(a) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.

(b) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.

(c) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1 It shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;

2. It shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or

3. It shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**6.4. G.14.g Slope Table**

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 6.4.G.14 but in no case shall be less than shown in the following table.

| Average Slope of Land between exposed mineral soil and shoreland (percent) | Width of strip between exposed soil and the shoreline (feet along surface of the ground) |
|---|---|
| **0** | **25** |
| **10** | **45** |
| **20** | **65** |
| **30** | **85** |
| **40** | **105** |
| **50** | **125** |
| **60** | **145** |
| **70** | **165** |

## 6.4. G.15 Clearing or Removal of Vegetation for Activities other than Timber Harvesting (Section amended June 9, 2010)

6.4. G.15.a Within a shoreland area zoned for Resource Protection abutting Brimstone Pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards. Elsewhere, in the Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

6.4.G.15.b Except in areas as described in Section 6.4.G.15.a., and except to allow for the development of permitted uses, within a strip or land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of Brimstone Pond or the Kennebunk River, and seventy-five (75) feet, horizontal distance, from any other water body, stream, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(1) In an existing forest canopy or other woody vegetation if a forested canopy is absent, there shall be no cleared opening greater than 250 square feet, as measured from the outer limits of the tree crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.

(2) Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to Brimstone Pond or a stream flowing to Brimstone Pond shall be defined as maintaining a rating score of 24 or more in any 25-foot by 50 foot square (1250 square feet) area as determined by the following rating system: (Amended June 9, 2010)

| Diameter of Tree at 4 ½ feet above Ground Level (inches) | Points |
|---|---|
| 2-<4 in | 1 |
| 4-<8 in | 2 |
| 8-<12 in | 4 |
| 12+ in | 8 |

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 16 per 25 by 50-foot rectangular area.

The following shall govern in applying this point system:

(a) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

(b) Each successive plot must be adjacent to, but not overlap a previous plot;

(c) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(d) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;

(e) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 6.4.G.15.b.2 “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot. (Amended June 9, 2010)

Notwithstanding these provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

(3) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 6.4.G.15.b and 6.4.G.15.b.1 above. (Amended June 9, 2010)

(4) Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

(5) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present. The provisions contained in subsection 6.4.G.13.b. shall not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

6.4.G.15.c At distances greater than one hundred (100) feet from Kennebunk River and Brimstone Pond, and seventy-five (75) feet from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area in the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously developed.

6.4.G.15.d Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

6.4.G.15.e Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

**6.4.G.16. Erosion and Sedimentation Control**

6.4.G.16.a All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
(1) Mulching and revegetation of disturbed soil.
(2) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
(3) Permanent stabilization structures such as retaining walls or riprap.

6.4.G.16.b In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

6.4.G.16.c Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

6.4.G.16.d Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
(1) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
(2) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

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

6.4.G.16.e Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

6.4.G.17 **Soils**

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

6.4. G.18 **Water Quality**

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream, or wetland.

6.4. G.19 **Archaeological Sites**

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

6.4.H (Repealed June 13, 2007)

6.4.I (Repealed June 13, 2007)

6.5 (Repealed June 13, 2007)

# SECTION 7 PERFORMANCE STANDARDS - GENERAL REQUIREMENTS

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

## 7.1 EMISSIONS

Emission of dust, ash, smoke or other particle matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, or which can cause soiling beyond the property boundaries shall be prohibited. Emissions which are composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emission from a chimney stack are prohibited. The emission of non-farming odors in such quantities, as determined by the C.E.0., to be offensive at the lot boundaries, is prohibited. Residential heating devices are exempt from these requirements.

## 7.2 EROSION CONTROL

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices standards of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" by the Cumberland County Soil and Water Conservation District dated March 1991:

7.2.A Stripping of vegetation, soil removal, and regrading or other development shall be accomplished in such a way as to minimize erosion.

7.2.B The duration of soil exposure of the disturbed area shall be kept to a practical minimum. In environmentally sensitive areas, within 100 ft. of streams, rivers and ponds, soils may not be left exposed for more than 7 days.

7.2.C Temporary vegetation, organic mulches (hay, straw, wood chips, etc.), chemical mulches (wood fiber emulsions), siltation fabrics, and/or mats, or combinations thereof, shall be used to protect exposed areas during development. Environmentally sensitive areas shall be protected by silt fencing and additional temporary measures before significant storms.

7.2.D Permanent (final) vegetation and mechanical erosion control measures shall be installed prior to the completion of construction, but no later than 6 months after completion of the construction.

7.2.E Until a disturbed area is stabilized, sediment in runoff water shall be trapped by the use of debris basins, sediment basins or silt traps. The discharge from the basin should be through a vegetated filter strip.

7.2.F The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property unless otherwise mutually agreed to by the affected landowner and Town but in no instance shall said cut or fill exceed a 2:1 slope.

7.2.G During grading operations, methods of dust control shall be employed.

7.2.H On slopes greater than 25% there shall be no grading or filling within 100 feet of the normal high water mark except to protect the shoreline and prevent erosion.

7.2.I All erosion control measures shall be monitored periodically by the applicant and inspected after each rain storm for signs of failure (erosion, displacement of mulch, etc.). If more than 10% of the soil is exposed, remulching is required. If erosion or washouts occur, the area must be regraded and preventative measures re-installed. The site shall be monitored until 95% of the permanent grasses or other vegetation is firmly established.

## 7.3 EXPLOSIVE MATERIALS

All flammable or explosive liquids, solids or gases shall be stored in a manner and location which is in compliance with National Fire Protection Association (N.F.P.A.) Code Sections, 30, 58 and 59-A, and rules and regulations of the Maine Department of Public Safety.

## 7.4 FLOOD PLAIN MANAGEMENT

### 7.4.A Compliance

The Town has elected to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, provides that areas of Arundel having a

special flood hazard be identified by the Federal Emergency Management Agency and that flood plain management measures be applied in such flood hazard areas. These provisions establish a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the town. (Amended June 11, 2003)

7.4.B **Identification of areas**

The areas of special flood hazard, Zone A and AE, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Arundel in the County of York, Maine", with accompanying "Flood Insurance Rate Map", dated June 4, 1996 is hereby adopted by reference and declared to be a part of this ordinance. (Amended June 12, 1996)

7.4.C **Permit**

Before any construction or other development, including the placement of manufactured housing units, begins within any areas of special flood hazard, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits that may be required pursuant to the codes and ordinances of the Town. (Amended June 11, 2003)

7.4.D **Application for a Flood Hazard Development Permit**

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

7.4.D.1 The name and address of the applicant, property owner, and contractor. (Amended June 11, 2003)

7.4.D.2 An address and map indicating the location of the construction site;

7.4.D.3 A site plan showing location and dimensions of existing and/or proposed development, including but not limited to, structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot; (Amended June 11, 2003)

7.4.D.4 A statement of the intended use of the structures an/or development. (Amended June 11, 2003)

7.4.D.5 A statement of the type of sewage system proposed.

7.4.D.6 The specification of dimensions of the proposed structure or development. (added June 11, 2003)

7.4.D.7 The elevation in relation to the National Geodetic Vertical Datum (N.G.V.D.) or in Zone A only, to a locally established datum, of the: (Amended June 11, 2003)

7.4.D.7.a base flood at the proposed site of all new or substantially improved structures, which is determined:

7.4.D.7.a.1 in Zone AE, from data contained in the Flood Insurance Study or

7.4.D.7.a.2 in Zone A:

7.4.D.7.a.2(a) from any base flood elevation data from federal, state, or other technical sources including information obtained pursuant to Sections 7.4.G.11 and 7.4.I.4;

7.4.D.7.a.2(b) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour lines; or

7.4.D.7.a.2(c) in the absence of all other data, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building; (Amended June 12, 1996) (Amended June 11, 2003)

7.4.D.7.b highest and lowest grades at the site adjacent to the walls of the proposed building;

7.4.D.7.c lowest floor, including basement; and whether or not such structures contain a basement; and,

7.4.D.7.d level, in the case of non-residential structures only, to which the structure will be flood proofed;

7.4.D.8 A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 7.4.G; (Amended June 11, 2003)

7.4.D.9 A written certification by a Maine Professional Land Surveyor (P.L.S.) or registered professional engineer that the elevations shown on the application are accurate; (Amended June 11, 2003)

7.4.D.10 The following certifications as required in Section 7.4.G by a registered professional engineer or architect:

7.4.D.10.a A Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Subsection 7.4.G.11, (Amended June 11, 2003)

7.4.D.10.b A Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Subsection 7.4.G.12; (added June 11, 2003)

7.4.D.10.c A certified statement that bridges will meet the standards of Subsections 7.4.G.14; and(added June 11, 2003)

7.4.D.10.d A certified statement that containment walls will meet the standards of Subsection 7.4.G.15. (added June 11, 2003)

7.4.D.11 A description of the extent to which any water course will be altered or relocated as a result of the proposed development;

7.4.D.12 A statement of construction plans describing in detail how each applicable development standard in Subsection 7.4.G will be met;

7.4.D.13 A statement of the cost of the development including all materials and labor; and (added June 11, 2003)

7.4.D.14 The above submittal requirements may be modified by decision of the Codes Enforcement Officer when in his opinion such information is or is not needed to determine the conformance of the proposed construction with this ordinance. The Code Enforcement Officer may not waive any submission requirement that provides information that is necessary to evaluate whether an applicant has complied with the development standards in Section 7.4.G. (Amended June 11, 2003)

7.4.E **Fees**

In addition to any other fees required by this ordinance, a non-refundable application fee of $50.00 shall be paid to the Town and a copy of the receipt for the same shall accompany the application. An additional fee may be charged if the Codes Enforcement Officer and/or the Board of Appeals needs assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of the applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. (Amended June 11, 2003)

An applicant who is dissatisfied with a decision of the Codes Enforcement Officer may appeal that decision, within 30 days of the date of the written decision, to the Board of Appeals by an administrative appeal in accordance with Sect. 7.4.J.

7.4.F **Review of Flood Hazard Development Permit Applications.**

The Code Enforcement Officer shall:

7.4.F.1. Review all applications for Flood Hazard Development Permits to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of the Development Standards have been, or will be met. (Amended June 11, 2003)

7.4.F.2 Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data described in Subsection 7.4.B. In special flood hazard areas where base flood elevation data are not provided, the Codes Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other technical sources, including information obtained pursuant to Subsection 7.4.D.7.a, 7.4.G.11, and 7.4.I.4 in order to administer Subsection 7.4.G of this ordinance. When the Code Enforcement Officer accepts base flood elevation data in Zone A by methods outlined in Section 7.4.D.7.a.2, the Code Enforcement Officer shall submit

those data to the Maine Floodplain Management Program in the State Planning Office. (Amended June 11, 2003)

7.4.F.3 Make interpretations of the location of boundaries of special flood hazard areas shown on maps, described in Subsection 7.4.B of this ordinance.

7.4.F.4 Determine that all necessary permits have been obtained from the federal, state and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

7.4.F.5 Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of each notification to the Federal Emergency Management Agency; and, (Amended June 11, 2003)

7.4.F.6 If the application satisfies the requirements of this ordinance, issue one of the following Flood Hazard Development Permits based on the type of development: (Amended June 11, 2003)

7.4.F.6.a A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor or registered professional engineer based on the "as built" construction authorized by the Part I permit, verifying compliance with the elevation requirements of Subsection 7.4.G.6, 7 or 8. Following review of the Elevation Certificate Data, which review shall take place within 72 hours of receipt of the application, the Codes Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or, (Amended June 11, 2003

7.4.F.6.b A Flood Hazard Development Permit for Floodproofing of Non-residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Subsection 7.4.G.7a. 7.4.G.7.b, and 7.4.G.7.c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or (added June 11, 2003)

7.4.F.6.c A Flood Hazard Development Permit for Minor Floodplain Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor floodplain development also includes, but is not limited to: accessory structures, mineral extraction, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, public or private sewage disposal systems or water supply facilities that do not involve structures, and other projects that do not involve a building such as bridges, dams, towers, fencing, pipelines, wharves and piers; and (added June 11, 2003)

7.4.F.7 Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 10 and Subsection 7.4.J., and copies of Elevation Certificates, Floodproofing Certificates, certifications of design standards, and Certificate of Compliance required under the provisions of Subsection 7.4.H. (Amended June 11, 2003)

7.4.G **Development Standards**

All developments in areas of special flood hazard shall meet the following applicable standards:

7.4.G.1 All development shall: (Amended June 11, 2003)

7.4.G.1.a be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; (Amended June 11, 2003)

7.4.G.1.b use construction materials that are resistant to flood damage; (Amended June 11, 2003)

7.4.G.1.c use construction methods and practices that will minimize flood damage; and (added June 11, 2003)

7.4.G.1.d use H.V.A.C., plumbing, and electrical equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions. (Amended June 11, 2003)

7.4.G.2 All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

7.4.G.3 All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

7.4.G.4 On-site subsurface waste disposal systems shall be located and constructed above the 100 year flood elevation.

7.4.G.5 All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the water course. (Amended June 11, 2003)

7.4.G.6 New construction or substantial improvement of any residential structure located within Zone A and AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation. (Amended June 12, 1996) (Amended June 11, 2003)

7.4.G.7 New construction or substantial improvement of any non-residential structure located within Zone A and AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall: (Amended June 12, 1996) (Amended June 11, 2003)

7.4.G.7.a. be flood proofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to passage of water; (Amended June 11, 2003)

7.4.G.7.b have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

7.4.G.7.c be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 7.4.D.10 and shall include a record of the elevation in relation to the N.G.V.D. to which the structure is floodproofed. (Amended June 11, 2003)

7.4.G.8 New or substantially improved manufactured housing units shall: (Amended June 11, 2003)

7.4.G.8.a be elevated such that the lowest floor (including basement) is at least one foot above the base flood elevation; (added June 11, 2003)

7.4.G.8.b be securely anchored to a permanent foundation_to resist flotation, collapse, or lateral movement. The permanent foundation may be a poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured housing units so that no weight is supported by its wheels and axles. (Amended June 11, 2003)

7.4.G.8.c Methods of anchoring may include, but are not limited to: (Amended June 11, 2003)

7.4.G.8.c.1 over-the-top ties anchored to the ground at the four corners of the manufactured housing units, plus two additional ties per side at intermediate points (manufactured housing units less than 50 feet long require one additional tie per side); or (Amended June 11, 2003)

7.4.G.8.c.2 frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured units less than 50 feet long require four additional ties per side). (Amended June 11, 2003)

7.4.G.8.b.3 All components of the anchoring system shall be capable of carrying a force of 4,800 pounds. (added June 11, 2003)

7.4.G.9 Recreational vehicles located within the special flood hazard area shall be on the site for fewer than 180 consecutive days and be fully registered and ready for highway use. A recreational vehicle is ready

for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions. Alternately, a recreational vehicle may be permitted in accordance with the elevation and anchoring requirements of Section 7.4.G.8 above. (added June 11, 2003)

7.4.G.10 Accessory structures shall be exempt from the elevation criteria required in sections 7.4.G.6 and 7.4.G.7., if all other requirements of Section 7.4.G and all the following requirements are met. To be exempt from the elevation criteria, an accessory structure shall:

7.4.G.10.a be 500 square feet or less and have a value of less than $3,000;

7.4.G.10.b have unfinished interiors and not be used for human occupancy;

7.4.G.10.c have hydraulic openings, as specified in Section 7.4.G.12 in at least two different walls of the accessory structure;

7.4.G.10.d be located outside the floodway;

7.4.G.10.e when possible, be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and

7.4.G.10.f have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible, outside the special flood hazard area. (all of 7.4.G.10 added June 11, 2003)

7.4.G.11 Floodways

In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway that is designated on the Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. (added June 11, 2003)

In Zone A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing or anticipated development: (Amended June 12, 1996) (Amended June 11, 2003)

7.4.G.11.a will not increase the water surface elevation of the base flood more than one foot at any point within the community; and, (added June 11, 2003)

7.4.G.11.b is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analysis." Flood Insurance Study - Guidelines and Specifications for Study Contractors, (F.E.M.A. 37/ January, 1995, as amended). (Amended June 11, 2003)

7.4.G.12 New construction or substantial improvement of any structure that meets the development standards of Subsection 7.4.G including the elevation requirements and is elevated on posts, columns, piers, piles, "stilts" or crawl spaces, may be enclosed below the base flood elevation provided all the following criteria are met or exceeded: (Amended June 12, 1996) (Amended June 11, 2003)

7.4.G.12.a Enclosed areas are not "basements" as defined; and,

7.4.G.12.b Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either:

7.4.G.12.b.1 be engineered and certified by a registered professional engineer or architect; or(Amended June 11, 2003)

7.4.G.12.b.2 meet or exceed the following minimum criteria:

7.4.G.12.b.2(a) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area.

7.4.G.12.b.2(b) the bottom of all opening shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

7.4.G.12.b.2(c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,

7.4.G.12.b.2(d) The enclosed area shall not be used for human habitation; and,

7.4.G.12.b.2(e) The enclosed area are usable solely for building access, parking vehicles, or storage. (Amended June 11, 2003)

7.4.G.13 Storage - The bulk storage of hazardous or flammable chemicals is prohibited in the flood plain.

7.4.G.14 New construction or substantial improvement of any bridge shall be designed such that:

7.4.G.14.a when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

7.4.G.14.b a registered professional engineer shall certify that:

7.4.G.14.b.1 the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 7.4.G.11; and

7.4.G.14.b.2. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood. (all of 7.4.G.14 added June 11, 2003)

7.4.G.15 New construction or substantial improvement of any containment wall shall:

7.4.G.15.a. have the containment wall elevated to at least one foot above the base flood elevation;

7.4.G.15.b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

7.4.G.15.c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit. (all of 7.4.G.15 added June 11, 2003)

7.4.G.16 New construction or substantial improvement of wharves, piers, and docks are permitted in and over water and seaward of the mean high tide if the following requirements are met:

7.4.G.16.a wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

7.4.G.16.b for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction. (all of 7.4.G.16 added June 11, 2003)

7.4.H Certificate of Compliance.

No land or structures within a special flood hazard area shall be occupied or used until a Certificate of Compliance is issued in writing by the Codes Enforcement Officer subject to the following provisions. (Amended June 11, 2003)

7.4.H.1 For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, for compliance with Sections 7.4.G.6, 7.4.G.7, or 7.4.G.8. (added June 11, 2003)

7.4.H.2 The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance. (added June 11, 2003)

7.4.H.3 Within 10 working days, the Code Enforcement Officer shall:

7.4.H.3.a review the Elevation Certificate and the applicant's written notification; and,

7.4.H.3.b upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance. (all of 7.4.H.3 added June 11, 2003)

7.4.I **Review of Subdivision and Development Proposals**

When a development, subdivision, or land use is proposed in a flood plain area, the Arundel Planning Board shall assure that during a development plan or subdivision review that the plans:

7.4.I.1 All such proposals are consistent with the need to minimize flood damage. (added June 11, 2003)

7.4.I.2 All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages. (Amended June 11, 2003)

7.4.I.3 Adequate drainage is provided to reduce exposure to flood hazards. (Amended June 11, 2003)

7.4.I.4 All proposals include base flood elevations and flood boundaries, and, in a riverine floodplain, floodway data based on engineering practices recognized by the Federal Emergency Management Agency. (Amended June 11, 2003)

7.4.I.5. Any proposed development plan must include a condition of plan approval requiring that requires structures on lots in the development be constructed in accordance with Subsection 7.4.G and such requirement will be included in any purchase and sales agreement, deed, lease, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat or plan to be signed by the Planning Board as part of the approval process. (Amended June 11, 2003)

7.4.J **Appeals and Variances**

The Board of Appeals of the Town of Arundel, upon written application of an aggrieved party, shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of the provisions of this Section. The Board of Appeals may grant a variance from the requirements of this section consistent with state law and the following criteria: (Amended June 11, 2003)

7.4.J.1 Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

7.4.J.2 Variances shall be granted only upon findings by the Board of Appeals, based on evidence presented by the applicant that:

7.4.J.2.a there has been a showing of good and sufficient cause;

7.4.J.2.b there has been a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances;

7.4.J.2.c the variance will not conflict with other state, federal or local laws or ordinances; and

7.4.J.2.d failure to grant the variance would result in "undue hardship" as defined in Title 30-A M.R.S.A. §4353 Subsection 4. (all of 7.4.J.2 amended June 11, 2003)

7.4.J.3 variances shall only be issued upon a determination that the variance is the minimum necessary , considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary. (Amended June 11, 2003)

7.4.J.4 Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

7.4.J.4.a other criteria of Section 7.4.J and Section 7.4.G.11 are met; and

7.4.J.4.b the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (all of 7.4.J.4 added June 11, 2003)

7.4.J.5 Any variance issued by the Board of Appeals shall note in writing that:

7.4.J.5.a issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage; (Amended June 11, 2003)

7.4.J.5.b construction below the base flood level increases risks to life and property; and,

7.4.J.5.c the applicant acknowledges in writing that he is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a flood plain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality and that are related to the use of land located in a floodplain.

7.4.J.6 The Board of Appeals shall submit a copy of its decision to the Codes Enforcement Officer and the Planning Board as appropriate. (Amended June 11, 2003)

7.4.J.7 An appeal of a decision of the Board of Appeals shall be in accordance with Section 10.6.F.

7.4.K **Enforcement**.

7.4.K.1 In addition to any other actions, the Code Enforcement Officer, upon determination that a violation of Subsection 7.4 exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

7.4.K.1.a The name of the property owner and address or description of the property sufficient to confirm its identity or location; (Amended June 11, 2003)

7.4.K.1.b A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance.

7.4.K.1.c A clear statement that the public body making the declaration has authority to do so and citation to that authority;

7.4.K.1.d Evidence that the priority owner has been provided notice of the violation and the prospective denial of insurance; and,

7.4.K.1.e A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## 7.5 LIGHTING

7.5.A Lighting may be provided which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of the traveling public on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. Direct or indirect illumination shall not exceed 0.5 foot candles upon abutting lots in residential use measured at the property line. When An application for Conditional Use approval contains outdoor lighting installation or replacement, the Planning Board shall review and approve the lighting installation as part of the application. Installation or replacement of two or fewer lighting fixtures may be approved by the Code Enforcement Officer, provided that no single lamp (bulb) exceeds 150 watts and that the total wattage of all bulbs in all fixtures does not exceed 300 watts. All other installations that are part of a conditional use application must be approved by the Planning Board. Lighting installation or replacement that is not part of a conditional use application need not submit a lighting plan or obtain a permit beyond that which may be required by the Electrical Code, but shall meet the standards below. Whenever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting. When an outdoor lighting installation is being substantially modified, the Planning Board may require the entire lighting installation to be subject to the requirements of this section. (Amended June 14, 2000; Amended June 10, 2015)

7.5.A.1 Electrical service to outdoor lighting fixtures shall be underground unless the fixtures are mounted directly on utility poles. (Adopted June 14, 2000)

7.5.A.2 For the purposes of this section, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture. (Adopted June 14, 2000)

7.5.A.3 Holiday lighting during the months of November, December, and January shall be exempt from the provisions of this section, provided that such lighting does not create dangerous glare on adjacent streets or properties. (Adopted June 14, 2000)

7.5.B In the Downtown Business 1 District (DB-1), Downtown Business 2 District (DB-2), Gateway District (GW), Business / Office Park / Industrial District (BI), Alfred Road Business District( AR), and the Townhouse Corner District (TC), the following additional standards shall apply. (Amended June 13, 2007; Amended June 10, 2015)

7.5.B.1 **Lighting of Automobile Service Station/Convenience Store Aprons and Canopies**

Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Section 7.12 shall be used for that purpose. In cases where the lighting performance standards for the DB-1, DB-2, GW, BI, AR, or TC, district conflict with this section, the lighting standards of the individual districts shall prevail. (Amended June 10, 2015)

7.5.B.1.a Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this section. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

7.5.B.1.b Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is at least 1.0 foot-candle and no more than 5.5 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 4:1, which yields an average illumination level of no more than 22.0 foot-candles.

7.5.B.1.c Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85° from vertical.

7.5.B.1.d As an alternative to recessed ceiling lights, indirect lighting may be used where light is beamed upward and reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

7.5.B.1.e Lights shall not be mounted on the top or sides (fascias) of the canopy, and the sides (fascias) of the canopy shall not be illuminated.

7.5.B.2 **Lighting of Exterior Display/Sales Areas**

Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in such locations. Lighting of such areas shall not be used to attract attention to the businesses. Signs allowed under Section 7.12 shall be used for that purpose. The applicant shall designate areas to be considered display/sales areas and areas to be used a parking or passive vehicle storage areas. This designation must be approved by the Planning Board. In cases where the lighting performance standards for the DB-1, DB-2, BI, TC, AR or GW districts conflict with this section, the lighting standards of the individual districts shall prevail. (Amended June 10, 2015)

7.5.B.2.a Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas in Section 7.5.B.3.

7.5.B.2.b Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than 5.0 foot-candles. The uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as exterior display/sales area.

7.5.B.2.c Light fixtures shall be cut-off fixtures, and shall be located, mounted, aimed, and shielded so that direct light is not cast onto adjacent streets or properties.

7.5.B.2.d Fixture shall be mounted no more than 25 feet above grade, and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.

7.5.B.2.e Except for lighting meeting the standards of Sect 7.5.B.4, exterior display/sales areas shall be illuminated only when the establishment is open for business.

7.5.B.3 **Lighting of Parking Areas**

Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

7.5.B.3.a All lighting fixtures serving parking lots shall be cut-off fixtures.

7.5.B.3.b As an alternative in the Downtown Business 1 district (DB-1), the Downtown Business 2 district (DB-2), the Townhouse Corner district (TC), Alfred Road Business District (AR), the Business/Office Park/Industrial District (BI) and the Gateway District (GW), the design for an area may suggest the use of parking lot lighting fixtures of a particular "period" or architectural style, as either alternatives or supplements to the lighting described above. (Amended June 13, 2007; Amended June 10, 2015)

7.5.B.3.b.i If such fixtures are not cut-off fixtures, the maximum initial lumens generated by each fixture shall not exceed 2,000 (equivalent to a 150-watt incandescent bulb).

7.5.B.3.b.ii Mounting heights of such alternative fixtures shall not exceed 15 feet.

7.5.B.3.c Parking area lighting shall meet the following mounting heights, illumination levels, and uniformity ratios, except in the BI, DB-1, DB-2, TC, AR, or GW districts where the lighting performance standards of the district shall prevail. (Amended June 13, 2007) (Amended June 11, 2008; June 10, 2015)

| Feature | AR | BI |
|---|---|---|
| Maximum Mounting Height | 20 feet | 25 feet |
| Maximum Average Illumination Level* | 0.3 foot-candle | 0.5 foot-candle |
| Uniformity Ratio** | 4:1 | 4:1 |
| Minimum Color Rendering Index*** | 65 | 20 |

* Measured at the darkest spot on the parking area
** Uniformity ratio is the ratio of average illumination to minimum illumination
*** Color Rendering Index is a measure of how a light changes perception of colors. Incandescent lamps have a CRI of 100, metal halide 70-75, mercury vapor 50, high pressure sodium 22 and low pressure sodium 44. (Amended June 10, 2015)

## 7.6. OFF-STREET PARKING AND LOADING

7.6.A **General**

7.6.A.1 A permitted use in any district shall not be expanded, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements.

7.6.A.2 Parking areas with more than two parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.

7.6.A.3 Only one curb opening shall be allowed from any lot which has 200 feet or less frontage onto the same street. In the BI and AR districts additional opening for lots with greater than 200 ft. of street frontage may be permitted upon demonstration of necessity and improved traffic safety. (Amended June 13, 2007; amended June 10, 2015).

Road entrances for single family homes shall be a minimum of 12 feet but not exceed 20 feet in width.

Curb entrances/exits shall be set back at least 20 ft. from side property line.

Storm water drainage in roadside ditches shall not be impeded by the construction of driveway accesses. Subsurface drainage structures (culverts) underneath fill areas, such as driveways, shall be of an adequate size/type as determined by the Public works Director but shall be no less than 15" diameter and shall be the responsibility of the land owner. Surface drainage flows shall be directed away from the road surface. A road opening permit from the Maine Dept. of Transportation may be required for developing or changing access onto state highways. (Amended June 14, 2000)

7.6.A.4 Required off-street parking for all land uses shall be located on the same lot as the principal building or facility. If the parking spaces cannot be provided on the same lot as the principal use, the Planning Board may permit the spaces to be located on other property within 500 ft. of the main entrance to the principal use and a pedestrian walkway provides direct, off-street access to the principal use. Such parking areas shall be held under the same ownership or lease as the uses served and evidence of such control or lease shall be required. Arrangements for parking on leased land shall not be acceptable for meeting the minimum required parking provisions of this Ordinance unless the lessee is specifically given the option of renewing the lease indefinitely. (Amended June 14, 2000)

7.6.A.5 Off-street parking and loading spaces for non-residential uses in residential districts, shall be screened from view by a continuous landscaped area not less than six feet in height, unless waived by the Planning Board in the absence of a negative impact on the abutters.

7.6.A.6 All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines in order to provide visibility for entering and leaving vehicles.

7.6.A.7 The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reasons of variation in the probable time of maximum use by patrons or employees of such establishments.

7.6.A.8 Parking spaces shall be provided as required prior to occupancy and issuance of the Certificate of Occupancy.

7.6.B **Additional Requirements for Commercial and Industrial Establishments**

7.6.B.1 Access points from a public road to commercial and industrial operations, shall be clearly identified by the use of landscaping, signs and curbing. Accesses shall be located to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.

7.6.B.2 All parking areas, driveways and other areas serving 15 or more vehicles shall be paved with 2" of bituminous concrete or an equivalent surfacing, over a gravel base of at least 12" in thickness, and shall have appropriate bumper or wheel guards where needed. However, the paving requirement does not apply to seasonal parking lots. For seasonal parking areas or lots the 2” of bituminous concrete surface may be substituted with a minimum of 2” crushed gravel, reclaimed bituminous pavement or similar stable surface material. (Amended November 2, 2010)

7.6.B.3 Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers shall not be located for loading or storage upon any town way.

7.6.B.4 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:

7.6.B.4.a. Retail, office, consumer services, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following:

| | |
|---|---|
| 5,001 to 20,000 sq.ft. | 1 bay |
| 20,001 to 50,000 sq.ft | 2 bays |
| 50,001 to 100,000 sq.ft | 3 bays |
| 100,001 to 150,000 sq.ft | 4 bays |
| 150,001 to 300,000 sq.ft | 5 bays |

7.6.B.4.b. Each 150,000 square feet over 300,000 square feet requires (1) additional bay. No loading docks shall be on any street frontage. Provision for handling all freight shall be on those sides of any buildings which do not face on any street or proposed streets.

7.6.C **Parking Lot Design Criteria** (Not applicable to single family dwellings and duplexes)

7.6.C.1 **Vehicular Entrances and Exits**

7.6.C.1.a Entrances and exits should be clearly identified by the use of signs, curb cuts and landscaping.

7.6.C.1.b Entrance/exit design onto Routes 1 and 111 should be reviewed by and be in conformance with the standards of the Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

7.6.C.2 **Interior Vehicular Circulation**

7.6.C.2.a Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.

7.6.C.2.b Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

7.6.C.3 **Parking**

7.6.C.3.a Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.

7.6.C.3.b Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. (Amended June 14, 2000)

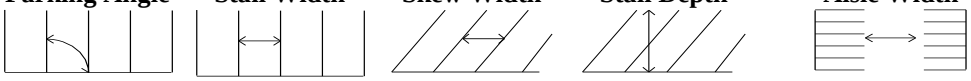
7.6.C.3.c All parking lots shall be landscaped along the property boundaries with shrubbery, trees, and other landscape materials. In the BI, DB-1, DB-2, TC, AR, and GW districts parking lot landscaping shall conform to the performance standards specified in the district regulations. When a lot is wooded, the existing vegetation shall be maintained in this landscaped area. Large parking lots shall provide a 2" d.b.h. (diameter at breast height, 4 ft. above ground level) shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot. (Amended June 13, 2007; June 10, 2015)

7.6.C.3.d Painted stripes should be used to delineate parking stalls. Stripes should be a minimum of 4" in width.

7.6.C.3.e In aisles utilizing diagonal parking, directional arrows should be painted on the pavement to indicate proper traffic flow.

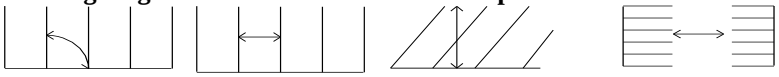
7.6.C.3.f Handicapped spaces shall be in accordance with the requirements of the B.O.C.A. Building Code.

Automobile Parking stalls and aisle layout shall conform to the following:



| Parking Angle | Stall Width | Skew Width | Stall Depth | Aisle Width |
|---|---|---|---|---|
| 90° | 9’ 0” | n/a | 18’ 5” | 24’ 0” |
| 60° | 8’ 6” | 10’ 5” | 19’ 0” | 16’ 0” One Way |
| 45° | 8’ 6” | 12’ 9” | 17’ 5” | 12’ 0” One Way |
| 30° | 8’ 6” | 17’ 0” | 17’ 0” | 12’ 0” One Way |

Motorcycle Parking Stalls



| Parking Angle | Stall Width | Stall Depth | Aisle Width |
|---|---|---|---|
| 90° | 3’6” | 9’-0’ | 24’ 0” |
| 60° | 3’6” | 10’-5” | 16’ 0” One Way |

Amended November 2, 2010)

7.6.C.3.g Parking spaces shall be provided to conform with the number required in the following schedule:

| ACTIVITY | MINIMUM REQUIRED PARKING |
|---|---|
| Automobile Repair Garages and Gas Stations | 3 spaces for each bay or area used for repair work |
| Banks* | 1 space per 150 s.f. of gross floor area |
| Barber or Beauty Shop | 2 spaces per chair |
| Child Care Facility | 1 space per 6 children facility is licensed for |
| Church | 1 space per three seats based upon maximum seating capacity |
| Clubs or Lodges | 3 spaces per 100 s.f. of gross floor area |
| Commercial Recreation Facility; Fitness Spa | 1 space per 100 s.f. of gross floor area |
| Elderly Housing | 1 space per one bedroom dwelling unit;<br>1.5 spaces per two bedroom dwelling unit;<br>2 spaces per three or more bedroom dwelling unit. |
| Flea Market | 3 spaces per table |
| Funeral Homes | 1 space per four seats based upon seating capacity |
| Golf Course; Driving Range | 4 spaces per hole, 1.5 spaces per tee and 50% of accessory uses |
| Hotel; motel; boarding; lodging; rooming house | 1 space per room/unit rental plus 1 per employee based upon the maximum working shift |
| Industrial Businesses | 1 space per employee based upon the maximum working shift |
| Library; Museum; Art Gallery | 1 space per 150 s.f. of gross floor area |
| Marina | 1 space for each boat slip and mooring |
| Medical Care Facilities | 1 space for every three beds and every two employees on the maximum shift |
| Mixed Use | Total of individual uses |
| Motor Vehicle Sales | 1 space per 30 display vehicles |
| Offices: Banks | 1 space per 150 s.f. of gross floor area |
| Offices: Business & Professional | 1 space per 200 s.f. of gross floor area |
| Offices: Medical or Dental | 4 spaces for each doctor, dentist or other medical practitioner |
| Repair Shop | 1 space per 250 s.f. of gross floor area |
| Residential | |
| with 2 or more bedrooms | 2 spaces per dwelling unit |
| with 1 bedroom | 1¼ spaces per dwelling unit |
| Retail Sales | 4 spaces per 1000 s.f. of gross floor area |
| Restaurant* | 1 space per three seats based upon maximum seating capacity |
| Service Business | 1 space per 300 s.f. of gross floor area |
| Schools | |
| Elementary | 2 spaces per classroom plus 1 per 4 seats of public assembly area |
| Jr/Sr High | 5 spaces per classroom plus 1 per 4 seats of public assembly area |
| Post Secondary | 1 space per 2 students and 1 space for each faculty and staff member |

| ACTIVITY | MINIMUM REQUIRED PARKING |
|---|---|
| Tavern | 1 automobile parking space is required for every 3 patrons based upon the tavern's maximum capacity. Motorcycle parking spaces may be substituted for automobile parking spaces.<br>1 motorcycle parking space is required for every 2 patrons based upon the tavern's maximum capacity as established by the State Fire Marshall or applicable code. (Amended November 2, 2010) |
| Theatre; Auditorium; Public Assembly Areas | 1 space per three seats based upon maximum seating capacity |
| Veterinarian Clinic; Kennel | 4 spaces per veterinarian |
| Warehouse; Wholesale | 1 space per 500 s.f. gross floor area per business |

* Drive-up windows/stations shall require 8 stacking spaces per each

NOTES:

1. Where the calculation of the parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
2. The above are minimum standards, and additional parking spaces may be required if these standards are deemed to be inadequate.
3. Where floor space is to be used in calculating the number of required parking stalls, gross floor area (g.f.a.) shall be used unless otherwise noted.

## 7.7 STREET ACCESS & TRAFFIC IMPACTS (Title Amended June 14, 2000)

### 7.7.A Intersection Standards

Proposed developments shall provide for safe access and egress to roads. Safe access shall be assured by providing an adequate number and location of access/egress points with respect to sight distances, intersections, and other traffic generators. The proposed development shall not have an unreasonable impact on local roads by degrading the levels of service below a "C" rating as determined by ITE (Institute of Traffic Engineers) standards and shall assure safe interior circulation patterns by separating vehicular and pedestrian traffic within the site whenever possible. Sight distances shall be measured from an eye point located 15 feet behind the edge of the traveled way at an elevation of 3.5 feet above the finished grade surface to a height of object 4.25 feet above the pavement in the centerline of the travel lane approaching the intersection. Access/egress points shall be designed in accordance with the following minimum safe sight distances: (Amended June 11, 2008)

| Speed Limit | Minimum |
|---|---|
| 25 mph | 250' |
| 30 mph | 300' |
| 35 mph | 350' |
| 40 mph | 400' |
| 45 mph | 450' |
| 50 mph | 500' |
| 55 mph | 550' |

### 7.7.B Private Ways & Estate Lots (Section amended June 9, 2010, June 13, 2012)

7.7.B.1 ***Access Required*** **:**

To provide for the public's safety and access by the town's emergency vehicles, no structures intended for human occupancy or a commercial operation shall be permitted on a lot without frontage on a public street or on a Private Way constructed in conformance with the criteria of Section 7.7.B.2

**7.7.B.1.a *Back Lot Access:***

Any structure intended for human occupation or commercial purposes may be constructed on a back lot

created before June 9, 2010, provided that all of the following conditions are met:

(1). The existing back lot meets all land use and dimensional requirements of Section 6.2 and 6.3 other than street frontage;

(2). Access to the back lot is provided by a legally-executed easement or right-of-way recorded in the York County Registry of Deeds;

(3). Said easement or right-of–way provides or will provide access and/or frontage exclusively to a single back lot containing only one use or one single-family dwelling unit;

(4). The access travel way within the designated easement or right-of way is constructed to the standards of a 1-lot private way specified in Section 7.7.B.2.a.

(5) No additional lots, dwelling units, or uses shall gain legal access or establish legal frontage via the designated easement or right-of-way, without first meeting the dimensional and construction standards for private ways specified in Section 7.7.B.2. for the total number of units or lots served by the private way. ( Amended June 13, 2012)

**7.7.B.1.b *Exemptions***

Private ways or portions thereof shown on approved subdivision plans approved prior to June 14, 1995, and private ways or portions thereof providing access to lots of land upon which residential or commercial structures were granted certificates of occupancy by the code enforcement officer prior to June 9, 2010 are exempted from conformance with the design and construction criteria of Section 7.7.B., provided that the private ways meet the following performance criteria as determined by the Staff Review Committee:

(1). Exemptions shall apply only to that portion of the eligible private way located between the public road and the structure farthest from the public road, as measured along the length of the private way as shown on the approved subdivision plan.

(2) No more than two (2) undeveloped existing lots shall be serviced by an exempted private way constructed or recorded after June 14, 2000.

(3) The width of the existing travelway shall be no less than 15 feet at any point along the travelway.

(4). The applicant shall provide documentation from a Maine licensed civil engineer license certifying that the existing travelway has been constructed sufficiently to support the passage and parking of a fire apparatus with a 54,000 pound gross vehicle weight during all seasons of the year.

(5). A turnaround or pull-off space shall be provided that: (a) is sufficient to allow two fire apparatus to pass at or near the terminus of the private way; and (b) can physically support and accommodate the turning around of a standard 100-foot ladder aerial fire apparatus and the Arundel Fire Department's first-due Attack Pumper.

(6). A paved apron consisting of two (2) inches of compressed bituminous concrete over a minimum base of twelve (12) inches of gravel shall be installed at the intersection of the private way and any Town or State highway for that portion of the travelway within the public right-of-way.

Any extension of a private way beyond the length shown on the approved subdivision plan or the approved structure farthest from the public road shall conform to the design and construction standards of Section 7.7.B.2 unless otherwise exempt by this Ordinance. (Adopted June 13, 2012)

**7.7.B.1.c *Appeals***

Decisions of the Staff Review Committee regarding private way exemptions as outlined in section 7.7.B.1.b may be appealed to the Arundel Zoning Board of Appeal within thirty (30) days of the final decision rendered by the Staff Review Committee. (Adopted June 13, 2012)

### 7.7.B.2 *Private Way Construction Standards*:

All private ways serving two (2) lots/units or more and created after June 13, 2012 shall be constructed to the

appropriate standard in Section 7.7.B.2.a based on the maximum number of minimum-sized lots or units that can be subdivided on the parcel. (Amended June 13, 2012)

7.7. B.2.a: **Design Standards**

Private Way shall be constructed to the standards specified in herein:

| **Standard** | **1 Lot** (Only for Back Lots created before June 9,2010) | **2 Lots or Dwelling Units** | **3 -7 Lots or Dwelling Units** | **8 + Lots/Units** |
|---|---|---|---|---|
| **Residential Uses** | | | | |
| Minimum Right of Way | 30 feet | 50 feet | 50 feet | 50 feet |
| Minimum Travel way width | 12 feet | 15 feet | 18 feet | 20 feet |
| Minimum Depth of Base Gravel | 12 inches | 15 inches | 18 inches | 18 inches |
| Base Gravel Standard | Bank Run | Bank Run | MDOT Type D | MDOT Type D |
| Crushed Aggregate Base Course | 0 inches | 0 inches | 3 inches | 3 inches |
| Crushed Aggregate Type | N/A | N/A | MDOT Type A | MDOT Type A |
| Travelway Bituminous Pavement | None | None | None | Arundel Street Design & Construction Standards |
| Crown | None | ¾ inch /foot | ¾ inch /foot | ½ inch/foot |
| Shoulder Width | 1 foot | 1 foot | 2 feet | 3 feet |
| Minimum. Gradient | 0.8% | 1% | 1.% | 0.8% |
| Maximum Gradient | N/A | 12% | 10% | 9% |
| Minimum Centerline radius | N/A | 100 feet | 150 feet | 150 feet |
| Tangent between radii | 50 feet | 75 feet | 75 feet | 100 feet |
| Angle of Street Intersections | >75 degrees | >80 degrees | 90 degrees | 90 degrees |
| Maximum gradient within 50 feet of intersections | N/A | 5% | 3% | 3% |
| Min Curb Radii at intersections | 10 feet | 15 feet | 15 feet | 20 feet |
| Maximum Cut slopes (1:1 in solid ledge) | 2:1 | 2:1 | 2:1 | 2:1 |
| Maximum Fill Slopes | 3:1 | 3:1 | 3:1 | 3:1 |
| Turnaround | None required | Hammerhead or 65'cul-de-sac | Hammerhead for up to 4 lots 65'cul-de-sac for 5-7 lots | 65' Cul-de-sac |

| **Standard** | **1 Lot** (Only for Back Lots created before June 9,2010) | **2 Lots or Dwelling Units** | **3 -7 Lots or Dwelling Units** | **8 + Lots/Units** |
|---|---|---|---|---|
| Cul-de-Sac Design | | Refer to Arundel Street Design & Construction | | |

| | | Ordinance | | |
|---|---|---|---|---|
| Hammerhead ROW Width | | 50 feet | 50 feet | 50 feet |
| Minimum Length of Turnaround legs | | 50 feet | 50 feet | 50 feet |
| Minimum Offset between Private Ways located on the same side of the road | N/A | 200 feet | 250 feet | 300 feet |
| Non-Residential Uses | Standards of Section 7 and 8 apply | Standards of the Arundel Street Design and Construction Ordinance apply | | |

(1) Street Intersections Standards: Private Ways intersecting with Town Streets shall be designed with a minimum 0.5% reverse slope for a minimum distance of five (5) feet back from the edge of the street pavement. That portion of the private way within the street right-of way shall be constructed with a minimum of 3 inches of bituminous pavement.

7.7.B.2.b: **Uniform Travelway and Right-of-Way Widths:**

Travel way and right of way widths shall be determined by the cumulative number of units or lots served by the private way, and shall be maintained for the entire length of the private way including terminus.

7.7.B.2.c: **Access to other Private Ways:**

No private way shall gain access from any other private way comprised of less than a 50-foot right of way and a 18-foot travelway.

7.7.B.2.d: **Driveway Access off Hammerheads Prohibited:**

No lot shall secure a driveway access from the turnaround end of a hammerhead or modified T terminus.

7.7. B.2.e **Drainage Standards:**

Private ways shall be designed with surface or subsurface drainage facilities to accommodate runoff generated from the private way.

(1) **Design Storm***:* All shoulder drainage ditching shall be designed at a minimum to accommodate runoff from the road watershed generated during a 10-year storm event. Culverts shall be designed to a minimum standard to accommodate a 25 year storm event. Depending on topography and site conditions the Planning Board reserves the right to increase the design storm minimums for roadside ditching and culverts.

(2) **Zero Peak Runoff:** No runoff shall be discharged from the site or into any watercourse or Resource or Shoreland wetland at a peak runoff level greater than existing conditions.

(3) **Culvert Materials***:* All culverts within the private way right-of-way shall be no less than fifteen (15) inches in diameter and shall consist of either aluminized corrugated metal pipe or HDPE corrugated plastic pipe with a minimum of two (2) feet of finished top cover, or other material so approved by the Arundel Public Works Department.

(4) **Drainage Easements***:* Discharge of concentrated runoff onto an abutting property shall not be permitted unless a drainage easement is granted by the abutter.

7.7.B.2.f **Sedimentation & Soil Erosion Control Standards:**

All Private Way construction shall be accompanied by proper soil erosion control and sedimentation

devises installed and maintained in accordance with the Maine Erosion & Sediment Control Best Management Practices (BMPs), as published by the Maine Department of Environmental Protection.

7.7.B.3 **Approval Required:**

All Private Ways serving 2 lots or dwelling units shall be approved by the Staff Review Committee prior to the issuance of any building permits or road construction. All Private Ways serving 3 or more lots or units shall be approved by the Arundel Planning Board prior to the issuance of any building permits or road construction.

7.7. B.3.a. **Plan Submission:**

A plan and centerline profile of the proposed private way shall be prepared and sealed by a Professional Engineer licensed to practice in the State of Maine and shall be drawn with permanent ink on Mylar. The plan and profile shall show all existing property lines and existing conditions as well as proposed on-site and off-site improvements, existing and proposed topographic contours at an interval determined by the Town Planner and Public Works Director, drainage structures, soil erosion control devices, and typical road crossection. The plan should also contain the following components:

(1) **Approval Block:** The Private Way Plan shall contain an approval block with lines for signatures of the Arundel Planning Board or Arundel Staff Review Committee.

(2) **Town Disclaimer:** The following statement shall be affixed to the Plan: "The Town of Arundel shall not be responsible for the construction, plowing, maintenance or repair of this Private Way"

(3) **Construction Cost Estimates:** The applicant shall submit a detailed estimate of the costs associated with the construction of the Private Way as proposed. Costs shall be based on fair market value for the work and improvements to be performed.

(4) **Waiver of Submission Requirements:** The Planning Board or the Staff Review Committee may waive contour intervals, drainage structures, or similar submission requirement deemed to be superfluous given field conditions and irrelevant to the consideration of the plan.

7.7.B.3.b **Maintenance Agreement:**

Maintenance agreements shall be executed for any private way providing access to a duplex or-two or more lots. The Maintenance Agreement shall specify the rights and responsibility of each unit or lot owner for the repair, plowing, and maintenance of the private way. The executed Maintenance Agreement shall be recorded in the York County Registry of Deeds and a stamped copy shall be submitted to the Code Enforcement Officer or Planning Board prior to final approval of the private way plan.

**7.7.B. 4. Municipal Review Process**

7.7. B.4.a. **Staff Review Committee Approval Process**

All applications for Private Ways providing legal access and street frontage for 1-2 lots or dwelling units shall be reviewed the Arundel Staff Review Committee. The Committee shall be comprised the Staff Review Committee consisting of the Arundel Public Works Director, the Fire Chief, the Code Enforcement Officer, and the Town Planner. Within fifteen (15) days of receiving a complete Private Way application, the Staff Review Committee shall conduct an on-site Public Hearing in which members of the Public are invited to attend and comment. Within thirty (30) days of the Public Hearing, the Committee shall render a decision to approve, deny, or approve the Private Way application with conditions.

7.7.B.4.b **Planning Board Review:**

All applications for Private Ways providing legal access and street frontage for three (3) or more lots or three (3) or more dwelling units, or any commercial enterprise open to the public shall be reviewed the Arundel Planning Board. Within thirty (30) days of receiving a complete Private Way application, the Planning Board shall conduct a Site Walk and a Public Hearing in which members

of the public are invited to attend and comment. Within thirty (30) days of the Public Hearing, the Planning Board shall render a decision to approve, deny, or approve the Private Way application with conditions.

**7.7.B.5 Recording of Plan:**

An approved and signed Private Way plan shall be recorded by the applicant in the York County Registry of Deeds within sixty (60) days of the signing of the plan. Failure to register the plan within the 60 days will void the Planning Board or Staff Review Committee's approval.

**7.7.B.6 Inspection and Certification:**

Private ways serving two or more lots shall be inspected under the direction of a Civil Engineer, licensed to practice in the State of Maine. Prior to the issuance of building permits or any requested drawdown from a Construction Surety provided by the applicant, the inspecting Civil Engineer shall certify that the Private Way has been constructed in accordance with the approved plans and design and performance standards in this section.

**7.7.B.7 Construction Surety**

To insure that all approved Private Ways are constructed in compliance with the approved plans, the applicant shall provide either:

7.7.B.7.a **Engineer Certification:** Prior to the issuance of any Building Permits, submit an inspection report from the Civil Engineer, acceptable to the Code Enforcement Officer, certifying that the private way has been constructed in conformance with the approved plans and the construction standards of 7.7.B.2; or

7.7.B.7.b **Financial Surety:** Submit a surety instrument, in a form acceptable to the Town Planner and in an amount equal to the estimated costs of construction plus a 10% contingency. The instrument may be in the form of a Letter of Credit, a Tri-Party Agreement, or an Escrow account.

**7.7.B.8 Estate Lots**

The following standards shall apply to the creation of estate lots in the Town of Arundel:

7.7.B.8.a **Zoning Districts:** Estate lots shall be permitted for residential uses in all Zoning Districts except in any RP District and except in the BI and DB-1 districts where the required access strip for the estate lot fronts onto Route 1. (Amended June 12, 2013)

7.7.B.8.b. **Minimum Lot Size:** The minimum lot area of a residential estate lot shall be the same as that required for the appropriate zoning district specified in Section 6.3.A, however the area of the access strip shall not be applied to minimum lot area calculations.

7.7.B.8.c. **Minimum Separations between Access Strips:** The minimum separation between estate lot access strips discharging onto the same side of a street or private way shall be no less than 200 feet or the minimum lot frontage required for the zoning district in Section 6.3.A, whichever is the greater.

7.7.B.8.d: **Access Strips restricted on Terminus**: No more than two (2) estate lot access strips may access a single cul-de-sac terminus and No access strips can access a hammerhead terminus.

7.7.C No building permit shall be issued to erect a structure that is located more than 100 feet from a street unless an access road meeting the construction standards of Section 7.7.B.1 has been constructed. As an alternative to constructing an access road the full width required by Section 7.7.B.1 an access road with a minimum width of 10 feet and turn outs of 8 feet in width and 20 feet in length no less than 100 feet apart may be constructed. (Adopted January 24, 2000)

7.7.D **Driveway Design Standards for Route One and Route 111.** (Sect 7.7.D Adopted June 14, 2000)

7.7.D.1. Road and driveway entrances shall be designed in accordance with the following standards. Each opening shall be a minimum of 12 feet but not exceed 20 feet in width for single family homes. For all other uses the minimum curb entrance shall follow the following geometric standards based on the estimated volume using the driveway classification defined below.:

7.7.D.2.a. Low Volume Driveway: Less than 25 vehicle trips per day.

7.7.D.2.b. Medium Volume Driveway: Any driveway that is not a low volume or high volume driveway.

7.7.D.2.c. High Volume Driveway: Peak hour volume of 400 vehicles or greater.

7.7.D.3. Vertical Alignment. A driveway shall be flat enough to prevent the dragging of any vehicle undercarriage. Driveways shall slope upward or downward from the street right of way on a straight slope of 2 percent or less for at least 25 feet. Low Volume driveways shall have a slope of no greater than 10 percent for the next 50 feet. The maximum grade over the entire length shall not exceed 15 percent. Following this landing area, the steepest grade on the driveway shall not exceed 8 percent.

7.7.D.4. Low Volume Driveways.

7.7.D.4.a. Skew Angle. Low Volume driveways shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

7.7.D.4.b. Curb Radius. The curb radius shall be between 5 feet and 15 feet, with a preferred radius of 10 feet.

7.7.D.4.c. Driveway Width. The width of the driveway shall be between 12 feet and 16 feet, with a preferred width of 16 feet.

7.7.D.4.d. Curb-Cut Width. Curb-cut width shall be between 22 feet and 46 feet, with a preferred width of 36 feet.

7.7.D.5. Medium Volume Driveways.

7.7.D.5.a. Skew Angle. Medium Volume driveways shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

7.7.D.5.b. Curb Radius. Curb radii will vary depending if the driveway is one-way or two-way operation. On a two-way driveway the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way driveways, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

7.7.D.5.c. Width. On a two-way driveway the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way driveway the width shall be between 16 feet and 20, with a preferred width of 16 feet.

7.7.D.5.d. Curb-Cut Width. On a two-way driveway the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way driveway the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

7.7.D.6. High Volume Driveways.

7.7.D.6.a. Skew Angle. High Volume driveways shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

7.7.D.6.b. Curb Radius. Without channelization islands for right-turn movements into and out of the site, the curb radii shall between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

7.7.D.6.c. Curb Cut Width. Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

7.7.D.6.d. Entering and exiting driveways shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

7.7.D.6.e. Width. Driveway widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

7.7.D.6.f. Appropriate traffic control signage shall be erected at the intersection of the driveway and the street and on medians and channelization islands.

7.7.D.7. Driveway Location and Spacing.

7.7.D.7.a. Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the driveway. In general the maximum corner clearance should be provided as practical based on site constraints. In the Residential, DB-1 and DB-2, districts a minimum corner clearance shall be 25 feet from unsignalized intersections and 50 feet from signalized intersections. Minimum corner clearances for the BI and AR districts are shown in table 7.7.D.7-1 based upon driveway volume and intersection type. (Amended June 13, 2007, Amended June 10, 2015)

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

Table 7.7.D.7-1. Minimum Standards for Corner Clearance, BI and AR Districts

| | Minimum Corner Clearance (feet) | |
|---|---|---|
| Driveway Type | Intersection Signalized | Intersection Unsignalized |
| Low Volume | 150 | 50 |
| Medium Volume | 150 | 50 |
| High Volume | 500 | 250 |
| Special Case | | |
| Right turn in only | 50 | 50 |
| Right turn out only | 100 | 50 |
| Right turn in or out only | 100 | 50 |
| (Amended June 13, 2007) | | |

7.7.D.7.b. Driveway Spacing. Driveways shall be separated from adjacent driveways and property lines on Route One and Route 111 according to Table 7.7.D.7-2 . In all other locations, curb entrances/exits shall be set back at least 20 feet from property lines unless there is a shared driveway and no other driveway serving either lot. This distance shall be measured from the driveway point of tangency to the driveway point of tangency for spacing between driveways and from the driveway point of tangency to a projection of the property line at the edge of the roadway for driveway spacing to the property line.

Table 7.7.D.7-2. MINIMUM DRIVEWAY SPACING

| | Minimum Spacing to Property Line (Dpl)1 | Minimum Spacing to Adjacent Driveway by Driveway Type 2 (Dsp)3 | | | | |
|---|---|---|---|---|---|---|
| Driveway Type | (feet) | Low (feet) | Medium (feet) | High w/o RT* (feet) | High W/RT** (feet) | Special Case (feet) |
| Low Volume | 20 | | *** | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| Medium Volume | 20 | | - | | 75 | |
| High Volume (w/o RT)* | 75 | - | 75 | 150 | | |
| High Volume (w/ RT)** | 75 | - | 75 | 250 | 500 | |
| Special Case | 20 | - | 75 | 75 | 75 | 40**** |

1 Dpl measured from point of tangency of driveway to projection of property line on roadway edge. May be reduced to zero if there is a shared driveway and no other driveway serving either lot.
2 For two more driveways serving a single parcel, or from a proposed driveway to an existing driveway.
3 Dsp measured from point of tangency of driveway to point of tangency of adjacent driveway.
* High volume driveway without right turn channelization
** High volume driveway with right turn channelization
*** Low volume driveways are not permitted in combination with other driveway types on a single lot.
**** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

7.7.D.8. Construction Materials/Paving.

7.7.D.8.a. All driveways entering a curbed street shall be curbed with materials matching the street curbing. Curbing is required around all raised channelization islands or medians.

7.7.D.8.b All driveways shall be paved with bituminous concrete pavement within the street right-of-way. All commercial driveways regardless of driveway volume shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

## 7.8 LANDSCAPING

7.8.A The landscape shall be preserved in its natural state by minimizing tree removal and slope grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses. (Amended June 14, 2000)

7.8.B Except in the BI district, no industrial or commercial buildings or uses shall be established abutting a residential use, unless a landscaped buffer strip is provided to visually screen the uses. In the BI district the landscaping along parking areas and within the required building setbacks shall be designed or maintained to minimize the visual impacts of an industrial or commercial use upon neighboring residential uses, but a visual screen is not necessary. Where no natural vegetation can be maintained or due to varying site conditions the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to insure continuous year round screening. (Amended November 7, 2000) (Amended June 13, 2007)

7.8.C Landscaping must consist of full vegetative ground cover. Rock, bark and other nonliving material may be used only for accent in landscaped areas. All landscaped areas must be maintained in a healthy growing condition.

## 7.9 REFUSE DISPOSAL

The disposal of all solid and liquid wastes shall be on a timely basis and in an environmentally safe manner. The Review Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Review Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

## 7.10 SANITARY PROVISIONS

7.10.A **On-Site Wastewater Disposal**

When a lot is not served by the public sewage system, the approval of building permit applications shall be subject to presentation of a completed site evaluation form (HHE-200) in accordance with the State of Maine Subsurface Wastewater Disposal Rules, which provide evidence of adequate soil conditions for sewage disposal. The septic tank and leaching field system serving a structure shall be entirely located on the same lot as that structure. The only exception to the foregoing requirement shall be private sewage collection and disposal systems serving single family homes, provided that:

7.10.A.1 The common leaching facility is located on a separate lot large enough to include a standby disposal area equal in size to the original; and

7.10.A.2 The design of the sewage collection and disposal system is prepared by a registered professional engineer and is approved by the Maine Department of Human Services; and

7.10.A.3 The leaching facility is located at least 300 feet from any private well; and

7.10.A.4 All lots shall have deed covenants noting the financial obligation of the owner to pay his pro-rata share of all system maintenance, repair and replacement, and

7.10.B No on-site sewage treatment and disposal system of greater than 2000 gallon-per-day capacity shall be approved until the applicant has conducted a hydrogeologic analysis which demonstrates to the satisfaction of the Planning Board that:

7.10.B.1 The soils are suitable for the expected volume and characteristics of waste;

7.10.B.2 Adequate land exists on the lot for complete replacement of the leaching facility;

7.10.B.3 The direction of groundwater flow and subsurface conditions are such as not to imperil proposed on-site water supplies; and;

7.10.B.4 The quality of groundwater at the property line is maintained within federal drinking water standards. The applicant shall base hydrogeologic analysis on soil borings and monitoring wells sufficient to document existing soil, bedrock and groundwater conditions. As a condition of approval, the applicant may be required to install monitoring wells (as least one up-gradient and two down-gradient) and to pay for the sampling and analysis therefrom over an appropriate time period to demonstrate that groundwater quality is maintained.

## 7.11 SETBACKS AND SCREENING

7.11.A Exposed storage areas, exposed machinery, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge six (6) feet or more in height) to provide a visual buffer sufficient to minimize their impact on other land uses and properties in the area.

7.11.B Where a potential safety hazard to children would be likely to arise, physical screening (such as a stockade fence or a dense evergreen hedge six (6) feet or more in height) sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

## 7.12 SIGNS (Section Repealed and Adopted June 10, 2015)

All signs located within the corporate limits of the Town of Arundel shall conform to the provisions of this Section and to specific standards of each zoning district as specified herein.

### 7.12.1 Maintenance of Existing Signs

All signs and supporting sign hardware and lighting shall be maintained in good condition, and in operational order, and shall pose no danger to the public. Existing signage or supporting sign structures, hardware, or light fixtures that are abandoned, neglected, in disrepair, or is inoperable for a period of three (3) months after written notification of non-compliance by the Code Enforcement Officer shall be

removed and/or replaced with signage conforming to all standards established under this Section.

**7.12.2 Permits Required**

No person shall erect, alter, or relocate any sign, except those exempted in Sections 7.12.6 and 7.12.14 without first obtaining a Sign permit from the Code Enforcement Officer. Staff Review Committee, or Planning Board, where applicable.

**7.12.3 E911 Address Signage Required:**

No Certificate of Occupancy shall be issued by the Code Enforcement Officer until the E911 street address number assigned to the property by the Town of Arundel is displayed as follows:

1. **Single family residence and duplexes**: The E911 address shall be displayed on the streetside mailbox, or on the left side of the front residential entry of the residence if no individual mailbox is provided.
2. **Multi-Family Residences:** The E911 address shall be displayed at the top of the project identification sign and at the main entry to the multifamily structure. In the case of multiple buildings or attached structures, the address shall be displayed to the left of the main entry to each building.
3. **Non-Residential Properties:** The assigned E911 Address number shall be displayed at the top and center of any post sign or identification sign erected on the site. In multi-occupancy and multi-building developments the address shall be displayed to the left of the main entry to each building.
4. **Dimensions:** E911 address numbers shall be no less than four (4) inches in height and no greater than 10 inches in height, unless the address of the property is also the project name.

**7.12.4 Non-Conforming Signs:**

Lawfully non-conforming signs in existence at the time of the adoption or subsequent amendment of this Ordinance can remain, be altered or repaired. Lawfully existing square footage of signage may be rearranged and redistributed on the premises, but only in conformity with the applicable design standards in the individual zoning districts. Any existing sign that is non-conforming with the standards of Section 7.12 shall be made to comply with this section if any of the following conditions exist:

**1.** Any enlargement or alteration of an existing non-conforming sign that increases the non-conformity of the signage under the provisions of Section 7.12 and applicable district regulations.

**2.** The existing business operation, displaying the non-conforming sign, has not been in operation for a continuous period of one (1) year.

**3.** Any signage that violates the provisions of Sections 7.12.1 of this Ordinance.

**7.12.5 Prohibited Signs**

To preserve public safety, the following signs and display characteristics are expressly prohibited:

**1**. Any rotating signs, signage with moving parts, flashing illumination, illumination that depicts movement, or emits noise or sound effects, excepting digital signage permitted elsewhere in this Ordinance.

**2.** Any sign and/or illumination that obstructs motorist or pedestrian sight lines, distracts motorist attention from traffic control mechanisms, or casts direct glare into the eyes of pedestrians or motorists.

**3**. Any sign illumination that casts in excess of 0.5 foot-candles of illumination onto an adjacent property, excepting roadways.

**4.** Any signage that protrudes over a public street or private way or protrudes more than four (4) feet

over a public sidewalk and provides less than eight (8) feet of clearance between the bottom of the sign and the sidewalk.

**5.** Rooftop signs located above the ridgeline or cornice of a building.

**6**. Any window or free-standing signage that impedes firefighting access.

**7.** Signage located in public/private walkways or that obstructs or presents a hazard to pedestrian traffic.

**8.** Any internally lighted letter board sign not permanently anchored to the ground or to a building.

**9.** Signage that impedes sight distances of motor vehicles, bicycles, or pedestrians at the intersection of public streets, privateways, sidewalks, and crosswalks.

**7.12.6 Off-Premises Signs**

No permanent signage shall be erected off-premises from the principal business or use advertised by the sign except for the following:

1. ***Maine Department of Transportation Directional Signs***, approved by the Public Works Department and erected by MDOT.

2. ***Temporary Off-Premise Farm Stand Signs***: Agricultural Farm stands and self service agricultural operations registered as a business with the Arundel Town Clerk may display up to four (4) off-premises signs, each measuring no greater than eight (8) square feet advertising agricultural products produced on the premises. Signs shall advertise only the product(s) available for sale and shall be removed immediately after the advertised product is no longer available. In no case shall a business display off-site farm stand signs for a period of longer than 150 consecutive days per calendar year. Such temporary off-premise signs shall not be installed within the right-of way of state highways and shall not be installed without written permission of the private land owner and until a Temporary Sign Permit is issued by the Code Enforcement Officer.

**3.** ***Signs Located in the Right-of-Way:***

a. ***Private Rights of Way***: Project identification and Directory signs may be permanently located within the right of way of an approved private way provided the signs are associated with a development served by the private way.

b. ***Public Rights of Way:*** Directory signs of no greater than fifty (50) square feet in area and Project Identification signs of no greater than thirty-two (32) square feet may be permanently located within the right of way of Town road, provided an associated development project has been constructed all or in part with public monies and /or State/ Federal funding.

c. ***MDOT Rights of Way:*** Post, Directory, or Project Identification signage may be located within the right-of-way of Route 1 or Route 111 provided all of the following are met:

1) the proposed sign location abuts the principal ingress/egress to the property,

2) a sign easement is granted by the Maine Department of Transportation, and

3) the Planning Board determines that the proposed sign location does not pose a safety hazard nor is incompatible with visual continuity of adjacent signage.

**7.12.7 Temporary Signs**

The following temporary signs may be permitted and exempt from the size and dimensional requirements of the zoning district, provided that the signage does not pose a safety hazard and meets all relevant conditions prescribed herein:

**1. Window Posters:** Temporary signage placed inside of building windows announcing community events.

2. **Business Holiday Displays:** Temporary holiday lighting, outdoor displays and other decoration of buildings or structures during holiday seasons when such decoration is customary.

3. **Real Estate Signs** advertising the sale of a property on non-illuminated signs not exceeding an aggregate total of eight (8) square feet in Residential Districts and fifteen (15) square feet in Business Districts. All signs shall be removed from the premises within thirty (30) days following the transfer of the property.

4. **Community Festivals, Carnivals, Special Events:** Any signage, including cultural banners, erected by a business, charitable organization, or public organization directly associated with a public festival, carnival, or special community event approved by the Board of Selectmen.

5. **Yard Sales/Garage Sales:** Non-illuminated signs advertising a Yard Sale/Garage Sale only on a residential property provided all signage is removed within forty-eight (48) hours of the termination of the yard sale.

6. **Project Signs:** Non-illuminated signs announcing an approved and impending land development project and listing the consultants and contractors involved in the project. Project signs shall be limited to one (1) sign per site and shall not exceed thirty-two (32) square feet in sign area. Sign duration limit of 2 years.

**7.12.8 Commercial Banners:** Commercial operations located in a business zone may be erect a single temporary commercial banner no more than four (4) times in a single calendar year for a duration of no more than fourteen days (14) days for each display.

**7.12.9 Permitted Signs in all Districts**

**1.** Signage not to exceed an aggregate four (4) square feet painted on mailboxes or attached to the principal structure identifying the occupants of a residential property.

**2.** Temporary signage specified in Section 7.12.7.

**3.** Exempted Signs specified in Section 7.12.12

**4.** Home Occupation Signs limited to a maximum sign area of four (4) square feet, as specified in Section 11.6.12

**7.12.10 Performance Standards for Signs in *all Districts***

The following performance standards are applicable to all Districts of this Land Use Ordinance.

**1.** ***Signs Limited to the Same Parcel:*** shall be sited on the same parcel as the principal building and may be free-standing, located in windows, attached to the building wall at any location below the roof eave or on projecting awnings.

**2.** ***Window Signs:*** Signs affixed to or painted on windows shall not exceed 30% of the total window facade area except that up to 50% of the area may be used for special promotions for up to 2 weeks but not to exceed 60 days per year.

**3.** ***Signage in a Street:*** No signage may be located in a public street, sidewalk, or within any sidewalk or entrance used by the public, except as specifically provided herein.

**4.** ***Sign Illumination in the Street:*** No illumination source for any sign shall be located within a public right of way or on public lands except for municipal uses and community events licensed by the Board of Selectmen.

**5.** ***Open Banners:*** Flags or banners manufactured with the generic word *Open* shall be permitted for display on any licensed business property or storefront located in any of the Business Districts. Such banners and flags shall be exempt from aggregate sign area and dimension requirements specified in the zoning district, provided no advertisement of a business or product is contained thereon and the banner or flag is removed at the close of the business day.

**6.** ***Transferability:*** Permitted sign area is not transferable between sides of the building located on a

corner lot.

7. **Wall Signs:** Wall signs may only be installed in the *signable area* of the facade, the area exclusive of openings and architectural details.

8. **Multiple Post Signs on a Single Lot or Use:** Only one post sign is permitted on lots with less than 500 feet of street frontage or that are less than 10,000 square feet of lot area. If more than one post sign is on a lot they must be separated by 200 feet.

### 7.12.11 Performance Standards for Signs in *Residential and the Rural Conservation Districts*

**1. Subdivision/Multi-Family Signage**

Signage identifying subdivision projects and multi-family developments, uses in any residential or rural conservation district shall be limited to a maximum of forty (40) square feet of aggregate sign area per vehicular entrance with no single sign to exceed twenty (20) square feet. Signs may be erected only at entrances that are separated by no less 500 straight-line feet on the same side of the road. Signs may be externally illuminated only by shielded white illumination emanating from fixtures attached to the sign, or ground. Free-standing signs shall not exceed eight (8) feet in height.

**2. Farm Signage**

Agricultural and farm operations, riding stables, animal husbandry operations, and agricultural demonstration projects registered as businesses with the Arundel Town Clerk shall be limited to a maximum of 32 square feet of signable area. Signs may be externally illuminated only by shielded white illumination emanating from fixtures attached to the sign, or ground. Free-standing signs shall not exceed eight (8) feet in height.

**3. Home Occupations/ Contractor Storage Yards in Residential Districts**

Signage for Home Occupations registered with the Arundel Town Clerk shall be limited to a maximum of eight (8) square feet of signable area. Signs may be externally-illuminated only by shielded white illumination emanating from fixtures attached to the sign, or ground. Free-standing signs shall not exceed five (5) feet in height.

**4. Church and Signs**

Churches, public and private schools, or quasi-public uses such as nature centers or museums shall be permitted to display a single twenty-four (24) square foot post sign, plus one twelve (12) square foot wall sign visible from a public way or an adjoining property. Signs obscured from the public way are exempt. All signs shall be externally lighted and shall be not greater height than eight (8) feet.

### 7.12.12 Performance Standards for Illuminated Signs

Illumination of signs by external or internal light sources shall be permitted as specified by the sign standards of each individual zoning district.

**1. Externally Illuminated Signs:**

a. The surface of externally illuminated signs shall be illuminated by exterior light fixtures mounted on top of the sign and directed downward or mounted within the casing of the sign frame. Light fixtures may be installed on the ground or on a post directly in front of the sign face in instances where top mounting is impractical.

b. Lighting fixtures illuminating signs shall be carefully located, aimed, and hooded or shielded to prevent direct illumination of public streets or abutting properties.

c. Light fixtures illuminating signs shall be of a type such that the light source (bulb) is not directly visible from adjacent public streets or properties.

d. The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the uniformity ratio (the ratio of average to minimum illumination) shall not exceed 2:1.

**2. Internally Illuminated Signs**

Unless otherwise specified, internally illuminated signs shall be restricted to the business districts:

**a.** In order to prevent internally illuminated signs from becoming light fixtures, such signs shall consist of light lettering or symbols on a dark background. The lightness or darkness is a function of the luminous transmittance of the translucent surface material, and the light source. The higher the luminous transmittance, the lighter the color.

**b.** The lettering or symbols shall constitute no more than 40% of the surface area of the sign.

**c.** The luminous transmittance for the lettering or symbols shall not exceed 35%.

**d**. The luminous transmittance for the background portion of the sign shall not exceed 15%.

**e**. The average level of illumination emanating from the vertical surface of the sign shall not exceed 3.0 foot-candles, and the uniformity ratio (the ratio of average to minimum illumination) shall not exceed 2:1.

### 7.12.13 Digital Signage

Digital signage shall refer to *Digital Electronic Message Signs, Digital Graphic Signs, Time and Temperature Signs* and displays, and *Digital Fuel Price Signs.*

**1. General Standards:**

**a.** All digital signs must be incorporated into the body of a static sign. No digital display shall be presented as a stand-alone sign.

**b.** Display changes shall occur as rapidly as is technologically practicable with no scrolling phasing, rolling, flashing, or blending transitions. Graphic animation is prohibited.

**c.** No sign shall be of such intensity or brilliance that it interferes with the effectiveness of an official traffic-control sign, device or signal.

**d.** Daytime luminance of digital signs shall not exceed the luminance of the parent static sign and shall exceed 3000 nits during daylight hours, without specific approval from the Arundel Planning Board.

**e.** Luminance of a digital sign from dusk to dawn shall not exceed 125 nits without specific approval from the Arundel Planning Board.

**f.** All digital signs shall be equipped with an automatic dimming photocell which automatically adjusts the display brightness based on ambient light conditions.

**g.** All digital signs shall be equipped with a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

**h.** The Code Enforcement Officer shall contract with a third party lighting consultant to verify the digital sign's compliance with the specifications of this Ordinance. The cost of said consultant review shall be borne by the sign applicant.

**i.** The Staff Review Committee or Code Enforcement Officer may require lower nit illumination standards based upon field conditions and nuisances to residents and motorists;

**2. Digital Electronic Message Sign:** In addition to General Standards of Section 7.12.13.1, all electronic message signs must meet the following standards:

**a.** *Digital Electronic Message signs* may only be used as a reader board incorporated into a post sign.

**b.** Digital messages may be changed no more frequently than twice in each 60 second cycle.

**c.** Displays shall be limited solely to alphabetic, numeric, and punctuation symbols.

**d.** The height of digital letters and numbers shall be a minimum of 7" and a maximum of 12" and may consist only of white or gold lettering or numbering on a black background.

**e.** Maximum size of a digital electronic Message Sign shall be no greater than 25 square feet.

**3. Digital Graphic Sign:** In addition to General Standards of Section 7.12.13.1, all Digital Graphic Signs must meet the following standards:

**a.** *Digital Graphic Signs* may only be deployed as a reader board incorporated into a post sign.

**b.** Digital displays may contain graphic images of products, text and numerical messages, or a combination of both.

**c.** Digital Graphic sign displays may be changed no more frequently than once every 5 minute cycle

**d.** The height of digital letters and numbers shall be a minimum of 7" and a maximum of 12" and may consist only of white or gold lettering or numbering on a black background.

**e.** Maximum size of a digital electronic Message Sign shall be no greater than 30 square feet.

**4. Time and Temperature Signs:**

In addition to General Standards of Section 7.12.13.1, all *Time and Temperature Signs* must meet the following standards:

**a.** Any sign otherwise permitted may include a time and/or temperature sign.

**b.** A time and/or temperature sign, or the portion of a sign used to illustrate the time and/or temperature, shall be limited to 10 square feet in area.

**c.** A time sign shall be permitted to change no more frequently than thirty-second intervals.

**d.** A temperature sign shall not change except when the temperature changes one degree.

**5. Digital Fuel Price Signs:**

**a.** In addition to General Standards of Section 7.12.13.1, all *Digital Fuel Price Signs* must meet the following standards:

**b.** Digital Fuel Price Signs shall be permitted only at conforming Automobile Service Stations dispensing retail fuels to the public.

**c.** Digital Fuel Price Signs shall not exceed a total of ten (10) square feet in area.

**d.** The height of digital letters and numbers shall be a minimum of 7" and a maximum of 12" and displayed on a black background**.**

**7.12.14 Common Signage Plan**

Owners of planned developments, shopping centers, office/business or industrial parks may be permitted to increase the maximum allowable sign area for each business by up to 25% by providing for a common signage plan. The common signage plan shall specify standards for consistency among all signs on all lots affected by the plan with regard to:

**1.** Color scheme.
**2.** Lettering or graphic style.
**3.** Lighting.
**4.** Location of each sign on the buildings.
**5.** Materials.
**6.** Sign proportions.

**7.12.15 Marquee Signs**

All marquee signs shall be permanently attached to the structure in which the theater is located or placed on the same lot as the theater is located. The marquee sign area is in addition to the sign area permitted for other signs, except that any area of a marquee sign which is used for the advertisement of the theater shall be included in the computation of the maximum sign area per building. One marquee sign per building shall be permitted, not to exceed 40 sq. ft.

**7.12.16 Exemptions:** The following signs are exempt from the standards of this section:

**1. *Municipal & State Signs:***

Signs or signage installed by or at the direction of the Town of Arundel or the State of Maine are fully exempt from the provisions of Section 7.12.

**2. C*ornerstones and Plaques:***

Memorial signs, names of historic buildings and commemorative plaques, and cornerstone dates are exempt from the standards of this section provided that such signage is permanently affixed to or engraved into the building or, free standing as long as the signage does not exceed four square feet.

**3. *Information Signs*** –

Signs which provide direction or instruction and are located entirely on the property to which they pertain, such as restroom, public telephone, parking entrances, exit signs, and bearing no commercial matter. Where confusion would occur, or to limit parking to patrons of an establishment, the name of the business may occur, but there shall be no graphics which otherwise identify the business.

**4.** ***Public Notices*** - Official notices posted by public employees in performance of their duties. This also includes temporary street banners approved by the Selectmen.

**5.** ***Public Safety Signs*** - Signs for the control of traffic and other regulatory purposes, street signs, warning signs and signs of public service companies indicating danger or warnings.

**6.** ***Real Estate Signs*** - Up to one real estate sign per lot or parcel provided it is 6 square feet in sign area or less and is removed upon sale. Temporary open house sign are permitted for up to 3 days.

**7.** ***Flags*** - The flags of any nation or governmental subdivision, provided it is mounted no higher than 25 feet above the ground.

**8.** ***Symbols or Insignias*** - Religious symbols, Historical Plaques provided such plaques do not exceed four square feet in area.

**9.** **E911 Numbers**: applied to a building façade or mailbox provided they do not exceed ten (10) inches in height..

**10.** ***Political/Political Campaign Signs*** - Signs concerning candidates for public office, measures on election ballots and other political signs. Political campaign signs may be placed on public property or within a public right-of-way no earlier than thirty (30) days prior to an election and must be removed within forty-eight (48) hours after the election.

**11.** ***Interior Signs*** - Signs within the interior of any building provided they are not displayed in a manner to be visible from a public street.

**12.** ***Service Club Signs*** - One sign per organization for service clubs or fraternal groups that meet within the Town of Arundel may be located within the public right-of-way along each state highway, provided no sign is more than 4 square feet in area.

**13.** ***Community, Charitable/Non-Profit Fundraising Event Signs*** - One temporary sign on a lot, not to exceed 32 square feet in size, provided the sign is erected for no more than 30 days per event.

**14.** ***Vehicular Signs*** - Signs painted on or affixed to registered motor vehicles or trailers, which are related to the business delivery function.

## 7.13 STORMWATER MANAGEMENT

7.13.A All new construction and development, whether or not served by a stormwater collection and transportation system, shall be designed by the "Rational or S.C.S. TR-55 Method" to reflect or resemble, as nearly as possible, natural runoff conditions in terms of quantity, velocity and location. If runoff after development would exceed predevelopment natural runoff condition by more than 5 c.f.s., the off-site impact must be

evaluated in terms of potential soil erosion and sedimentation, drainage capacity, and land use/land cover characteristics. Appropriate methods of reducing off-site impact shall be employed. Stormwater management evaluation and designs shall be based on a 24-hour, 25 year recurrence interval storm. All development plans shall define maintenance requirements and identify parties responsible for maintenance of the stormwater control system. When methods of reducing stormwater impact are necessary or desirable, stormwater runoff control plans shall include:

7.13.A.1 Control methods effective both during and after construction;

7.13.A.2 Control methods compatible with upstream and downstream characteristics;

7.13.A.3 Documentation by the designer that increasing the volume and rate of runoff from the proposed development will not aggravate conditions downstream or upstream;

7.13.A.4 Provisions for on-site storage and gradual discharge of excessive flows, or contribution toward increasing down stream capacity (e.g. by enlarging existing culverts), when the channel downstream is not able to accommodate the increased volume or rate of runoff created by the proposed development;

7.13.A.5 Consideration of the following factors:

7.13.A.5.a Impact: on-site, downstream, upstream and basin-wide;

7.13.A.5.b Costs: initial, amortized, operation and maintenance;

7.13.A.5.c Intensity of rainfall;

7.13.A.5.d Timing of rainfall (e.g. falling of snow or during the spring snowmelt);

7.13.A.5.e Amount of precipitation in the basin during the five days preceding the storm in question;

7.13.A.5.f Hydrologic soil groups throughout the basin (i.e., the soil's rate of water infiltration and transmission);

7.13.A.5.g Hydrologic conditions throughout the basin (soil's moisture content humus/organic content, temperature, and whether or not it is frozen;

7.13.A.5.h Vegetative cover throughout the basin (vegetation helps soil dry out after a rainfall, intercepts some precipitation during the rainfall and slows down the flow of water over the land);

7.13.A.5.i Area of land covered by impervious surfaces throughout the basins, sidewalks, roofs, driveways, patios, etc);

7.13.A.5.j Topography throughout the basin (slopes affect the rate of runoff; marshland reduces peak discharge rate by slowing down the rate of runoff);

7.13.A.5.k Size and shape of watershed (peak discharge rates are slow in long, narrow watersheds).

7.13.B Stormwater runoff systems should be designed to facilitate aquifer recharge except where groundwater effects might be harmful. Design of permanent storage facilities should consider safety, appearance, recreational use, and cost and effectiveness of maintenance operations, in addition to the primary storage function. Natural overland flows, and open drainage channel and swale locations should be the preferred alignments for major components of a residential drainage system. The use of enclosed components (such as underground piping) should be minimized where the existing natural systems are able to accommodate storm runoff. Energy dissipaters (to reduce high flow velocities) and other forms of outfall protection shall be employed where enclosed drains discharge onto erodible soils.

## 7.14 WATER QUALITY

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground

surrounding the paved storage area. Tanks manufactured with a secondary containment tank need not be enclosed by an impervious dike. Storage tanks for "home heating oil" and diesel fuel, not exceeding 330 gallon in size, shall be exempted from this requirement. (Amended November 7, 2000)

## 7.15 WATER SUPPLIES

All uses must connect to the public water system when service can be extended to satisfy the daily consumption demands and fire protection needs required for the development or facility. Wherever the use cannot be adequately serviced by the public water, evidence of the estimated quantity of groundwater or surface water to be used shall be provided by the applicant. The quantity of the water to be taken or used by the facility shall not: significantly lower the ground water table or surface water levels; cause adverse changes in groundwater flow patterns; cause ground subsidence; or cause adverse impacts on the quality or quantity of groundwater.

## 7.16 NOISE

7.16.A The maximum permissible sound pressure level of any continuous regular or frequent source of sound produced by any activity shall be limited by the time period and use district listed below. Sound levels shall be measured at least 4 feet above ground at the property boundary.

| | Sound Pressure Level Limits (Measured in dB (A) scale) | |
|---|---|---|
| | 7 am - 10 p.m. | 10 p.m. - 7 am |
| Residential Districts | 55 dB | 45 dB |
| Commercial Districts | 60 dB | 55 dB |
| Industrial Districts | 65 dB | 60 dB |

7.16.B The levels specified may be exceeded by 10dB(A) for a single 15 minute period/day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI Sl. 4-1961) "American Standard Specification for General Purpose Sound Level Meters".

7.16.C No person shall engage in construction activities, on a site abutting any residential use, between the hours of 10 p.m. and 7 a.m., which exceed those limits established for residential districts. Otherwise the following activities shall be exempt from these regulations:

7.16.C.1 Sounds emanating from construction and maintenance activities conducted between 7 a.m. - 10 p.m.

7.16.C.2 Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.

7.16.C.3 Sounds emanating from traffic on public transportation facilities.

## 7.17 SOILS

No activity shall be permitted in any area where the soil is rated severe or very severe for the proposed activity, according to the York County Soil Suitability Guide of the U.S. Soil Conservation Service, unless satisfactory evidence is presented to the Code Enforcement Officer, with the application for a permit, that construction methods will overcome any pertinent soil inadequacies. If modification of the soil is made meeting the requirements of the U.S. Soil Conservation Service for upgrading the area to a rating of "Fair" or higher, building on soils initially rated poor or lower may be permitted.

## 7.18 STORAGE

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means. Exposed storage areas for machinery, raw materials, vehicles, finished products, or mineral excavation and processing

operations shall have setbacks and screening (such as a stockade fence or dense evergreen hedge) sufficient to provide a visual buffer to minimize their adverse impact on abutting land uses. Where a potential safety hazard to small children would likely arise, physical screening to prevent access shall be provided.

## 7.19 TOXIC AND NOXIOUS DISCHARGES

No use shall for any period of time discharge across the boundaries of the lot wherein it is located toxic and noxious matter in concentrations in excess of one-fourth of the maximum allowable concentrations set forth in the Industrial Hygiene Standards Maximum Allowable Concentrations, of the "Air Pollution Abatement Manual", by Manufacturing Chemists' Association, Inc., Washington D.C., as subsequently amended or revised, which is hereby incorporated in and made a part of this section by reference.

## 7.20 VIBRATION

Vibration recurrently generated shall be imperceptible without instruments at lot boundaries.

# SECTION 8 - SPECIFIC SITE & USE PERFORMANCE STANDARDS

## 8.1 ANIMAL HUSBANDRY

Animal husbandry shall meet the following standards:

8.1.A All pasture, barns, barnyards, and other areas where the livestock, animals, or fowl are kept, housed, fed, or cared for shall be a minimum of one hundred (l00) feet from the nearest dwelling other than the applicant's.

8.1.B Uncovered manure shall be kept 150 feet from the nearest dwelling other than the applicant's and 300 feet from any body of water or well.

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

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

8.1.E The Planning Board may limit the number and species of animals permitted. The Board shall consider the size and layout of the lot, the size of adjacent lots, the presence of vegetative screening and buffer strips, and the potential for noise, odor, and vermin problems.

## 8.2 AUTOMOBILE GRAVEYARDS AND JUNKYARDS

**Automobile graveyards** and junkyards, in addition to the requirements of M.R.S.A. 30-A, Sections 3751-3760, shall meet the following standards:

8.2.A **Permits**

Prior to issuance of a conditional use permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (D.E.P.) or a letter from the D.E.P. stating that a permit is not required. A municipal permit shall be valid for 3 years subject to renewal thereafter. Within 3 years of the effective date of this ordinance, all existing sites shall obtain a conditional use permit demonstrating conformance with the standards of Sections 8.2.B.3 and 8.2.C.

8.2.B **Site Considerations**:

8.2.B.1 No motor vehicles or material shall be located on or over a sand and gravel aquifer or aquifer recharge area, as mapped by the Maine Geological Survey or a licensed geologist. The minimum lot size shall be 5 acres.

8.2.B.2 No motor vehicles or material shall be located within the 100 year flood plain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.

8.2.B.3 A visual buffer made of vegetation at least 8 ft. in height, capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines.

8.2.B.4 No motor vehicles or material shall be stored within 300 feet of any church, public park or recreation area, cemetery, or dwelling except the owner's residence, or a school.

8.2.B.5 No motor vehicles or material shall be stored within 300 feet of any perennial stream, intermittent stream, river, pond or other body of water or well.

8.2.C **Operational Considerations**:

A enclosed structure with a impervious floor shall be used to process a motor vehicle upon receipt at a site. The battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers before storage of the vehicle is permitted outside. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

## 8.3 CAMPGROUNDS AND TENTING GROUNDS

**Campgrounds** shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rule shall apply):

### 8.3.A **General**

8.3.A.1 A campground must be located on at least 10 acres of land, and all camping units or structures shall be located at least 100 feet from any property line and 200 feet from any residence (except residences belonging to the campground owners).

8.3.A.2 Campsites shall be laid out and screened in such a manner that none are within view from public roads, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard.

8.3.A.3 No trailers other than recreational vehicles or utility trailers as defined herein, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park. 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 times. Only camping units such as defined herein (plus a towing vehicle), shall be permitted within any campground, temporary or otherwise.

8.3.A.4 Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

| Zones | Non-Shoreland | Shoreland |
|---|---|---|
| Tentsites | 14 per acre | 8 per acre |
| RV sites | 11 per acre | 7 per acre |

8.3.A.5 Within a Shoreland Zone, any campsite along a water body shall have a minimum shore frontage of 100 feet. Within a Shoreland Zone, the areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet from the normal high water mark of any water bodies, tributary streams, or the upland edge of a wetland. Outside of the Shoreland Zone, the areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 50 feet from any perennial stream. (Amended June 13, 2007)

8.3.A.6 No campsite shall be located within a Resource Protection District or within the 100 year flood plain.

### 8.3.B **Parking and Circulation**

8.3.B.1 A minimum of three hundred square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:

8.3.B.1.a there shall be a minimum of 30 feet between vehicles; and;

8.3.B.1.b there shall be a minimum of 20 feet between all recreational vehicle and tent sites, and all interior campground roads.

8.3.B.2 Vehicular access shall be provided onto a road constructed of at least 15" of bank-run gravel (no stone larger than 4"), and a surface of 3" of crushed gravel (no stone larger than l/2").

### 8.3.C **Health and Safety**

8.3.C.1 Each recreational vehicle, tent, or shelter site shall be provided with a picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse to an approved disposal area at least once every three days.

8.3.C.2 A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State of Maine Plumbing Code Rules. There shall be at least

one toilet and lavatory provided for each sex for every ten tent sites. All recreational vehicle sites equipped with water and sewage hook-ups shall comply with State of Maine Plumbing Code Rules.

8.3.C.3 Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.

8.3.C.4 Each campsite shall be provided with a masonry or metal fireplace, approved in writing by the Fire Chief.

## 8.4 CLUSTER DEVELOPMENT/PLANNED UNIT DEVELOPMENT (Title Amended June 11, 2008)

### 8.4.A Purpose

The purpose of these provisions is to allow for flexibility in design and layout of housing developments, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed and to promote the conservation of dedicated common open space. All layout, dimensional, and area requirements contained in this ordinance or the town's subdivision review standards may be altered by the Planning Board, except height limitations. (Amended June 11, 2008)

### 8.4.B Basic Requirements

Cluster/planned unit developments shall meet all the following criteria:

8.4.B.1 All developments shall meet the Arundel Subdivision Regulations but are exempt from this ordinance's requirements relating to minimum lot size, property line setbacks and street frontage. The total area of reduction on lot sizes below the required minimums shall be at least equal to the amount of dedicated common open space and in developments located in the Rural Zones the dedicated common open space shall be equal to or exceed 50% of the total acreage in the development. (Amended June 11, 2008)

8.4.B.2 The minimum area of land in a cluster/planned unit development shall be 6 acres.

8.4.B.3 The site plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site master plan will be considered.

8.4.B.4 To determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations less the land needed for road rights of way, shall be divided by the minimum lot size normally required in the district. On any parcel encompassing 5 or more acres of important natural resources, noted as existing farmland soils, open fields or pasture, or registered tree growth woodland, the dwelling unit layout shall be clustered on such land to the most practical extent, so that at least 90% of the important natural resources remain as undeveloped.

8.4.B.5 No single group of dwellings which are attached either horizontally or vertically shall contain more than four (4) dwelling units. Residential structures, including mobile homes, shall not be located closer than 30 feet to each other.

8.4.B.6 The extent of soil types shall be delineated by a Registered Soil Scientist, licensed in the State of Maine, on a soil survey map.

8.4.B.7 No dwelling unit shall be constructed on soil classified as being "very-poorly" drained.

8.4.B.8 Where a cluster/planned unit development abuts a watercourse or waterbody, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

8.4.B.9 Dwelling units in a cluster/planned unit development may have individual water supplies or may be connected to a common water supply and distribution system, either public or private, at no expense to the municipality. Applicants shall provide an analysis that is satisfactory to the Town Planner, Staff Review Committee or the Planning Board as appropriate, that the water supply / supplies will be:

8.4.B.9..a protected from contamination;

8.4.B.9..b able to provide adequate supply. (Amended June 13, 2012)

8.4.B.10 All structures with plumbing in a cluster/planned unit development shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with Section 7.10 Sanitary Provisions of this Ordinance. The Planning Board may allow individual wastewater disposal systems based on the submission of a hydrogeologic assessment and feasibility analysis which indicates that the individual systems will not adversely impact the groundwater quality.

8.4.B.11 The development shall be designed with a continuous landscaped area not less than fifty feet in width which shall contain no structures. The first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the development shall contain evergreen shrub, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the development, except that streets or driveways shall be kept open to provide visibility for vehicles entering and leaving the development.

8.4.C **Dedication and Maintenance of Common Open Space**

8.4.C.1 The common open space land shall be jointly owned in common by the owners of the dwelling units/lots invested in an association. Covenants for mandatory membership in the association, setting forth the owner's rights and interests, shall be included in the deed for each lot or dwelling.

8.4.C.2 The common land shall be restricted to recreation, conservation or agricultural purposes. Structures accessory to non-commercial recreational, conservation or agricultural uses may be erected on the common land.

8.4.C.3 The common open space(s) shall be shown on the development plan and with appropriate notion on the face thereof to indicate that:

8.4.C.3.a Further subdivision of common land is prohibited and it shall not be used for future residential building lots; and that,

8.4.C.3.b A part of or all of the common open space may be dedicated for acceptance by the Town for operation as a municipal recreation facility.

8.4.C.4 The by-laws of the proposed neighborhood association shall specify maintenance responsibilities for the common lands.

8.4.C.5 The association shall levy annual charges against all dwelling owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and other assessments.

8.4.C.6 The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until at least 50% but not more than 75% of the lots/units are sold.

## 8.5 EARTH MOVING ACTIVITIES AND MINERAL EXTRACTION (Title Amended June 13, 2001)

8.5.A **General**

The following provisions shall apply to filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and other mineral deposits, hereafter referred to as materials.

8.5.B The following earth moving activities shall be allowed without a Conditional Use Permit:

8.5.B.1 The removal or filling of material incidental to alteration or repair of a structure, or in the grading and landscaping incidental to such construction, alteration or repair;

8.5.B.2 The removal or filling of material incidental to alteration or repair of an existing public or private way or public utility;

8.5.B.3 The excavation, filling, processing, or storage of less than one hundred (100) cubic yards of material on a parcel within the period of one year. (Amended June 13, 2007) (Amended June 11, 2008)

8.5.B.4 All other earth moving activities shall require a permit in accordance with Section 8.5.D. Commercial mineral extraction activities will require a renewal review every 3 years.

8.5.C (Repealed June 13, 2007)

8.5.D **District Requirements**

8.5.D.1 **Non-Shoreland Districts:**

Movement of material in excess of one hundred (100) cubic yards that is not a mineral extraction operation requires approval of the Staff Development Review Committee. Mineral extraction operations require approval of the Planning Board. In all cases, all relevant performance standards below shall be observed, including binding agreements to guarantee proper reclamation of the site after operations cease. (Amended June 13, 2001) (Amended June 13, 2007) (Amended June 11, 2008)

8.5.D.2 **Shoreland Overlay Districts:**

Any filling or dredging of land below the normal high water mark shall require a Conditional Use Permit from the Planning Board. Any filling or excavation of less than one hundred (100) cubic yards shall require a permit from the Code Enforcement Officer (except as prohibited above), to ensure proper erosion and sedimentation controls. See also sections 8.5.F.1 and 8.5.F.6. (Amended June 13, 2007)

8.5.D.3 **Resource Protection and Floodplain Districts:**

Any filling, excavation or dredging of land in the resource protection district or floodplain shall require a Conditional Use Permit, in accordance with the performance standards, from the Planning Board.

8.5.E **Earth Movement other than Mineral Extraction** (Section Added June 13, 2001)

8.5.E.1 **Submission Requirements**

Applications shall be accompanied by a plan prepared according to the performance standards and submission requirements of this ordinance. In addition to the applicable requirements of Section 9.7.D, the plans shall indicate: the location of earth moving activities site; the property lines and names of abutting owners and public & private ways; the depth of excavation or fill; the location of the top of bank and slope of the grades, existing and as proposed upon completion of the extraction operation; and details on proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits. A written statement shall be submitted of the proposed method, regularity, working hours and condition of the site upon completion of the operation. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

8.5.E.2 **Standards of Approval**

An earth movement operation shall meet all applicable standards in Section 7, with particular attention paid to Sections 7.2, 7.4, and 7.8. The standards of Section 9.7.H shall also be met.

8.5.F **Mineral Extraction Operations**

8.5.F.1 **Submission Requirements**

8.5.F.1.a Applications shall be accompanied by a plan prepared according to the performance standards and submission requirements of this ordinance. In addition to the applicable requirements of Section 9.7.D, the plans shall indicate: the proposed extraction site; the property lines and names of abutting owners and public & private ways; five (5) foot contour intervals, related to U. S. Geodetic Survey data; the location of top of bank and slope of the grades, existing and as proposed upon completion of the extraction operation; and details on proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits. A written statement shall be submitted of the proposed method, regularity, working hours, total proposed land area to be excavated, volume of material to be removed, and plans for the rehabilitation and restoration of the site upon completion of the operation. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area. (Amended June 13, 2001)

8.5.F.2 **Operational Standards**

8.5.F.2.a No part of any mineral extraction operation shall be permitted within 250 feet of Portland Road, 100 feet of any property line, or within 100 feet of the normal high water line of Brimstone Pond, the Kennebunk River or any other water body protected by a Shoreland Zone, within 100 feet of the upland edge of a wetland protected by a Shoreland Zone or within 75 feet of the normal high-water line of a tributary stream. The 100 foot buffer to a side or rear property line may be reduced to 25 feet with the written consent of the adjoining property owner(s). If abutting another extraction operation the buffer may be eliminated with the written consent of the adjoining property owner(s). Natural vegetation shall be undisturbed and maintained in buffer areas. (Amended June 13, 2007)

8.5.F.2.b Specific plans shall be established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of activity, it shall be at a slope not steeper than 3:1 (three feet horizontal to one foot vertical). Embankments adjacent to a waterbody shall not exceed 4:1 (four feet horizontal slope to one foot vertical) extending at least ten feet from the edge of the waterbody toward its center.

8.5.F.2.c A minimum of 4 (four) inches of top soil (loam) shall be stripped and stockpiled for use in restoring the land after extraction operations have ceased. Stockpiles shall be protected from erosion in accordance with the erosion prevention performance standards in Section 7.

8.5.F.2.d All access/egress roads leading to/from the paved public ways shall be provided with a paved apron to reduce dust and mud for a distance of at least 100 feet from such public ways. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles and the Road Commissioner may require the Codes Officer to issue a stop work order in the event he determines a safety problem exists on a public way. (Amended June 11, 2008)

8.5.F.2.e If construction equipment is stored, maintained or fueled on site, a Spill Prevention, Control and Containment (S.P.C.C.) Plan must be submitted. Any refueling area must be secured from contamination of groundwater by an impervious layer designed by a Professional Engineer. The hours of operation at any extraction site adjacent to residential areas may be limited by the Planning Board.

8.5.F.2.f Revegetation of the site shall be required at closure of excavation activities or before 5 acres of surface area is exposed. Where activities carried out under this section require the removal of existing ground cover, revegetation shall be required. At least 4" inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and property restored to a stable condition. The Planning Board shall set a specific date by which permanent ground cover shall be planted. The applicant shall submit a written recommendation from the York County Soil and Water Conservation District for quantities and type of vegetative cover, fertilizer and lime. Erosion controls and temporary sedimentation control measures shall be employed as specified in the Section 7 performance standards.

8.5.F.3 **Performance Guarantees and Insurance**

No conditional use permit shall be issued without a surety bond or other equivalent security to ensure compliance with restoration standards Section 8.5, in an amount recommended by the Town Engineer or Planner. The amount shall be sufficient to guarantee conformity with the conditions of approval, taking inflation into account. No permit shall be issued for a period to exceed three years, although such permit may be renewed for additional periods in the same manner. If no operational changes are proposed, the renewal of a permit shall be limited to the review of the estimated costs and inflation rates used to determine the sufficiency of the bond. A renewal application fee of $50 (fifty) dollars shall be paid prior to removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of the adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.

8.5.F.4 **Optional Conditions of Permit**

The Planning Board may impose reasonable permit conditions to safeguard the neighborhood and the Town which may, include but are not limited to, the following:

8.5.F.4.a Methods of removal or processing;

8.5.F.4.b Days and hours of operation;

8.5.F.4.c Type and location of temporary structures;

8.5.F.4.d Routes for transporting materials;

8.5.F.4.e Area and depth of excavations;

8.5.F.4.f Provision of temporary or permanent drainage;

8.5.F.4.g Disposition of stumps, brush, and boulders; and

8.5.F.4.h Cleaning, repair and/or resurfacing of streets used in removal activity which have been adversely affected by said activity.

8.5.F.5 **Existing Operations**

All operations involving the excavation, processing or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits were required to obtain permits no later than June 18, 1983. Earth moving operations without town permits are not grandfathered (considered lawfully, non-conforming) and shall be deemed unlawful and subject to the full penalties provided by this ordinance for operating without a permit.

## 8.6 HOME OCCUPATIONS

A home occupation shall be permitted if it complies with all of the requirements of this section. This section **does not apply** to building tradesman doing business out of there home, unless employees gather or meet at the home, there is delivery or storage or materials at the home, or there are vehicles with more than 3 axles parked at the home. (Amended June 13, 2007)

8.6.A The use of a dwelling unit or accessory structure, attached or detached, for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.

8.6.B A home occupation shall be carried on only by residents of the dwelling unit and may include not more than two non-resident employees.

8.6.C A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence,

8.6.D The home occupation shall be carried on wholly within the principal or accessory structures. The space used in the occupation may not exceed more than 25% of the floor area of the residence or 1,000 s.f. whichever is smaller. The outside storage or display of materials or products shall be screened from view from the abutting properties and street.

8.6.E The Performance Standards in Section 7 of this ordinance shall apply. If additional parking spaces are provided, they shall be located to the rear or side yard of the principal structure.

8.6.F One non-illuminated sign, no larger than eight square feet may be erected on the premises. (Amended 6-15-16)

8.6.G The sale of products shall be limited to those which are grown, raised, crafted, assembled, repaired or substantially altered on the premises. Incidental sales of items which are accessory and incidental to a service, which is provided on the premises, may be permitted, such as hair products from a beauty salon for example.

8.6.H A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 40 vehicle trips/day.

## 8.7 INNS AND HOTELS/MOTELS

For the purposes of this section, the terms hotel, motel and inn are used interchangeably.

8.7.A The minimum lot size for any hotel shall not be less than two (2) acres of total area.

8.7.B A green space, not less than twenty feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.

8.7.C Buildings on a motel lot shall not cover more than fifteen percent of the area of the lot.

8.7.D If cooking facilities are provided in the rental units, each rental unit shall be considered as a dwelling unit and shall be required to meet all the standards for multifamily developments in this ordinance including the residential density requirements of the appropriate district.

8.7.E Each rental unit shall contain not less than two hundred square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each hotel/motel rental unit shall include private bathroom facilities.

8.7.F On each hotel lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.

## 8.8 KENNELS AND VETERINARY HOSPITALS

8.8.A Structures or pens for housing or containing the animals shall be located at least one hundred (100) feet from a property line and not less than two hundred (200) feet from the nearest residence, other than the owner's, existing at the time of permit.

8.8.B All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

8.8.C The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.

8.8.D Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

8.8.E If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.

8.8.F Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

## 8.9 MANUFACTURED HOUSING

The Town of Arundel finds that the standards promulgated by the United States Department of Housing and Urban Development under the authority of National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 70) are reasonable standards drafted to ensure the health and safety of occupants of manufactured housing units as well as the safety of neighboring property. Therefore all manufactured housing units to be moved into the town after the effective date of this Ordinance shall be manufactured in accordance National Manufactured Housing Construction and Safety Standards Code (24 C.F.R. 3280 *et.seq.*).

### 8.9.A **Design Standards**

All manufactured housing units to be located within the Town of Arundel shall meet the design standards of this subsection.

8.9.A.1 The minimum horizontal dimension of the unit shall be 14 feet;

8.9.A.2 The minimum floor area of the unit shall be 750 square feet;

8.9.A.3 The roof of the unit shall have a minimum pitch of two horizontal to twelve vertical, and shall be covered with shingles of asphalt composite material;

8.9.A.4 The exterior siding shall be clapboards, shingles, board and batten or other material typically used on residential buildings;

8.9.A.5 Except for units to be located within a mobile home park, the unit shall be located on a: concrete/masonry frost wall or a reinforced concrete pad, with skirting material; or full basement.

### 8.9.B **Mobile Home Parks**

8.9.B.1 Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this subsection conflict with specific provisions of the Arundel Subdivision Review Standards, the provisions of this subsection shall prevail.

8.9.B.2 **Lot Area and Lot Width Requirements**

Notwithstanding the dimensional requirements table located in Section 6.3 of this ordinance, lots in mobile home parks shall meet all the dimensional and area requirements in accordance with the cluster development provisions of this article based upon the following requirements:

8.9.B.2.a Lots served by individual subsurface waste water disposal systems:

Min. lot area: 20,000 square feet
Min. lot width: 100 feet

8.9.B.2.b Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services:

Min. lot area: 12,000 square feet
Min. lot width: 75 feet

8.9.B.2.c The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.

8.9.B.2.d No lot or any portion of a lot shall be located within a Shoreland District.

8.9.B.3 **Unit Setback Requirements**

8.9.B.3.a Structures shall be located no less than 25 feet from any boundary lines of an individual lot.

8.9.B.3.b On lots which abut a public way either within the park or adjacent to the park structures shall meet the front setback in the dimensional requirements table in Section 6.3 of this ordinance.

8.9.B.3.c The setback requirements of Section 6.3 shall apply to all structures within the perimeter boundaries of a mobile home park.

8.9.B.4 **Buffering**

If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the land use district, the park shall be designed with a continuous landscaped area not less than fifty feet in width which shall contain no structures or streets. The first twenty five feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

8.9.B.5 **Road Design, Circulation, and Traffic Impacts**.

Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Arundel Subdivision Review Standards. Streets which the applicant proposes to remain as private ways shall be designed and constructed in accordance with the standards for streets in the Arundel Subdivision Review Standards except as provided herein:

8.9.B.5.a **Minimum Design Standards:**

8.9.B.5.a.1 Minimum right of way width: 23 feet

8.9.B.5.a.2 Minimum width of traveled way: 20 feet

8.9.B.5.a.3 Street materials:

8.9.B.5.a.3.a. Aggregate Subbase Course - Minimum 12" sand or gravel comprised of no more than 7% fines passing a No. 200 sieve, nor more than 30% passing a No. 40 sieve and 25-70% passing a 1/4" sieve but less than 3". No stone may exceed 4" in size in any dimension.

8.9.B.5.a.3.b Crushed aggregate base Course - Minimum 3" sand or gravel comprised of not more than 5% fines passing a No. 200 sieve, nor more than 20% passing a No. 40 sieve, 30-55% passing a ¼" sieve, and 45-70% passing a ½" sieve but less than 3". No stone may exceed 2" in size in any dimension.

8.9.B.5.a.3.c Pavement - Pavement shall be in conformance with the Arundel Subdivision Standards.

8.9.B.5.b No individual lot within a park shall have direct vehicular access onto an existing public street.

8.9.B.6 **Ground Water Impacts**

8.9.B.6.a. Assessment Submitted. Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist, or Registered Professional Engineer experienced in hydrogeology, and shall contain at least the following information:

8.9.B.6.a.1 A map showing the soils types based upon a high intensity soil survey by a Certified Soil Scientist.

8.9.B.6.a.2 The depth to the seasonal high water table at representative points throughout the mobile home park.

8.9.B.6.a.3 Drainage conditions throughout the mobile home park.

8.9.B.6.a.4 Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

8.9.B.6.a.5 An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.

8.9.B.6.a.6 A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

8.9.B.7 **Standards Ground Water Impacts**

8.9.B.7.a Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

8.9.B.7.b No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

8.9.B.7.c If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

8.9.B.7.d If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

8.9.B.7.e Subsurface waste water disposal systems and drinking wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

8.9.B.7 No development or subdivision which is approved under this subsection as a mobile home park may be converted to another use without the approval of the Planning Board, without all the lots meeting the appropriate lot size, lot width, setback and other requirements. The plan shall be recorded at the Registry of Deeds and filed with the municipality.

## 8.10 SOLID WASTE FACILITIES (Amended November 7, 2000)

8.10.A **Purpose**

8.10.A.1 To protect surface and groundwater resources of the Town of Arundel and to preserve the quantity and quality of these resources for current and future use and to protect residents and neighboring land uses from the potentially deleterious effects of the operation of waste facilities.

8.10.B **Operating Permits**

8.10.B.1 No person shall construct or operate a waste facility without obtaining a Conditional Use Permit from the Planning Board. The utilization, processing, disposal or transfer of any solid waste, hazardous waste, special waste, septage, or sludge is strictly prohibited except at the site of a permitted waste facility .

8.10.B.2 The operating permit shall not be transferred without prior approval of the Planning Board. Transfer of a permit shall be allowed only where the applicant demonstrates that he has the technical ability and financial capacity to comply with conditions of the operating permit, including the plans and supporting documents contained in the application for conditional use permit.

8.10.B.3 All operating permits shall expire three (3) years from the date of issue unless otherwise stated on the conditional use permit or revoked in accordance with the provisions of this ordinance.

8.10.C **Application**

8.10.C.1 In addition to the submission requirements contained in Section 9.7.D, the application shall include the following information:

8.10.C.1.a The name(s) and addresses of any waste facilities with which the applicant has had previous experience;

8.10.C.1.b. A copy of any application to and license or permit from the Maine Department of Environmental Protection in accordance with the Site Location of Development rules and the Solid Waste Management Rules;

8.10.C.1.c Leachate control methodologies;

8.10.C.1.d Concept plans for final closure of the facility and maintenance of the site, including projected timing of closure, cover materials, frequency of maintenance following closure, and methods to control methane generation and movement.

8.10.C.1.e Characterization of wastes, estimated quantities of waste by type, waste compatibility and interaction of wastes with the containment system.

8.10.C.1.f Submit evidence that the applicant can provide a performance guarantee to cover the costs of closing of the site in accordance with all local, state and federal requirements including maintenance of the site subsequent to its closure.

8.10.C.2 In reviewing applications, the Board may require submission of additional information to determine compliance with the standards and purposes of this ordinance.

8.10.C.3 **Consultant Review**

8.10.C.3.a In addition to the customary application fee for a conditional use permit, an additional technical review fee based on $1.00 per cubic yard estimated quantity of waste disposal capacity or a minimum of $1,000, whichever is greater, shall be submitted with the application. The technical review fee shall be used by the Planning Board to retain consultants with the technical expertise necessary to assist in the review. The unexpended balance on the account shall be returned to the applicant after a final decision on the application is rendered. If the Board and the applicant mutually agree upon the qualifications and acceptability of all technical experts employed in the design of the facility, the Board may waive all or part of this requirement provided the public health, safety, and welfare are protected and the objectives of these regulations are met.

8.10.D **Permit Renewal**

An application to renew a operating permit shall be accompanied by a fee of one hundred ($100) dollars, a written report, by the Codes Enforcement Officer, on the facility's operation since the previous conditional use permit was issued which demonstrates the facility's compliance with the requirements of this ordinance, groundwater monitoring results and compliance with a specific conditions of a permit. In the circumstance of demonstrated non-compliance the Board may require the filing of a technical review fee as stated in Section 8.10.C.3.

8.10.E **Review Procedures**

8.10.E.1 The Planning Board, after determining an application is complete and appropriate fees paid, shall process the application in accordance with the procedures established for a conditional use permit.

8.10.F **Performance Standards**

In addition to the performance standards of Section 7 of this ordinance the following specific standards shall be met:

8.10.F.1 Agronomic Utilization

8.10.F.1.a All land application shall be conducted in strict compliance with the standards of Chapters 400 and 419 of the Rules of the Maine Department of Environmental Protection, even if the nature of the materials or operation do not require a license from the Department.

8.10.F.1.b Land application of residual materials shall be conducted only as part of a nutrient management plan for the overall operation of the site. A copy of the nutrient management plan shall be submitted with the application for conditional use approval.

8.10.F.1.b Agronomic utilization of residual material shall be conducted in a manner to minimize odors. Odors determined by a majority of the Code Enforcement Officer, Town Manager, and chairman of the Board of Selectmen to be offensive for more than 48 hours during a seven day period are prohibited. Violation of this provision shall result in a revocation of the permit by the Planning Board, after a public hearing with written notice provided to the property owner, applicant and owners of property within 500 feet of the subject property.

8.10.F.1.c Following the application of residual materials each year a report shall be filed with the Planning Board indicating the areas on which materials were applied and the amount of materials in each area.

8.10.F.2 Processing Facility

8.10.F.2.a All processing facilities shall be designed, located and operated in strict compliance with the standards of Chapters 400 and 409 of the Rules of the Maine Department of Environmental Protection, even if the nature of the materials or operation do not require a license from the Department.

8.10.F.2.b The facility shall provide a landscaped buffer strip to visually screen the use from the street and from neighboring residence on a year-round basis. Where natural vegetation cannot be maintained due to site conditions, the buffer may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

8.10.F.2.c Access to the processing site shall be secured when the facility is not open to ensure that unauthorized or unsupervised access does not occur.

8.10.F.2.d Processing facilities shall be designed, located and operated in a manner to minimize odors.

8.10.F.2.e No later than March 1 of each year a report shall be field with the Planning Board indicating the volume or weight of each type of material processed and the volume or weight of material shipped from the site during the previous calendar year.

8.10.F.3 Disposal Facility

8.10.F.3.a All waste disposal facilities shall be designed, located and operated in strict compliance with the standards of Chapters 400, 401, 403, and 420 of the Rules of the Maine Department of Environmental Protection as appropriate, even if the nature of the materials or operation do not require a license from the Department.

8.10.F.3.b The facility shall provide a landscaped buffer strip to visually screen the use from the street and neighboring residences on a year-round basis. Where natural vegetation cannot be maintained due to site conditions, the buffer may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

8.10.F.3.c Access to the disposal site shall be secured when the facility is not open to ensure that unauthorized or unsupervised dumping does not occur.

8.10.F.3.d The site shall not be over or within 300 feet of: a significant sand and gravel aquifer; a sand and gravel deposit; a tidal, perennial or intermittent stream; the Kennebunk River; a pond or other body of water; or within 1,000 feet of a public drinking water supply.

8.10.F.3.e A site shall not be in or over a 100 year floodplain.

8.10.F.3.f Waste disposal facilities shall be designed, located and operated in a manner to minimize odors.

8.10.F.4 Transfer Station

8.10.F.4.a All transfer stations shall be designed, located and operated in strict compliance with the standards of Chapters 400 and 402 of the Rules of the Maine Department of Environmental Protection, even if the nature of the materials or operation do not require a license from the Department.

8.10.F.4.b The facility shall provide a landscaped buffer strip to visually screen the use from the street and neighboring residences on a year-round basis. Where natural vegetation cannot be maintained due to site conditions, the buffer may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

8.10.F.4.c Access to the disposal site shall be secured when the facility is not open to ensure that unauthorized or unsupervised waste disposal does not occur.

8.10.F.5 Other Facility

8.10.F.5.a The applicant for an other facility shall either submit a letter from the Department of Environmental Protection indicating that no licenses or permits are required or an operating license from the Department.

8.10.F.5.b All other facilities shall be designed, located and operated in strict compliance with the standards of Chapter 400 and any other applicable chapter of the solid waste Rules of the Maine Department of Environmental Protection.

8.10.F.5.c The facility shall provide a landscaped buffer strip to visually screen the use from the street and neighboring residences on a year-round basis. Where natural vegetation cannot be maintained due to site conditions, the buffer may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

8.10.F.5.d Access to the disposal site shall be secured when the facility is not open to ensure that unauthorized or unsupervised waste disposal does not occur.

8.10.F.5.e Waste disposal facilities shall be designed, located and operated in a manner to minimize odors.

8.10.G **Technical Ability, Insurance and Performance Guarantees**

8.10.G.1 The Planning Board shall determine that the owner and operator has demonstrated the technical ability to insure that the facility will meet state air and water pollution control standards and the standards of this ordinance by:

8.10.G.1.a Employment by the owner and operator of a qualified technical consultant to oversee installation and maintenance of the facility and its pollution control measures.

8.10.G.1.b. Institution of an appropriate personnel training program to ensure proper installation, operation, and maintenance of the facility and its pollution control equipment measures.

8.10.G.2 An applicant for a disposal facility must submit with the application and annually thereafter, proof of liability insurance coverage, in a minimum amount of at least $1,000,000 per occurrence and $2,000,000 annually, for accidental occurrences during the active life of the facility plus 30 years following closure or to such time which the hydrogeologists determine that maximum concentrations of leachate will occur in the groundwater. This provision can consist of either (1) liability insurance, or (2) establishment of a trust fund, to cover the cost of installing or extending a public water supply to serve the areas susceptible to contamination by landfill leachate. An engineering estimate of the cost of providing a public water supply to the area susceptible to contamination, shall be included and the minimum amount may be raised if the projected costs exceed the minimums stated herein.

8.10.G.2.a The liability insurance policy shall be a "claims-made" policy, an endorsement must provide for a discovery period of at least twelve months beyond the date of expiration or cancellation of the policy. The endorsement must also provide that the underwriter will notify the town prior to the expiration or cancellation of the policy.

8.10.G.3 For all disposal facilities, processing facilities, and transfer stations, the owner shall provide a performance guarantee to cover the costs of closing of the site in accordance with all local, state and federal requirements including maintenance of the site subsequent to its closure. The amount of the guarantee shall be based upon a registered Professional Engineer's estimate, approved by the Board or its agent.

8.10.G.4 The requirements of Section 8.10.G.3 may be waived if the Board makes written findings that alternative performance guarantees proposed by the applicant are adequate and appropriate to fulfill the purposes of this ordinance.

## 8.11 CORRECTIONAL PRE-RELEASE FACILITIES

Correctional Pre-Release Facilities shall meet the following standards:

8.11.A No Correctional Pre-Release Facilities shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;

8.11.B There shall be no open outside stairways or fire escape above the ground floor;

8.11.C The minimum lot size shall be three (3) acres for the first ten (10) residents plus ten thousand (10,000) square feet for each additional resident;

8.11.D If a facility requires state of federal licensing, staffing of the facility shall be as required by such license. If the facility does not require state or federal licenses, there shall be a minimum of one staff person for every ten (10) residents or fraction thereof;

8.11.E The facility shall provide twenty-four (24) hour supervision of program participants;

8.11.F In the case of a use or expansion which constitutes a residential care facility use and a correctional pre-release facility with capacity for concurrent operations, the applicable correctional pre-release facility district regulations and use performance standards shall control; and

8.11.G The Planning Board may impose conditions upon a correctional pre-release facility conditional use permit concerning the creation or operation of a correctional pre-release facility including but not limited to the following: site and building maintenance; lighting; fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; and compatibility of new structures with the architectural character of the surrounding area.

(Section 8.11 Adopted November 25, 1996)

## 8.12 RESIDENTIAL CARE FACILITIES

Residential Care Facilities shall meet the following standards:

8.12.A A Residential Care Facility shall not be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;

8.12.B There shall be no open outside stairways or fire escapes above the ground floor;

8.12.C The minimum lot size shall be the same as required by the underlying land use district for the first five (5) residents plus ten thousand (10,000) square feet for each additional resident;

8.12.D The Residential Care Facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If the facility does not require state license, there shall be a minimum of one staff person for every ten (10) residents or fraction thereof;

8.12.E In the case of a use or expansion which constitutes a residential care facility use and a correctional pre-release facility with capacity for concurrent operations, the applicable correctional pre-release facility district regulations and use performance standards shall control; and

8.12.F The Planning Board may impose conditions upon a Residential Care Facility conditional use permit concerning the creation or operation of a residential care facility including but not limited to the following: site and building maintenance; lighting; fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; and compatibility of new structures with the architectural character of the surrounding area.

(Section 8.12 Adopted November 25, 1996)

## 8.13 TELECOMMUNICATIONS FACILITIES

### 8.13.A **Purpose**

This section is designed and intended to balance the interests of the residents of the Town of Arundel, telecommunications providers, and telecommunications customers in the siting of telecommunications facilities within the town. These standards are also intended to establish general guidelines for the siting of telecommunications towers and antennas and to enhance and fulfill the following goals:

8.13.A.1. To preserve the authority of the Town to regulate and to provide for reasonable opportunity for the siting of telecommunications facilities, by establishing standards which will enhance the ability of providers of telecommunications services to provide services effectively to the community.

8.13.A.2. To minimize the adverse impacts of such facilities including — visual and aesthetic impacts, environmental impacts to historically significant areas and related impacts to Arundel's village district as proposed in the Comprehensive Plan, as well as, safety impacts and property values.

8.13.A.3. To encourage co-location of carriers and minimize the total number of maximum height towers located within the town,

8.13.A.4. To permit the construction of new towers only where all other reasonable opportunities have been exhausted.

8.13.A.5. To encourage the users of towers and antennas to configure them in a way that minimizes the need for additional towers in the Town of Arundel.

8.13.A.6. To provide for the removal of structures which are no longer being used for telecommunications purposes.

8.13.A.7 To facilitate the safe operation and construction of telecommunication facilities within the Town of Arundel.

### 8.13.B **Exemptions**

The following are exempt from the provisions of this ordinance:

8.13.B.1. Emergency Wireless Telecommunications Facility: Temporary wireless communication facilities for emergency communications by public agencies.

8.13.B.2. Amateur (ham) radio stations: Amateur radio stations licensed by the Federal Communications Commission (FCC).

8.13.B.3. Parabolic antenna: Parabolic antenna less than seven feet in diameter that is an accessory use of the property.

8.13.B.4. Routine repair and maintenance or repair: Routine maintenance or repair of a wireless telecommunications facility and related equipment, provided that there is no change in height or any other dimension of the facility.

8.13.B.5 Municipal, public safety, public works, or quasi-municipal organization, when used solely for the communication use of these users. Including any Town lands existing at the time this Ordinance is adopted, or on any Town properties acquired in the future.

8.13.B..6 Temporary wireless telecommunication facility Temporary wireless telecommunications facility in operation for a maximum period of one hundred and eighty days. This may include, but is not limited to, "cellular on wheels" mobile equipment.

8.13.B.7. Antennas as accessory uses: An antenna that is an accessory use to a residential dwelling unit.

8.13.B.8 "Special event" (see Definitions) wireless telecommunication facility: Temporary special event telecommunication facilities for a period not to exceed five days preceding an event and five days after a special event.

8.13.C **Permits Required**

8.13.C.1. Depending on the siting location, the CEO and/or Planning Board shall review all applications for wireless telecommunication facilities.

8.13.C.2. All new (after the date of adoption of this ordinance) telecommunications towers which exceed 35 feet in height shall be limited to Zone II and III of the TFZs and shall require a Conditional Use Permit issued by the Arundel Planning Board (Excepting Exemptions described in Section 8.13B).

8.13.C.3. Telecommunications facilities or collocation at any height below the 35 feet shall be considered a permitted use and shall need only a building permit from the Code Enforcement Officer.

8.13.C.4. All telecommunications facilities proposing to locate on existing towers or alternative tower structures in excess of 35 feet must conform to all applicable requirements (8.13.E.b and 8.13.H.1) of this ordinance prior to requesting a building permit from the Code Enforcement Officer.

8.13.D **Review and Application Review Fees**

8.13.D.1. Application fees shall be similar to rates established in the LUO for conditional use review plus additional costs involved with certified abutter notification. Application fees shall be paid at the time the application is submitted.

8.13.D.2. Applications for approval in any of the three Zones described in Article 13 of Arundel's LUO may require professional, Town of Arundel expert review. Applicants to the CEO and/or Planning Board are responsible for all expenses associated with expert analysis of all review considerations associated with an application for a telecommunication facility.

8.13.D.3. An escrow account may be established at the Pre-Application Conference for any anticipated review fees. Review fees shall reflect reasonable technical and professional services necessary to assist the Code Officer or Planning Board in their review of an application. When it is determined that this account requires additional monies, review of an application will cease until such time when the review account is refreshed, by the applicant, to an amount satisfactory to cover additional review expenses.

8.13.D.4. Funds remaining in the review account after an application is withdrawn or has had its review completed shall be returned to the applicant. Any earned interest on review funds shall be returned to the applicant.

8.13.E **Application Process**

8.13.E.1 Pre-Application Conference

Applicants seeking approval of either the CEO or the Planning Board under this ordinance shall meet with the Town Planner prior to filing an application according to this ordinance. At this meeting, the Planner shall explain the ordinance provisions as well as application forms and fees required under this ordinance.

8.13.E.2 Application for CEO Approval

Applications for permit approval by the CEO must include the following materials and information:

8.13.E.2.a Documentation of the applicant's right, title, options, or interest in the property on which the facility is to be sited.

8.13.E.2.b Elevation drawings of the proposed telecommunication facility and any other proposed structures. Certification by a registered professional engineer that the drawings, plans, and specifications submitted with the application are structurally safe and satisfy ANSI engineering guidelines.

8.13.E.2.c A copy of necessary licenses from the FCC or a letter from the FCC indicating that the applicant complies with all necessary federal regulations.

8.13.E.3 Application for Planning Board Approval

8.13.E.3.a Applications requiring a permit in accordance with this section, shall be required to submit an application to the Town Planner for review by the Planning Board. The Town Planner shall review the application and determine if it contains sufficient information as required to schedule the

application for Planning Board review (reviewing schedule shall be similar current conditional use review procedure).

8.13.E.3.b The Planning Board in accordance with the procedures, standards and submission requirements of this section shall review all applications under this section as a conditional use. The Planning Board shall apply the standards of Section 8.13.H.2, in the review of such applications. In granting a conditional use permit, the Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties and to preserve the intent of this ordinance.

8.13.E.3.c The Town Planner shall schedule the application for the next available agenda after determining that a complete submission has been made. The Planning Board, however, shall decide if an application is complete and contains all information necessary to schedule a public hearing. The Planning Board shall approve, approve with conditions, or deny a permit within ninety (90) days of its decision that an application is complete or within another time limit as may be otherwise mutually agreed to by the Board and the applicant.

8.13.E.4 Public Hearing

The Planning Board shall schedule a public hearing within forty-five (45) days of determining that it has a complete application. Notification of the hearing shall be provided as follows:

8.13.E.4.a Notification by the applicant: The applicant shall send written notice of the public hearing, dated at least ten (10) days prior to the hearing, to all owners of property that directly abuts or is located within one thousand (1,000) feet of any property line of the property for which the Conditional Use Permit is requested. (Notice to the owners within the first 500 feet shall be by certified mail, other notification shall be by first class mail.) Written notice shall also be given to any town located within one mile of the proposed telecommunications facility. The applicant shall provide this notification and shall present proof of such notification to the Town Planner. The notification shall include: the name of the applicant, location of the property, a brief description of the project, and a plot plan identifying the proposed site layout in relation to nearby streets and properties. (Notification fees are the responsibility of the applicant).

8.13.E.4.b Notification by the Town: The Town shall post notification of the hearing at Town Hall a minimum of seven (7) days in advance of the hearing. In addition, the Town shall advertise the notice of public hearing in a newspaper of general circulation a minimum of seven (7) days in advance of the hearing. Once proper notice has been given, the Planning Board shall conduct a public hearing.

8.13.E.5. Final Decision

Following the public hearing, the Planning Board shall complete its review of the application, and issue Findings of Fact supported by substantial evidence in the written record, which outline the reasons it approves, approves with conditions or denies the application.

8.13.F **Plan Submissions for Planning Board Review:**

Applicants requesting a conditional use permit under this section shall submit a scaled plan and application in accordance with the following submission requirements:

8.13.F.1. Location of the proposed structure, including map/lot number and street address. A locus map drawn at a scale of not less than 1 inch = 100 feet (or other appropriate scale as determined by the Planning Board) that identifies all properties; all residences, all non-residential structures, all roads and the natural topography (vegetation and contours at 20 foot intervals) of the area located within a radius of 1000 feet of the location of the proposed telecommunication facility.

The site plan must be certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, anticipated antenna capacity, on-site and abutting off-site land uses, proposed means of access, and setbacks from property lines.

8.13.F.2 Name of owner or operator of the telecommunications facility and owner of property.

8.13.F.3 Name of company (ies) responsible for constructing and/or maintaining the telecommunication facility. Tower removal bonding sureties shall also be submitted.

8.13.F. Date the telecommunication facility is proposed to be constructed.

8.13.F.5 Payment of all required performance guarantees or Letter of Credit from an authorized banking institution (due upon approval.) and payment of the permit application fees.

8.13.F.6 A USGS 7.5 minute topographic map showing the location of all wireless telecommunication facilities above 190 feet within a 5 mile radius of the proposed facility.

8.13.F.7 A topographic map of the property which shall identify within a 500 ft radius: accurate dimensions of the property, where a tower is proposed to be located; contours at not less than 5 foot intervals (or other appropriate scale as determined by the Planning Board); existing vegetation, particularly noting height, diameter, density, quality, and type (deciduous or evergreen) of existing trees; wetlands, floodplains, streams and open bodies of water; ledge outcrops; soils data, medium intensity; all existing structures on the property; and any right-of-ways, access roads, easements, or similar encumbrances on the property; and other significant features.

8.13.F.8. Elevation drawings of the proposed facility and any other proposed structures.

8.13.F.9 A landscaping plan indicating the proposed placement of the facility, the location of existing structures, trees, and other significant site features, the type and location of plants proposed to screen the facility, the proposed fencing, the proposed color and the proposed lighting. The Planning Board may waive this upon a finding the proposed tower site is in a wooded location.

8.13.F.10. A signed statement indicating that the owner of the facility agrees to negotiate in good faith with other telecommunications carriers who may seek to collocate wireless service facilities on the applicant's structure or on the same site. Good faith discussions entail all aspects of reasonable negotiations, including timeliness of response to interested parties and willingness to accept industry-standard market rates. Costs for collocation which exceed the cost of a new tower shall be presumed to be unreasonable. The signed statement shall state that any letters of intent to collocate on an applicant's tower shall be responded to by the applicant in less than 90 days following receipt of the request to collocate.

8.13.F.11 Documentation of the applicant's right, title, or interest in the property on which the facility is proposed.

8.13.F.12 A copy of all necessary licenses from the FCC or a letter from the FCC indicating that the facility complies with all necessary federal regulations.

8.13.F.13 A photo simulation of the proposed facility or tower extension taken with a 50-mm lens from at least four lines of site. The Town Planner during the Pre-Application meeting shall determine locations from which photos are to be taken. Photo simulations shall depict the actual color, height, lighting, screening of the proposed facility or tower extension. The applicant shall present the Board with photos of a tower similar in height, design, etc. showing the photo simulation prior to construction of the tower, and photos of the same tower after it was constructed.

8.13.F.14 A statement from the applicant describing why this site and structure is critical to the operation for which it is proposed. The statement shall address, at a minimum: existing and proposed service area maps, how this structure is integrated with other company operations, particularly other structures in Arundel and surrounding communities, future expansion needs in the area, the effect on company operations if this structure is not constructed in this location, other sites evaluated for location of this structure and how such sites compare to the proposed site. Also, the applicant must specify other options, if any, which could be used to deliver similar services, particularly if the proposed equipment can be collocated (shared use) on an existing structure; and an analysis of the projected life-span of this structure and location.

8.13.F.15 Certification by a registered engineer that the drawings, plans, and specifications submitted with the application satisfies applicable technical codes and ANSI structural standards. Certification that submissions for new towers are structurally capable of accommodating two or more collocators.

Waiver of Submissions: The Board may grant waivers to any of the above submission requirements upon written request by the Applicant, provided that the applicant can demonstrate that the waiver does not nullify the purpose and intent of these regulations and that the Board finds that the criteria for granting waivers in Section 9.7E of this Ordinance have been satisfied. All waivers granted by the Board must be in writing.

8.13.G **Telecommunication Overlay Zones Requirements**

8.13.G.1 **Location**

In Zone I, collocation on existing sites and alternative telecommunication structure/facilities conforming to Performance Standards in Section 8.13.H. is permitted in all Town of Arundel zoning districts.

Zone II: In Zone II, all reasonable collocation options must be analyzed to the Board's satisfaction prior to consideration of a new tower. Applicants must demonstrate to the Planning Board that all reasonable collocation options have been exhausted prior to consideration of new towers. Zone II is the Town of Arundel's "preferred" telecommunication/tower overlay zone. The Planning Board shall consider factors listed in 8.13.H.2 (g) to determine if a reasonable effort has been made for collocation.

Zone III: In Zone III, applicants must demonstrate to the Planning Board that all reasonable collocation options have been exhausted prior to consideration of new towers. All new towers in this zone shall be monopoles. The Planning Board shall consider factors listed in 8.13.H.2 (g) to determine if a reasonable effort has been made for collocation.

8.13.G.2 **Height**

Zone I: The transmitting structure/facility shall not increase the existing alternative telecommunication facility/structure height more than twenty (20) feet and shall conform to Performance Standards in Section 8.13.H.1 Additional height may be added to existing towers only when accompanied with a structural certification from a registered engineer testifying that the tower's load-bearing capability is adequate.

Zone II: New towers and extensions of existing towers shall not exceed a maximum height of 190 feet and, all new towers, shall be designed for a structural capacity of at least two or more additional collocators.

Zone III: New towers without single collocators shall not exceed 90 feet in maximum height. New towers with a **single** collocator shall not exceed 110 feet in maximum height. New towers with **two** collocators shall not exceed 130 feet in maximum height. Structural load-capacities for all new towers shall be designed (regardless of height) for at least, two additional collocators. All new towers in Zone III shall be monopoles.

8.13.H **Performance Standards**

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

8.13.H.1 **CEO Approval Standards**

8.13.H.1.a The proposed facility is an expansion or accessory use of, or collocation on an alternative wireless telecommunication structure/facility legally existing at the time the application is submitted under this ordinance.

8.13.H.1.b The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.

8.13.H.1.c The proposed facility increases the height of the existing structure by no more than twenty (20) feet.

8.13.H.1.d The proposed facility blends architecturally and esthetically with the surrounding structures.

8.13.H.1.e The facility does not pose a safety or injurious situation .

The CEO may not grant waiver requests from any of the submissions, standards or requirements of this ordinance.

8.13.H.2 **Planning Board Approval Standards**

8.13.H.2.a Siting Preference Locations:

New wireless telecommunications facilities shall be reviewed according to the following siting preferences:

8.13.H.2.a.1 FIRST PREFERENCE -Collocation: Prior to considering construction of a new tower, the applicant must clearly and convincingly demonstrate to the Board that all potential sites for collocation on existing wireless telecommunication facilities or existing publicly or privately owned structures have been thoroughly researched and analyzed by the applicant, and have proven unsuitable or unavailable for the applicant's needs.

8.13.H.2.a.2 SECOND PREFERENCE-NONCOLLOCATION: Where collocation is determined to be unavailable or unsuitable, applicants for new tower construction must also demonstrate why existing alternative and/or telecommunication structure/facilities are unsatisfactory for the carrier's needs.

The applicant shall demonstrate that a building or alternative telecommunication structure cannot reasonably accommodate the applicant's proposed facility. Evidence submitted to demonstrate that no existing building or alternative site can accommodate the applicant's proposed facility may consist of a showing by the applicant that:

8.13.H.2.a.2.a No existing facilities are located within the geographic area to meet the applicant's desired area of coverage.

8.13.H.2.a.2.b Existing facilities do not have sufficient height to meet the applicant's desired area of coverage.

8.13.H.2.a.2.c Existing facilities do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and necessary equipment would exceed the structural capacity of the existing facility or that the existing facility cannot be reinforced to accommodate the proposed new antenna.

8.13.H.2.a.2.d The fees, cost, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Evidence that the costs of sharing space on an existing facility exceed new facility development are creates a presumption of unreasonableness.

8.13.H.2.a.2.e The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna equipment on the existing facility would cause interference with the applicant's proposed antenna.

8.13.H.2.a.2.f Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively.

8.13.H.2.b Height:

All alternative telecommunication structures, transmitting structures, extensions for collocation and new towers shall conform to the Height requirements set forth in Section 8.13.G.2.

8.13.H.2.c Setbacks:

8.13.H.2.c.1 All new telecommunication towers shall be set back from all property lines a distance equivalent to 105% of the height of the tower. All setbacks shall be calculated for the maximum height permitted in the overlay zone, regardless of the proposed tower height.

8.13.H.2.c.2. The Planning Board may reduce property-line setbacks when a "fall zone easement" has been obtained from all affected property owners within 105% of the maximum permitted height of the proposed tower.

8.13.H.2.c.3 All accessory equipment and support wires associated with the new telecommunication tower shall meet setback requirements of the zoning district.

8.13.H.2.d Landscaping and Fencing:

8.13.H.2.d.1 Towers shall have galvanized steel finish or be painted a neutral color so as to reduce visual impact. The Planning Board may waive this item upon reconsideration of the FAA daytime lighting requirements.

8.13.H.2.d.2 All telecommunications structures shall maintain the required setbacks as undisturbed vegetated buffers, except for the access road. The Planning Board may require additional plantings in the buffer area to enhance the quality and effectiveness of the buffer area to serve as a visual screen. The size and quantity of plantings shall be subject to Planning Board approval.

8.13.H.2.d.3 At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screenings and landscaping that will blend the tower facilities to the natural setting and built environment.

8.13.H.2.d.4 Towers shall not be artificially lighted, unless required by the FAA or other Federal or State authority. If lighting is required, the Planning Board may review available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties and views. Security lighting at the base of the facility shall be shielded. No advertising or signage is permitted on telecommunication tower.

8.13.H.2.d.5 Road access to the telecommunications structure shall be the minimum size necessary to allow safe access.

8.13.H.2.d.6 The base of a telecommunications tower may not be located in a wetland or floodplain.

8.13.H.2.d.7 A security fence or wall not less than six (6) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.

8.13.H.2.e Structural Standards:

Written certification that new wireless telecommunication towers comply with the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard: "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

8.13.H.2.f Noise:

In residential zoning districts, the noise generated by the wireless telecommunications facility shall not exceed 5 dBA or 60 dBA as measured on abutting properties.

Operation of back-up power generator during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from this standard. No testing of back-up power generators shall occur between the hours of 9 p.m. and 8 a.m.

8.13.H.2.g Other Factors:

In reviewing an application for a telecommunication structure/facility, the Board shall also address the following:

8.13.H.2.g.1 Height of proposed tower or other structure does not exceed the permitted height.

8.13.H.2.g.2 Nature of uses on adjacent and nearby properties.

8.13.H.2.g.3 Surrounding topography.

8.13.H.2.g.4 Surrounding tree coverage and foliage.

8.13.H.2.g.5 Design of the tower, antenna, or facility with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

8.13.H.2.g.6 Proposed ingress and egress to the site.

8.13.H.2.g.7 Availability of suitable existing towers and other alternative tower structures.

8.13.H.2.g.8 Visual impacts on view sheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures. The clustering of towers in a single area is considered less visually intrusive than spread apart, single site locations.

8.13.H.2.g.9 That the proposed facility/tower/ will not unreasonably interfere with the view from any public parks, natural scenic vistas, historic buildings or major view corridors.

8.13.H.2.g.10 That the proposed facility/tower/ is not constructed in such a manner as to result in needless height, mass, and guy-wire supports, with documentation having been provided

and reviewed regarding the design capacity and/or the remaining collocation capacity of the facility/ tower.

8.13.H.2.h Waiver of Standards: The Board may grant waivers or modifications of any of the above standards, with the exception of those requirements contained in Section 8.13 G regarding maximum tower height and permitted siting of telecommunications towers/facilities, upon written request by the applicant, provided that the applicant can demonstrate that the waiver does not nullify the purpose and intent of these regulations and that the Board has considered the factors set forth in Section 8.13H.2.g and further finds that the criteria for granting waivers in Section 9.7E of this Ordinance have been satisfied. All waivers granted by the Board must be in writing and included in the final decision and findings of fact.

8.13.I **Siting on Town Property:**

If an applicant proposes to locate a new wireless telecommunications facility on public property, the applicant must comply with all applicable sections of this ordinance and the following:

8.13.I.1 The proposed location complies with applicable municipal policies and ordinances.

8.13.I.2 The proposed structure/facility will not interfere with the current and purposed use of the property.

8.13.I.3 The applicant shall permit Town communication usage and services to be located on the facility at no cost to the Town.

8.13.J **Right of Appeal**

Appeals from any final decision of either the CEO or Planning Board may be appealed to the Board of Appeals in accordance with Section 10 of the LUO.

8.13.K **Amendment to an Approved Application**

The CEO or the Planning Board, upon review of Section 8.13.G and H, shall approve or deny any amendments to an approved application which do not constitute expansions or enlargements requiring a new application and review.

8.13.L **Performance Guarantees**

8.13.L.1 No building permit may be issued until the applicant has filed a performance guarantee with the Town equal to 125% of the cost of completing the following improvements:

8.13.L.2 The construction of any drainage systems involving piping, culverts, or retention or detention facilities; and

8.13.L.3 The construction of erosion and sedimentation control measures or landscaping required to meet the standards of this section; and

8.13.L.4 Other site improvements required by the Board to meet the standards of this section.

8.13.M **Removal of Abandoned/Unused Facilities**

The owner of a telecommunications facility shall be required to remove the tower should it not be used for the use or uses approved for a period of twelve (12) consecutive months. An applicant for a conditional use permit under this section shall post a performance guarantee with the Town prior to obtaining a permit that is equal to 125% of the cost of removing the structure.

The performance guarantee covering such removal shall be for a minimum term of five years. It must contain a mechanism, satisfactory to the town, for review of the cost of removal of the structure every five years, and a mechanism for increasing said bond funds.

If the Planning Board determines the permitted telecommunication facility exceeds FCC health criteria for such facilities, the tower owner shall be required to reduce such negative health effects within ten (10) days of notification by either the Town or the FCC of excessive health detriments from the telecommunication facility. Failure to act in the specified fashion is adequate reason for the performance guarantee to be utilized for whatever purposes necessary to eliminate the detrimental health effects.

(Section 8.13 Adopted April 15, 1998)

## 8.14 MULTI-FAMILY DEVELOPMENTS

8.14.A All proposals to construct multifamily developments shall be in conformance with the General Performance Standards of Section 7 and the design requirements listed below.

8.14.B If a multifamily development is not a subdivision, then the application shall meet the requirements of Section 9.7.D.

8.14.C **Design Requirements**.

8.14.C.1 Number of Dwelling Units.

8.14.C.1.a The net residential acreage of a multifamily development shall be calculated in the same manner as required for cluster housing in Section 8.4.B.4.

8.14.C.1.b The maximum number of dwelling units permitted in a multifamily development shall be determined by the number of bedrooms in each unit. The maximum number of bedrooms allowed shall be three times the net residential acreage divided by the minimum lot size required in the District.

8.14.C.1.c If occupation of the units in a multifamily development is restricted to individuals age 55 and over then the maximum number of units may be increased by a factor of 2.0.

8.14.C.1.d In order to determine the net residential acreage, a high-intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building shall be constructed on soil classified as being very poorly drained.

8.14.C.2 **Water Supply**.

8.14.C.2.a When a multi-family development is proposed within the service area of the Kennebunk, Kennebunkport and Wells Water District, all dwellings shall be connected to the system at no expense to the town. The applicant shall demonstrate by a signed letter from an authorized representative of the water district that water supply can be provided to the development at an adequate pressure for fire fighting purposes. No dwelling in a multifamily development shall be more than 500 feet from a fire hydrant as hose is laid on the street.

8.14.C.2.b When a multifamily development is proposed outside of the service area of the water district, the applicant shall demonstrate the availability of adequate quality of water and supply for both domestic and fire fighting purposes. In consultation with the Fire Chief, the Planning Board may require the construction of fire ponds and dry hydrants.

8.14.C.3. Sewage Disposal. The applicant shall submit to the Planning Board test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist. A map showing the location of all test pits dug on the site shall be submitted. If a proposed system is designed with a flow rate of 2,000 gallons per day or greater, approval of the system by the Maine Department of Human Services, Division of Health Engineering shall be obtained prior to approval by the Planning Board.

8.14.C.4. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height.

8.14.C.5. A fifty foot landscaped buffer shall be provided along all property boundaries.

8.14.C.6. Storm water and surface drainage systems shall be designed in accordance with the town subdivision standards.

8.14.C.7. **Access, Circulation, and Parking.**

8.14.C.7.a The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic-generators. All corner lots shall be kept clear from visual obstructions higher than three feet above ground level, for a distance of twenty-five feet, measured along the intersecting street lines.

8.14.C.7.b The proposed development shall not have an unreasonable adverse impact on the public road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turn-around areas.

8.14.C.7.c All developments generating 200 trips per day based on the Trip Generation Manual, Institute of Transportation Engineers, 1997 edition, shall have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.

8.14.C.8. Recreation and Open Space. All multifamily developments of 25 dwelling units or more shall provide a developed play area no smaller than 5,000 square feet. Any development in which occupancy is restricted to the elderly need not provide a play area, but space shall be provided for outdoor recreation.

(Section 8.14 Adopted January 24, 2000)

## 8.15 TIMBER HARVESTING

8.15.A Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area designated for resource protection abutting Brimstone Pond and the Kennebunk River, all timber harvesting operations shall be conducted in accordance with the requirements of Sections 6.4.zg.13 or 6.4.G.14 (Shoreland Zoning) of this Land Use Ordinance. (Amended June 9, 2010)

8.15.B In all other areas, timber harvesting shall conform with the following provisions:

8.15.B.1 Selective cutting of no more than 40% of the total volume of trees 4 inches or more in diameter measured at 4 feet above ground level on any lot in any 10 year period is permitted. In addition:

8.15.B.1.a Within 100 feet, horizontal distance of the normal high-water line of Brimstone Pond or the Kennebunk River and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

8.15.B.1.b At distances greater than 100 feet, horizontal distance, of a Brimstone Pond and the Kennebunk River and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume shall be considered to be equivalent to basal area.

8.15.B.1.c Timber harvesting operations exceeding the 40% limitation may be permitted as a conditional use by the Planning Board upon submission of a forest management plan signed by a licensed Maine Professional Forester characterizing the necessity of the exception in conformance with good forest management practices or if greater than 40% removal is recommended by the Maine Forest Service in response to disease, insect infestation or weather related mortality, or other natural causes. The town shall notify the D.E.P. Commissioner within 14 days of the granting of such exceptions, when granted in shoreland areas.

8.15.B.2 No accumulation of slash shall be left within 50 feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground. Any slash that falls below the normal high-water line of a water body shall be removed.

8.15.B.3 Timber harvesting equipment shall not use stream channels as travel routes except when:

8.15.B.3.a Surface waters are frozen; and

8.15.B.3.b The activity will not result in any ground disturbance.

8.15.B.4 All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or

otherwise damaged.

8.15.B.5 Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

8.15.B.6 Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10% increase in slope, the unscarified strip shall be increased by 20 feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet from the normal high-water line of a water body or upland edge of a wetland.

(Section 8.15 Adopted June 14, 2000)

## 8.16 FARM STANDS

Farm Stands shall be permitted in all districts if they comply with the following requirements:

8.16A They shall be located on private property, owned or leased by the producer, and not within a Right of Way.

8.16B The farm owner or leasee must demonstrate to the Code Enforcement Officer that there is sufficient access, parking and maneuvering space, that the location and approach are sufficient, that there is suitable and safe access for pedestrians, and that customer parking is away from the travel way and in close proximity to the farm stand.

8.16C All signs must conform to the sign requirements for the underlying district.

(Section 8.16 Adopted June 13, 2007)

## 8.17 SEASONAL RESORTS

### 8.17.A **Basic Requirements**

8.17.A.1 Dimensional requirements

8.17.A.1.a Seasonal resorts shall be located on at least ten (10) acres of land.

8.17.A.1.b Seasonal resorts shall have an average density of no greater than seven (7) units per acre based on the calculated net acreage.

8.17.A.1.c Each cottage shall have a minimum building footprint of 750 square feet and shall not exceed 1,025 square feet.

8.17.A.1.d Cottages shall have a maximum of two (2) bedrooms.

8.17.A.2 All structures and active recreational amenities shall be located at least 100 feet from any property line and 200 feet from any adjacent off-site dwellings.

8.17.A.3 The site plan shall identify the location of all proposed roads, structures, recreational amenities, parking areas, footpaths, common open space, and private yard space related to individual seasonal cottage units. Only developments having a comprehensive site master plan will be considered.

8.17.A.4 Seasonal resorts shall be laid out and screened in such a manner that minimizes the view from existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard.

8.17.A.5 Seasonal resorts shall be open to the cottage owners and their guests from May 1 to December 31. Other than maintenance and security staff, no full-time, year 'round residents will be allowed to live on the resort premises. (Amended Nov. 24, 2014)

8.17.A.6 The minimum frontage of a seasonal resort along any shoreline shall be 100 feet.

8.17.A.7 Seasonal cottages shall not be located closer than 15 feet to each other.

8.17.A.8 The extent of soil types shall be delineated by a Registered Soil Scientist, licensed in the State of Maine, on a soil survey map.

8.17.A.9 No seasonal cottage or associated resort amenity or accessory building shall be constructed on soil classified as being "very-poorly" drained.

8.17.A.10 Where a seasonal resort abuts a watercourse or water body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

8.17.A.11 All units in seasonal resorts shall be connected to a common water supply and distribution system, either public or private, at no expense to the municipality.

8.17.A.12 All structures with plumbing in a seasonal resort shall be connected to a public sanitary sewer system, if available, or to central collection and treatment system in accordance with Section 7.10 Sanitary Provisions of this Ordinance. The Planning Board may allow individual wastewater disposal systems based on the submission of a hydro-geologic assessment.

8.17.B **Dedication and Maintenance of Common Open Space**

8.17.B.1 A minimum of 20% of the gross site area shall be dedicated as undeveloped common open space and shall be owned in common by the owners of the cottages invested in a homeowners' association and maintained by the resort management company or its assigned representative.

8.17.B.2 The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that it shall not be used for future seasonal units.

8.17.B.3 Stormwater management facilities may be included within the common open space.

8.17.C **Access, Circulation and Parking**

8.17.C.1 The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight-distances, intersections and other traffic-generators.

8.17.C.2 No individual cottage unit within the resort shall have direct vehicular access onto an existing public street.

8.14.C.3 All developments generating more than 200 trips per day based on the Trip Generation Manual, Institute of Transportation Engineers, 1997 edition, shall have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.

8.14.C.4 All roadways will be designed to harmonize with the topographic and natural features of the site. The internal road layout will provide for and maintain safe vehicular and pedestrian movements, clear and convenient routes of access for all emergency and service vehicles and clear routes for delivery vehicles serving the site.

8.17.C.5 All major roadways serving the development shall be constructed to a minimum standard of 20'

(feet) in width with a minimum sub-base of Type D gravel no less than 18" (inches) thick and a minimum base of Type A gravel no less than 3" (inches) thick. All major roadways shall be paved with a minimum of 2 ½" of Bituminous Pavement.

8.17.C.6 All minor or auxiliary roadways shall be constructed to a minimum standard of 18' (feet) in width with a minimum sub-base of Type D gravel no less than 18" (inches) thick and a minimum base of Type A gravel no less than 3" (inches) thick. A one-way roadway may be constructed to a standard of 12' (feet) in width if found acceptable by the Planning Board.

8.17.C.7 A minimum of one (1) parking spaces shall be dedicated to each seasonal cottage unit.

8.17.C.8 A minimum of one (1) guest/visitor parking space shall be dedicated to every two (2) seasonal cottage units.

8.17.D **Application Procedures and Submission Requirements**

8.17.D.1 An applicant requesting approval for a Seasonal Resort shall file applications with the Town Planner for subdivision approval and conditional use approval. The application shall be submitted with all applicable fees that are associated with preliminary and final subdivision review and approvals. For purposes of calculating fees a Seasonal Cottage is equivalent to a Dwelling Unit.

8.17.D.2 All applications requesting approval for a Seasonal Resort shall be in conformance with the Arundel Subdivision Regulations unless noted otherwise in this Section 8.17. Where applicable, the Performance Standards of Section 7 and Conditional Use Standards of Section 9.7.H of the Land Use Ordinance shall also be applied.

8.17.E **Waivers**

8.17.E.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed as a Seasonal Resort, the Board may waive portions of the Subdivision and Conditional Use submission requirements provided that the applicant has demonstrated that the Performance Standards of this section have been met and the criteria of the Subdivision Statute (Article XI – 30-A - M.R.S.A.- Sec. 4404) have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or these regulations.

(Section 8.17 Adopted November 13, 2007)

## 8.18 AGRICULTURAL PROCESSING AND DEMONSTRATION FACILITY

8.18.A **Purpose**

8.18.A.1 The purpose of these provisions is to promote "clean," agriculturally related processing facilities, with an educational component, in rural districts without compromising their "rural" and/or "residential" character and to protect residences and neighboring land uses from the potential effects of the operations.

8.18.B **Specific Considerations**

8.18.B.1 The minimum lot size shall be 20 acres.

8.18.B.2 The maximum lot coverage by all impervious surfaces shall be 20% of total lot area, but may not in any instance exceed 5 acres.

8.18.B.3 No individual building may have a footprint in excess of 20,000 square feet and the overall limit

on the footprints of all buildings may not exceed 50,000 square feet. Individual buildings may be connected or joined together, provided the Planning Board approves the design in accordance with Section 8.18.B.9 below.

8.18.B.4 50% of the lot area shall be dedicated and permanently preserved as open space via transfer of development rights, the grant of a conservation easement, or similar restrictions. The open space shall be preserved in as near its natural state as possible unless it is utilized as forest or agricultural land.

8.18.B.5 Setbacks shall be 200 feet (front) and 100 feet (side and rear).

8.18.B.6 Parking for the public shall occur to the side or rear of the main buildings and appropriate screening shall be installed to buffer the visual effects of parking from neighboring properties.

8.18.B.7 The finished product must be saleable to the public (not a mid-stream or by-product) and must comprise the bulk of the production.

8.18.B.8 The required educational program shall be formalized, employing written curricula and experienced educational professionals to oversee and/or present the sessions. At least four educational sessions must be offered annually and free of charge to school groups.

8.18.B.9 All buildings and structures and their placement on the site shall be designed to present a traditional New England agricultural appearance, appropriate in scale relative to nearby structures given the proposed location and in keeping with a rural, agricultural setting**.**

8.18.B.10 A permanent residence must be included on the site, to be occupied by the owner or an employee of the facility.

(Section 8.18 Adopted November 13, 2007)

## 8.19 ACCESSORY APARTMENTS

Accessory apartments are a permitted use in the residential districts, subject to the approval of the Code Enforcement Officer and adherence to the following standards:

8.19 A The owners of the principal structure must reside in the principal structure of the accessory unit.

8.19 B The number of occupants of the accessory unit is limited to two (2).

8.19 C The accessory unit shall contain up to a maximum of 800 square feet or up to 50% of the living area of the principal dwelling unit not to exceed 800 square feet.

8.19 D The septic system on the property in question shall be functioning properly at the time of application for the permit approval by the Code Enforcement Officer. In addition, the applicant must submit a new HHE-200 form as documentation that suitable soil exists on the property to be used for septic system repair or replacement in the event of failure of the original system.

8.19 E The parking requirements of the Arundel Land Use Ordinance shall be adhered to.

8.19 F Proper ingress and egress shall be provided to the accessory unit.

8.19 G Should the owners of the principal structure be found in non-compliance of the standards contained in this section,

the non-compliance shall be considered a violation of this ordinance and subject to fines and penalties and the accessory unit shall be discontinued, and the structure shall revert to single family use.

8.19 H An accessory apartment which complies with the requirements of this subsection shall not be considered an additional dwelling unit when calculating lot area per family under the dimensional requirements of the ordinance.

8.19 I Only one accessory apartment per principal structure shall be permitted on a lot.

8.19 J The HHE-200 form, after review and approval by the Code Enforcement Officer, shall be recorded at the York County Registry of Deeds.

(Section 8.19 Adopted, 2008)

## 8.20 WIND ENERGY CONVERSION SYSTEMS

### 8.20.A **Purpose and Intent**

The purpose of this ordinance is to provide standards for Wind Energy Conversion Systems that are used to produce electrical power and to ensure that these systems are appropriately designed, installed and safely sited. The intent of this section is to encourage the development of Wind Energy Conversion Systems and to protect the public health, safety and welfare of the citizens of the Town of Arundel.

### 8.20.B **Authority**

The Arundel Code Enforcement Officer shall have the authority to review, approve or reject a building permit application for a Wind Energy Conversion Systems

### 8.20.C **Applicability**

The requirements of this section shall apply to all Wind Energy Conversion Systems proposed, operated, modified, or constructed after the enactment of this ordinance.

### 8.20.D **Definitions**

**Applicant:** The person or other entity which applies for approval under this ordinance

**Site:** The parcel(s) of land where a Wind Energy Conversion System is to be placed. The site can be publicly or privately owned and may include adjacent lots. Where the site is comprised of several adjacent lots the combined lots shall be considered one for the purpose of applying setback requirements and the maximum number of permissible Wind Energy Conversion Systems.

**Small Wind Energy Conversion System:** A wind energy system consisting of a wind turbine, a tower, footings, electrical infrastructure and associated equipment or structures intended to produce electrical power primarily for on-site consumption, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be conveyed to the utility company. A Small Wind Energy Conversion System may not have a rated capacity of more than 10 kilowatts.

**Medium Wind Energy Conversion System:** A wind energy system consisting of a wind turbine, a tower, footings, electrical infrastructure and associated equipment or structures intended to produce electrical power primarily for on-site consumption, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for onsite use may be conveyed to the utility company. A Medium Wind Energy Conversion System may not have a rated capacity of more than 100 kilowatts.

**Total Height:** The vertical distance measured from a point on the ground at the foundation as calculated by averaging the highest and lowest finished grade around the Wind Energy Conversion System tower to the highest point of the wind turbine blade when the tip is at its full vertical position.

8.20.E **Application Submission Requirements**

All Wind Energy Conversion System building applications shall be submitted to the Code Enforcement Officer and must include the following information and/or evidence of:

8.20.E.1 Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.

8.20.E.2 Name, address, telephone number of the property owner. If the property owner is not the applicant then the applicant shall have right, title and/or interest in the site to make application.

8.20.E.3 Address of each proposed Wind Energy Conversion System's location, including Tax Map and Lot numbers.

8.20.E.4 A description of the project, including the number and maximum rated capacity of each Wind Energy Conversion System.

8.20.E.5 A Wind Energy Conversion System Site Plan shall show the planned location of each Wind Energy Conversion System, property lines, and setback lines.

8.20.E.6 Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

8.20.E.7 Written evidence that the electrical utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electrical generator, unless the applicant does not plan, and so states in the application, to connect the system to the electricity grid.

8.20.E.8 List of all abutting property owners along with their mailing address.

8.20.E.9 All Wind Energy Conversion Systems shall be designed and installed in compliance with the International Building Code (IBC).

8.20.E.10 All permits for Wind Energy Conversion Systems shall be accompanied by a schematic drawing of the electrical components in sufficient detail to allow for a determination that the manner of the installation conforms to the National Electrical Code (NEC).

8.20.F **Dimensional Requirements**

8.20.F.1 **Minimum Site Area:** The minimum site area for a single Small Wind Energy Conversion System shall be ½- acre and for a single Medium Wind Energy Conversion System shall be 1-acre.

8.20.F.2 **Setbacks:** All Wind Energy Conversion Systems shall be setback a minimum horizontal distance of 110% the Total Height of the system from property lines and 150% from all existing structures on abutting properties.

8.20.F.3 **Height:** The Total Height of a Small Wind Energy Conversion System for property sizes between ½-acre and 1-acre shall not exceed 60' and for property sizes greater than 1-acre shall not exceed 100'. The Total Height of a Medium Wind Energy Conversion System for property sizes between 1-acre and 3-acres shall not exceed 100' and for property sizes greater than 3-acres shall not exceed 140'

8.20.G **Design Requirements**

All Wind Conversion Systems shall comply with the following standards:

8.20.G.1 Wind Energy Conversion Systems shall be primarily used to produce electrical power for on-site consumption.

8.20.G.2 The total combined rated power output for Small Wind Energy Conversion System shall not exceed 10 kilowatts and Medium Wind Energy Conversion Systems shall not exceed 100 kilowatts.

8.20.G.3 Exterior lighting on any tower or turbine associated with a Wind Energy Conversion System shall not be allowed except that which is specifically required by the Federal Aviation Administration and except that which is located not higher than ten-feet (10') from ground level

8.20.G.4 The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the permittee shall promptly eliminate the disruptive interference or cease operation of the system.

8.20.G.5 Towers shall be constructed to provide one of the following means of access control.

8.20.G.5.a Tower climbing apparatus located no closer than twelve (12) feet from the ground.

8.20.G.5.b A locked anti-climb device installed on the tower.

8.20.G.5.c A locked protective fence at least six feet in height that encloses the tower.

8.20.G.5.d Or another appropriate method of access control.

8.20.G.6 All Wind Energy Conversion Systems shall comply with applicable Federal Aviation Administration (FAA) rules and regulations.

8.20.G.7 Except during unusual short-term events such as severe wind storms, the audible noise due to wind turbine operations shall not exceed fifty-five (55) dBA above an established baseline for any contiguous five (5) minute period at any point along the property boundary line of the site. Upon complaint of excessive noise levels, the decibel measurements shall be performed by a properly credentialed professional designated by the Town of Arundel and the report submitted to the Town. The fee for this service shall be paid for by the complaintant. If the maximum decibel readings are exceeded then the permittee shall correct the violation and reimburse the complaintant within 90 days of notice by the Code Enforcement Officer and reimburse the Town for the fee of the noise level measurements.

8.20.G.8 The minimum distance between the ground and any part of the rotor or blade system shall conform to manufactures recommendations; in the absence of these manufactures recommendations the minimum distance shall be 20 feet.

8.20.G.9 All Wind Energy Conversion Systems shall be equipped with over speed controls, unless the manufacturer's recommendations state otherwise, to limit the blade rotation speed to within the design limits of the unit.

8.20.G.10 All guy wires and anchors shall be located no closer than 10 feet from any property lines.

8.20.G.11 Failure to comply with these regulations shall result in the immediate revocation of the permit.

(Section 8.20 Adopted, June 10, 2009)

## 8.21 DOWNTOWN BUSINESS 1 DISTRICT (DB1) (Adopted June 10, 2015)

The Downtown Business1 District encourages the development of business and services along the southern Route 1 corridor to provide for the needs of local citizens, visitors, and tourists in a compact environment that will serve as Arundel's central business district and service center. To meet the objectives of the 2014 Comprehensive Plan revisions, the DB-1 district will promote building, landscaping , and sign design that creates a memorable and intimate small town setting while providing sizeable building floor areas, visibility, and adequate parking to sustain viable business ventures.

The boundaries of the Downtown Business1 District are depicted on the Official Zoning Map.

### 8.21.1 Permitted Uses

The following are permitted uses in the Downtown Business1 District, providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

1. All legally existing businesses and associated structures operating in the DB-1 district as of June 10, 2015.
2. All residences legally existing in the DB-1 district as of June 10, 2015
3. Expansions of legally existing businesses and residences operating the DB-1 district as of June 10, 2015.
4. Multi-family dwellings provided that all units are located on any floor except first floor level
5. Accessory Buildings, Structures, or Uses.
6. Accessory Apartments
7. Agriculture & Farm stands
8. Artist & Craftsman studios
9. Business/commercial services and professional offices, with a maximum gross area of 20,000 square feet per building footprint;

10 Catering and food preparation
11 Commercial Services
12. Churches and parish houses
13. Day Care Center and Day Care Home
14. Garden centers
15. Health Clubs
16. Health Services
17. Home occupations
18. Lodging
19. Museums
20. Public Facility
21. Personal services
22. Retail, with a maximum gross area of 20,000 square feet per building footprint;
23. Residential, limited to one single family unit on a lot of record existing as of June 10, 2015 and all subsequent lots that are exempt from *30A MRSA §4401.4 and §4401.4D-1,D-2,D-3, and D-4.*
24. Residential, single-family dwellings provided the dwelling is secondary to a business located on the site or is located on any floor except first floor level.
25. Restaurants and Take Out Restaurants
26. Theaters
27. Recording studios/radio and TV stations
28. Recreational rentals
29. Recreational facilities, Passive
30. Retail, with a maximum gross area of 20,000 square feet per building footprint;
31. Service Clubs
32. Schools, Specialized
33. Timber Harvesting < 40% basal area
34. Yard sales

**8.21.2 Conditional Uses**

The following uses are permitted as conditional uses in the Downtown Business 1 District providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

1. Automobile service station, provided that a setback distance of 1000 feet is maintained from any other existing automobile service station operation.
2. Drive Thru facilities
3. Medical Facilities
4. Movie Theatres
5. Outdoor sales involving more than 2,500 square feet of sales area.
6. Pet Day Care Facilities
7. Public utility
8. Recreational Facilities, Commercial *excluding power sports amusements*
9. Residential, *Multi-family*, provided that all units are located on any floor except first floor level
10. Schools
11. Taverns
12. Timber Harvesting greater than 40% basal area of the forest stand
13. Veterinary Hospitals

**8.21.3 Space & Bulk Requirements in the DB-1 District**

| Zoning Standard | Residential Uses | Mixed-Use & Non-Residential Uses |
|---|---|---|
| Minimum Lot Size | 1 acre | 1 acre |
| Minimum Net Lot Area per Family Unit | 25,000 square feet | 25,000 square feet |
| Minimum Floor Area per Family Unit<br><br>One bedroom<br>Two Bedroom<br>Three + Bedrooms | <br><br>600 square feet<br>750 square feet<br>900 square feet | (Lodging Uses Not Included)<br>600 square feet<br>750 square feet<br>900 square feet |
| Minimum Lot Frontage | 100 feet | 100 |
| Maximum Building Footprint | NA | 20,000 square feet |
| Maximum Building Coverage | 70% | 70% |
| Maximum Principal Building Height | 35 feet | 50 feet |
| Front Yard Setback | 20 feet | 20 feet |
| Maximum Front Yard Setback | NA | 50 feet |
| Side Yard Setback | 10 feet | 10 -feet |
| Rear Yard Setback | 20 feet | 20 Feet |

**8.21.4 Design Standards for New Construction and Rehabilitation**

1. **Architectural Design Standards:**
   All proposed structural renovations, modifications, or new construction proposed within the Downtown Business District-1 shall conform to the following design guidelines:

   a. **Mass and Scale:** Buildings shall be designed so as to emulate the mass and scale of a Maine village. Structures exceeding 3,000 square feet shall reduce their mass and scale by:
   1) Orienting shorter walls away towards the public road, and longer walls away from public view.
   2) Create façade divisions in long walls with architectural jogs, pediments, protruding vestibules, changes in siding or color, fences, walls, pergolas, or outdoor spaces such as patios.
   3) Creation of multiple and distinct entrances by protruding or receding vestibules sidewalks and seating areas.
   4) Reduction of roof mass by varying roof dimensions and pitches along with the application of dormers, parapets, turrets, firewalls, or cupolas.

   b. **Building Heights:** In order to maintain the street enclosure of the Downtown District, foster vertical stratification of land uses, and increase the critical mass of the Downtown commercial center, All new building construction is encouraged to be multistory.

**c. Roof lines:** Roof should be gable-ended with a minimum roof pitch of 7/12 to emulate New England style architecture. Hip roofs and gambrel roofs are permitted. Flat roof buildings and structures with a roof pitch of less than 5/12 or less are acceptable provided decorative cornices or parapets are provided at the eave line.

**d. Fenestration *(Windows and doors)***: The following principles shall govern the proposed fenestration for building rehabilitation and new construction:

**1)** Window and door area should be not less than 25%, nor more than 66% of the facade area facing the street or public sidewalk.
**2)** The arrangement of the windows and doors should provide a visual rhythm in the facade without appearing monotonous.
**3)** Window dimensions and construction should be complimentary to the architectural character and where appropriate, the historical period, of the structure.
**4)** Windows of differing dimensions are permitted as long as they occupy logical locations of the structure, such as a half-round window at a gable peak, and compliment the fenestration pattern.
**5)** Ribbon windows and curtain glass walls are specifically discouraged.

**e. Facade Materials:** The preferred facade materials are either wood or cement board clapboards or shingles to emulate the existing built character of Arundel and a coastal Maine village.

**1)** ***Red Brick:*** Red brick is acceptable if accompanied by decorative treatments such as pronounced sills, lintels, and pediments around doors, windows and cornices.
**2)** ***Concrete and textured Concrete Masonry Units (CMUs):*** Concrete and CMU facades are strongly discouraged.
**3)** ***High quality vinyl siding and metal shingles*** may be permitted, but *low quality siding, T-111,* and similar synthetic materials are specifically discouraged on the sidewalk facade of any structure in the Downtown Business 1 District.
**4)** ***Glass:*** Glass curtain wall construction is inappropriate for the Downtown Business 1 District .
**5)** ***Metal*:** Metal as a facade material is acceptable for architectural details such as Storefront Bulkhead panels. However metal skin structures, particularly prefabricated metal structures shall not be allowed, unless hidden from public view.
**6)** ***Combination of Materials:*** Facades should be of a single building material with architectural details such as storefront bulkheads, cornices, pilasters, and columns may be of different materials.

**f. Architectural Details:** Much of the character of any building stock and hence the public's perception of that district as a unique area is partially determined by the presence of architectural detailing and pedestrian-scale structure. Accordingly, spindles, brackets, finials, and balustrades for porches, railings and roof overhangs are encouraged.

**g. Standards for Automobile Service Station Canopies:**
Automobile Service Station canopies will be constructed at a minimum with a gable-ended or hip roof at no less than 6:12 pitch and all support columns shall be boxed in with a base and capital to match the scale of the roof.

### 8.21.5 Signs

Notwithstanding standards established in Section 7.12 all signs in the *Downtown Business 1 District* shall conform to the following performance standards:

**1. Materials:**

All proposed signage shall be constructed of wood, metal, composite materials, LEDs, or fabric. Unfinished construction materials such as plywood and oriented strand board (OSB) are expressly prohibited.

**2. Lighting:**

**a. External Illumination:** All externally illuminated signs may be illuminated by one or more fully shielded external light fixtures affixed to the building, the sign, or up lights emanating from the ground and installed to produce no glare for motorists or pedestrians. *Vertical foot-candles on the face of the sign shall not exceed 20fc*.

**b. Internal- Lighted signs:** Internally illuminated signs shall have a dark field and light message. The aggregate output of the light sources shall not exceed 500 initial lamp lumens per square foot of sign face per side.

**c. Neon signage** shall be permitted, if integrated into a distinctive sign design as determined by the Planning Board.

**d.** No flashing or rotating signs or reader boards or string lighting shall be allowed.

**e.** Non-neon light emanating from said fixtures shall be white-colored illumination.

**3. Digital Signs:**

**a. Light Intensity:** Light intensity of digital signs shall not exceed 3000 nits during daylight hours and shall not exceed 125 nits between one half hour before dusk and one half hour after sunrise. The Planning Board, Staff Review Committee, or Code Enforcement Officer may require lower nit illumination standards based upon field conditions and nuisances to residents and motorists.

**b. Message Cycling:**

1) ***Digital Electronic Message Sign:*** Messages shall contain no more than 15 words and shall remain static for a minimum duration of thirty (30) seconds in non-residential areas, and no less than five (5) minutes in residential neighborhoods, and shall otherwise conform to sections 7.12.13 and 7.12.13.2.

2) ***Digital Graphic Sign:*** Sign displays shall not change more frequently than once every five (5) minutes.

3) ***Time and Temperature:*** Temperature displays shall change only in only one degree increments, and time displays shall be in one minute increments, and shall be displayed for no less than thirty (30) second cycles cycles.

4) ***Digital Fuel Price Signs:*** Digital Fuel Price signs shall remain static, except when prices change.

**c. Setbacks and use restrictions**: Notwithstanding the standards of section 7.12.13, digital signs in the DB-1 District shall meet the following additional standards:

1) **Setback:** All digital signs shall be located no less than 35 feet from another digital sign.

***2) Digital Graphic Signs*** must be located in commercial areas only and sited no less than one hundred (100) feet from a residential dwelling.

**3) *Time and Temperature Signs*** must be located in commercial areas only or at a public facility.

**3. Area & Dimensions:**

**a. Area by Sign Types:**

| **Feature** | **Dimensional Requirement** | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Maximum Aggregate Sign Area** | 1 square foot of signage per linear foot of building sign frontage not to exceed 65 square feet | Varies by occupancy, excluding Directory signs. |
| **Post Signs** | | |
| ▪ Maximum Area | 40 square feet | Directory Sign-40 square feet |
| ▪ Maximum Area for *Digital Electronic Message Signs* and *Digital Graphic Signs* | 25 square feet | 25 square feet |
| ▪ Maximum Area for *Time & Temperature* and *Digital Fuel Price Signs* | 10 square feet | 10 square feet |
| ▪ Maximum Height | 10 feet | 10 feet |
| ▪ Illumination | Internal or external, Digital signage in conformance with Section 7.12.13 | Internal, external, Digital signage in conformance with Section 7.12.13 |
| ▪ Maximum Number of Post signs | One | One.<br>A second sign may be permitted by Planning Board if lot has more than 500 feet frontage, more than one access drive and the signs maintain a minimum 300 foot separation. |
| **Attached Signage** *(projecting and Wall signage)* | | |
| ▪ Maximum Area | One (1) square foot of signage of building sign frontage not to exceed 40 square feet. | One (1) square foot of signage of building sign frontage not to exceed 25 square feet per occupancy in addition to Directory Signage. |
| ▪ Illumination | Exterior Lighting | Exterior Lighting |
| ▪ Minimum height above ground level for projecting sign | 8 feet | 8 feet |
| **Window Signage** | | |
| ▪ Maximum area-Ground floor | 30% of window area | 30% of window area |
| ▪ Maximum Area-2nd storey | 25% of window area | 25% of window area |
| ▪ Maximum Area-3rd storey + | Not Permitted | Not Permitted |
| ▪ Illumination | Any type of illumination provided the sign illumination is static and of constant intensity | |

| Feature | Dimensional Requirement | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Sandwichboard Sign** | Permitted in addition to all other signage | Permitted in addition to all other signage |
| ▪ Maximum Permitted | One (1) per Property | One (1) per ground level occupancy up to 1 sign per 50 feet of business signage area |
| ▪ Maximum Size | 24 inches by 36 inches | 24 inches by 36 inches |
| ▪ Illumination | None | None |
| **Roof Signs** | Not Permitted | Not Permitted |
| **Commercial Banners** | Permitted in Conformance with Section 7.12.8 | |
| ▪ Maximum Area | 20 s.f per occupancy | 20 s.f. per occupancy |
| ▪ Illumination | None | None |

**(1)** Sign area for Projecting signs and Post signs with parallel faces shall be calculated only on one of the faces. Sign area of one face of Post or Projecting sign shall be no more than the maximum allowed for that specific sign. The total area of all faces of a sign shall not exceed two times the area allowed for one face of that sign. Sign area of Post or projecting signs with more than two faces shall be calculated based on all the faces of the sign.

**4. Design Requirements for Post and Directory Signs**

**a. Sign Shape:** The main body of the sign may be of any shape, however round / oval and bow-topped signs are preferred. Simple rectangular signs must be mounted in a frame that provides a distinctive peak, finial, or oval shape at the top.

**b. Lettering:** Lettering on a sign shall be distinctive, be a recognized graphic font, and shall be either carved into the sign face, attached in relief or professionally painted on the sign surface.

**c. Sign Frame:** Sign frames and supports shall consist of the following:

1). ***Vertical support posts*** shall be tapered, beveled, fluted, or accentuated with architectural flourishes shall be terminate by a post cap, finial, or bevel. All vertical posts shall be painted.

2). ***Horizontal support members*** shall be painted. The top horizontal frame shall be peaked, rounded, or contain a distinctive eyebrow.

**d**. **E911 Address:** All Identification Signs for multiple occupancies or post signs for a single occupancy lot shall incorporate the assigned 911 street number address of the property at the peak of the sign, in either an eyebrow or a pediment of the sign body.

**e**. **Product Logo:** Signs shall not contain logos of manufacturers or products that are not the principal product sold by the business.

**8.21.6 Off-Street Parking and Loading Requirements**

All proposed uses in the Downtown Business Districts shall provide off-street parking in conformance with design standards established in Section 7.6 and according to the following special provisions:

**1. Location of Parking Lots:** All parking shall be located to the side or the rear of the principal building facing Route 1.

**2. Reserve for Connecting Parallel Roads:** Where feasible and justified, the Planning Board will require that land be reserved for an interior road parallel to Route 1 running between adjacent parcels in order to minimize cumulative curb cuts on Route 1.

**3. Parking Lot Connections Mandated:** All parking lots shall be designed to be connected to existing or potential parking lots on adjacent parcels.

4. **Shared Parking:** Parking spaces that are shared by two or more businesses with differing demand hours may be permitted to meet the parking standards of Section 7.6 contingent upon approval by the Planning Board.

5. **Route 1 Intersection Standards:** All proposed streets, private ways, and driveways with ingress and/or egress onto Route 1 shall comply with design and construction standards specified in section 7.7.D.

**8.21.7 Lighting:**

Notwithstanding the standards specified in Section 7.5, all outdoor site lighting shall comply with the following additional standards:

1. No lighting fixture shall exceed the height of the principal building in the front yard area or twenty (20) feet, whichever is less, and no more than twenty-five (25) feet in the rear and side yards.

2. Site lighting from a non-residential use shall not shed more than 0.5 foot-candles onto surrounding residential properties, or 1.0 foot-candles onto surrounding non-residential properties,

3. All outdoor lighting fixtures shall be fully shielded to prevent point source glare.

4. Floodlights shall be angled no less than 45 degrees to the plane of the building façade.

5. All outdoor lighting shall have a Color rendering index (**CRI)** of no less than 80 in the front yard area and no less than 65 in the side or rear yards.

**8.21.7 Landscaping:**

New construction or any site improvements requiring *Site Plan* approval within the DB-1 shall be accompanied by the installation of plant material between public and private roads, driveways and buildings as follows:

1. **Front Yard Landscape Strip:** A fifteen (15) foot wide landscape strip shall be established in the front yard of the property between the building and the Public Street or private way and, consisting of vegetative ground cover, shrub plant material and or street trees. Sidewalks and courtyards may be located within the landscape strip.

2. **Street trees:** Street trees shall be installed in the front yard of any property fronting a public street or a private way at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.

3. **Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the public street.

4. **Parking Lot Planting Strips:** In all other areas besides the front yard, a minimum five (5) foot planting strip shall separate parking areas and driveways and parking lots and buildings. Said planting strip shall be landscaped with two or more of the following: vegetative groundcover, shrubs, perennial flowers, and trees; except in those situations where a paved and curbed sidewalk is provided between the building and parking lot. Plantings for all other parking in the DB-1 district shall conform to the standards of Section 7.8 of this Ordinance.

5. **Side Yard Planting Strips:** A 10-foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

## 8.22 DOWNTOWN BUSINESS 2 DISTRICT (DB2) (Adopted June 10, 2015)

The Downtown Business 2 District is located behind the Downtown Business 1 District and is designed to encourage more intensive commercial and institutional uses that would otherwise be incompatible with the scale and business mix of the DB-1 district. Site and building design is intended to be complimentary to building patterns in DB-1 and yet maximizes the functionability of available land. The boundaries of the Downtown Business 2 District are depicted on the Official Zoning Map.

### 8.22.1 Permitted Uses

The following are permitted uses in the Downtown Business 2 District, providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

**1.** All legally existing businesses and associated structures operating in the DB-2 district as of June 10, 2015.
**2.** All residences legally existing in the DB-2 district as of June 10, 2015.
**3.** Expansions of legally existing businesses and residences operating the DB-2 district as of June 10, 2015.
4. Accessory Buildings, Structures, or Uses
5. Accessory Apartments
6. Agriculture
7. Artist and Craftsman studios
8. Automobile service stations
9. Automobile Repair garage
10. Automobile, watercraft and recreational vehicle sales
11. Banquet Halls
12. Breweries and Wineries
13. Catering & Food preparation
14. Commercial services
15. Contractor storage yards
16. Convention Centers
17. Churches and parish houses
18. Day care facilities, including adult and child care
19. Drive-thru facility
20. Garden centers
21. Health Clubs
22. Health Services
23. Lodging and Boardinghouses
24. Low Impact Manufacturing
25. Marinas
26. Medical facilities
27. Public Facility
28. Museums
29. Professional Offices
30. Timber Harvesting, less than 40% of the basal area of the forest stand
32. 31. Theaters and Movie Theaters
33. Personal services
34. Recording Studios and Radio Stations
35. Recreational rentals, sales, supplies
36. Recreational Facility, Passive
37. Residential, limited to one single family unit on a lot of record existing as of June 10, 2015 and all subsequent lots that are exempt from *30A MRSA §4401.4 and §4401.4D-1,D-2,D-3, and D-4.*
38. Restaurants
39. Retail
40. Clubs
41. Schools
42. Warehousing

43. Veterinary Hospitals
44. Yard sales.

**8.22.2 Conditional Uses**

The following uses are permitted as conditional uses in the Downtown Business 2 District providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

1. Age Restricted Community
2. Campgrounds
3. Congregate Care Facilities
4. Convention Center
5. Pet Day Care Facilities
6. Fuel storage and distribution operations
7. Golf Course
8. Kennels
9. Medium Impact manufacturing
10. Medical marijuana-caregiver production facility
11. Outdoor sales involving more than 5,000 square feet of sales area.
12. Public utility
13. Recreational Facilities, Commercial *excluding power sports amusements*
14. Residential (to include single family, two family, and multi-family) provided that a minimum 35% of the parcel area is used for commercial or non-residential purposes.
15. Taverns
16. Timber harvesting in excess 40% of the basal area of the forest stand.

**8.22.3 Space & Bulk Requirements in the DB-2 District**

**Table 8.22-1**
**Dimensional Requirements**

| **Zoning Standard** | **Non Residential Uses** | **Residential Uses** | | |
|---|---|---|---|---|
| Minimum Lot Size | 1 acre | 2 acre NDD*<br>(on lots conforming with section 8.22.1.32 and 8.22.2.11)<br>See Table 8.22.2 below for Density bonus dimensional requirements | | |
| Maximum Building Footprint | 100,000 sf | NA | | |
| Maximum Building Coverage | 70% | 40% | | |
| Age Restricted Housing Density | | 1 unit /1 acre NDD*<br>1 unit /0.5 acre NDD* with 35% commercial/non-residential uses on the project site | | |
| Congregate Care Facility | 1 unit /5,000sf NDD* | | | |
| Maximum Building Height | 50 feet | 50 feet | | |
| | | | | |
| | | ***2 acre*** | ***1.5 acre*** | ***1 acre*** |
| Front Yard Setback | 40 feet | 50 feet | 40 feet | 35 feet |
| Side Yard Setback | 15 feet | 25 feet | 20 feet | 15 feet |
| Rear Yard Setback | 25 feet + 5 feet for every story over 2 stories | 35 feet | 30 feet | 25 feet |
| Setback from adjacent R1, R2, R4 | 75 feet<br>Planning Board may reduce setback to no less than 40 feet | | | |
| Minimum Lot Frontage | 100 feet | 250 feet | 200 feet | 175 feet |

| | | | | |
|---|---|---|---|---|
| Arterial /Collector Road | | | | |
| Minimum Lot Frontage<br>Local Road | 100 feet | 200 feet | 175 feet | 150 feet |
| Minimum Lot Frontage<br>On a cul-de-sac | 75 feet | 100 feet | 75 feet | 75 feet |

**NDD- Net Development Density: Parcel Area minus area of wetlands, steep slopes, and hydric soils.*

| **Table 8.22-2<br>Density Bonuses for Residential Uses in a Mixed Use Project** | |
|---|---|
| **Non-residential Use as a Percentage of total parcel area (NDD*)** | **Minimum Residential Lot Size (NDD*)** |
| 35%-50% | 2 acres |
| 51%-65% | 1.5 acres |
| 66%+ | 1 acre |
| **NDD- Net Development Density: Parcel Area minus area of wetlands, steep slopes, and hydric soils* | |

**8.22.4 Signs**

Notwithstanding standards established in Section 7.12, all signs in the *Downtown Business 2 District* shall conform to the following performance standards:

1. **Materials:** All proposed signage shall be constructed of wood, metal, composite materials, glass or fabric. Unfinished construction materials such as plywood and oriented strand board (OSB) are expressly prohibited.

2. **Lighting:**

   a. **External Illumination:** All externally illuminated signs may be illuminated by one or more fully shielded external light fixtures affixed to the building, the sign, or up lights emanating from the ground and installed to produce no glare for motorists or pedestrians. *Vertical foot-candles on the face of the sign shall not exceed 20fc.*

   b. **Internal- Lighted signs:** Internally illuminated signs shall have a dark field and light message. The aggregate output of the light sources shall not exceed 500 initial lamp lumens per square foot of sign face per side.

   c. **Neon signage** shall be permitted, if integrated into a distinctive sign design as determined by the Planning Board.

   d. No flashing or rotating signs or reader boards or string lighting shall be allowed.

   e. Non-neon light emanating from said fixtures shall be white-colored illumination.

3. **Digital Signs:**

   a. **Light Intensity:** Light intensity of digital signs shall not exceed 3000 nits during daylight hours and shall not exceed 125 nits between one half hour before dusk and one half hour after sunrise. The Planning Board, Staff Review Committee, or Code Enforcement Officer may require lower nit illumination standards based upon field conditions and nuisances to residents and motorists.

   b. **Message Cycling:**

      1) ***Digital Electronic Message Sign:*** Messages shall contain no more than 15 words and shall remain static for a minimum duration of thirty (30) seconds in non-residential areas, and no less than five (5) minutes in residential neighborhoods, and shall otherwise conform to sections 7.12.13 and 7.12.13.2.

      2) ***Digital Graphic Sign:*** Sign displays shall not change more frequently than once every five (5) minutes.

**3)*Time and Temperature:*** Temperature displays shall change only in only one degree increments, and time displays shall be in one minute increments, and shall be displayed for no less than thirty (30) second cycles.

**4) *Digital Fuel Price Signs:*** Digital Fuel Price signs shall remain static, except when prices change.

**c. Sign Setbacks**: All digital signs shall be set back from another digital sign by at least thirty-five (35) feet, and *Digital Graphic Signs* shall be setback at least 100 feet from a single family residential property.

**4. Area & Dimensions:**

**a. Area by Sign Types:**

| **Feature** | **Dimensional Requirement** | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Maximum Aggregate Sign Area** | 1 square foot of signage per linear foot of building sign frontage not to exceed 65 square feet | Varies by occupancy, excluding Directory signs. |
| **Post Signs** | | |
| ▪ Maximum Area | 40 square feet | Directory Sign-60 square feet |
| ▪ Maximum Area for *Digital Electronic Message Signs* and *Digital Graphic Signs* | 30 square feet | 30 Square feet |
| ▪ Maximum Area for *Time & Temperature* and *Digital Fuel Price Signs* | 10 square feet | 10 square feet |
| ▪ Maximum Height | 15 feet | 15 feet |
| ▪ Illumination | Internal, external, or digital | Internal, external, or digital |
| ▪ Maximum Number of Post signs | One | One.<br>A second sign may be permitted by Planning Board if lot has more than 500 feet frontage, more than one access drive and the signs maintain a minimum 300 foot separation. |
| **Attached Signage** *(projecting and Wall signage)* | | |
| ▪ Maximum Area | One (1) square foot of signage of building sign frontage not to exceed 40 square feet. | One (1) square foot of signage of building sign frontage not to exceed 25 square feet per occupancy in addition to Directory Signage. |
| ▪ Illumination | Exterior Lighting | Exterior Lighting |
| ▪ Minimum height above ground | 8 feet | 8 feet |
| **Window Signage** | | |
| ▪ Maximum Area- Ground Floor | 30% of window area | 30% of window area |
| ▪ Maximum Area-2nd floor | 25% of window area | 25% of window area |
| ▪ Maximum Area-3rd floor and above | Not Permitted | Not Permitted |
| ▪ Illumination | Any type of illumination provided the sign illumination is static and of constant intensity | |

| | | |
|---|---|---|
| **Sandwichboard Sign** | Permitted in addition to all other signage | Permitted in addition to all other signage |
| ▪ Maximum Permitted | One (1) per Property | One (1) per ground level occupancy up to 1 sign per 50 feet of business signage area |
| ▪ Maximum Size | 24 inches by 36 inches | 24 inches by 36 inches |
| **Feature** | **Dimensional Requirement** | |
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| ▪ Illumination | None | None |
| **Roof Signs** | Not Permitted | Not Permitted |
| **Commercial Banners** | Permitted in Conformance with Section 7.12.B.1 | |
| ▪ Maximum Area | 20 s.f per occupancy | 20 s.f. per occupancy |
| ▪ Illumination | None | None |

**1)** Sign area for Projecting signs and Post signs with parallel faces shall be calculated only on one of the faces. Sign area of one face of Post or Projecting sign shall be no more than the maximum allowed for that specific sign. The total area of all faces of a sign shall not exceed two times the area allowed for one face of that sign. Sign area of Post or projecting signs with more than two faces shall be calculated based on all the faces of the sign.

**5. Design Requirements for Post and Directory Signs**

**a. Sign Shape:** The main body of the sign may be of any shape, however round / oval and bow-topped signs are preferred. Simple rectangular signs must be mounted in a frame that provides a distinctive peak, finial, or oval shape at the top.

**b. Lettering:** Lettering on a sign shall be distinctive, be a recognized graphic font, and shall be either carved into the sign face, attached in relief or professionally painted on the sign surface.

**c. Sign Frame:** Sign frames and supports shall consist of the following:

(1). ***Vertical support posts*** shall be tapered, beveled, fluted, or accentuated with architectural flourishes shall be terminate by a post cap, finial, or bevel. All vertical posts shall be painted.

(2). ***Horizontal support members*** shall be painted. The top horizontal frame shall be peaked, rounded, or contain a distinctive eyebrow.

**d. E911 Address:** All Identification Signs for multiple occupancies or post signs for a single occupancy lot shall incorporate the assigned 911 street number address of the property at the peak of the sign, in either an eyebrow or a pediment of the sign body.

**e. Product Logo:** Signs shall not contain logos of manufacturers or products that are not the principal product sold by the business.

**8.22.5 Off-Street Parking and Loading Requirements**

All proposed uses in the Downtown Business Districts shall provide off-street parking in conformance with design standards established in Section 7.6, 7.7.B.1, and 7.7.D and according to the following special provisions:

1. **Shared Parking:** Parking spaces that are shared by two or more businesses with differing demand hours may be permitted to meet the parking standards of Section 7.6 contingent upon approval by the Planning Board.

2. **Parking Lot Connections Mandated:** All parking lots shall be designed to be connected to existing or potential parking lots on adjacent parcels in either the DB1 or the DB2 districts.

3. **Reserve for Connecting Parallel Roads:** Where feasible and justified, the Planning Board will require that land be reserved for an interior road parallel to Route 1 or Limerick Road running between adjacent parcels in order to minimize cumulative curb cuts on arterials and collector streets.

4. **Route 1 Intersection Standards:** All proposed streets, private ways, and driveways with ingress and/or egress onto Route 1 shall comply with design and construction standards specified in section 7.7.D.

**8.22.6 Lighting:**

Notwithstanding the standards specified in Section 7.5, all outdoor site lighting shall comply with the following additional standards:

1. No lighting fixture shall exceed the height of the principal building in the front yard area or twenty (20) feet, whichever is less, and no more than twenty-five (25) feet in the rear and side yards.
2. Site lighting from a non-residential use shall not shed more than 0.5 foot-candles onto surrounding residential properties, or 1.0 foot-candles onto surrounding non-residential properties,
3. All outdoor lighting fixtures shall be fully shielded to prevent point source glare.
4. Floodlights shall be angled no less than 45 degrees to the plane of the building façade.
5. All outdoor lighting shall have a Color rendering index (**CRI)** of no less than 65 in the front yard area and no less than 50 in the rear yards.

**8.22.7 Landscaping:**

New construction or any site improvements requiring Site Plan approval within the DB-1 shall be accompanied by the installation of plant material between public and private roads, driveways and buildings as follows:

1. **Front Yard Landscape Strip:** A fifteen (15) foot wide landscape strip shall be established in the front yard of the property between the building and the Public Street or private way and, consisting of vegetative ground cover, shrub plant material and or street trees. Sidewalks and courtyards may be located within the landscape strip.
2. **Street trees:** Street trees shall be installed in the front yard of any property fronting a public street or a private way at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.
3. **Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the Public Street and private ways.
4. **Parking Lot Planting Strips:** In all other areas besides the front yard, a minimum five (5) foot planting strip shall separate parking areas and driveways and parking lots and buildings. Said planting strip shall be landscaped with one or more of the following: vegetative ground cover, shrubs, perennial flowers and trees; except in those situations where a paved and curbed sidewalk is provided between the building and parking lot. Plantings for all other parking in the DB-2 district shall conform to the standards of Section 7.8 of this Ordinance.
5. **Side Yard Planting Strips:** A 10 foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

**8.23 TOWNHOUSE CORNER DISTRICT (TC)** (Adopted June 10, 2015)

Located at the nexus of Arundel Road, Log Cabin Road and Sinnot Avenue, the Town House Corner area was historically an important institutional and commercial crossroads for North Kennebunkport residents both before and after its cession. The intent of this district is to reestablish small-scale commercial and service center and create a new gateway to our community in context and compatibility with existing businesses and residences both in Arundel and across the street in Kennebunkport.

**8.23.1 Permitted Uses:**

1. All legally existing businesses and accessory uses operating in the Townhouse Corner District as of June 10, 2015.
2. Single family residence, detached and duplexes
3. Accessory Apartment
4. Accessory buildings, structures or uses.
5. Agriculture
6. Artist and Craftsmen Studios
7. Commercial Services
8. Day care home
9. Farm Retail
10. Home Occupations
11. Lodging, including boarding houses
12. Museum
13. Personal Services
14. Professional Offices
15. Public Facility
16. Restaurants
17. Retail
18. Timber Harvesting 40% or less basal area
19. Yard Sales

**8.23.2 Conditional Uses**

1. Automotive repair
2. Contractor Yard 1
3. Clubs
4. Day Care Center
5. Low impact manufacturing, not to exceed 5,000 square feet in area
6. Multi-family dwellings
7. Pet Day Care Center
8. Public Utility
9. Garden Center
10. Take out Restaurant
11. Timber Harvesting 40% or more basal area
12. Schools, including Specialized Schools
13. Recreational facilities, Commercial *excluding power sports amusements*

**8.23.3 Space and Bulk requirements for the Townhouse Corner District**

| Zoning Standards | All Uses with Public Water or sewer | All Uses Without Public Water |
|---|---|---|
| •Minimum Lot Size | 20,000 sf NDD* | 1 acre NDD* |
| •Minimum Net Lot Area per Family Unit | 20,000 SF | 1 acre |
| •Minimum Lot Frontage | 100 feet | 100 feet |
| •Minimum Lot Width | 100 feet | 100 feet |

| | | |
|---|---|---|
| •Maximum Lot Coverage | 80% | 60% |
| •Maximum Building Footprint | 5,000 square feet | 5,000 square feet |
| •Maximum Principal Building Height | 35 feet | 35 feet |
| •Minimum Front Yard Setback: | 25 feet | 25 feet |
| •Minimum Side Yard Setback: | 10 feet | 15 feet |
| •Minimum Rear Yard Setback: | 10 feet | 15 feet |

**Net Development Density*

1. **Net Development Density:** Lots created after June 10, 2015 and density for residential duplexes units shall meet the net development density requirements specified in section 8.23.3. Multi-family residential densities shall meet the net residential density requirements of the subdivision ordinance.

**8.23.4 Performance Standards Specific to the Townhouse Corner Districts**

In addition to the Performance Standards contained in Section 7.0 of the Land Use Ordinance, the following performance standards shall apply to all new uses, structures, renovations, or expansions as in the Townhouse Corner District that are required to obtain a *Conditional Use* or *Site Plan* permit as defined in Section 11.0 or 12.0 of this ordinance. In instances where the regulatory standards of Section 8.23.4 and Section 7.0 conflict the standards of Section 8.23.4 shall prevail.

1. **Building Design:** The intent of the subsequent standards is to insure that construction, rehabilitation, or addition of non-residential structures and uses within the *Townhouse Corner Districts* will be visually harmonious with the architectural and landscape character of the existing settlement. New construction visible from the street or visible to the public shall be designed to reflect the residential character of the surrounding neighborhood. With the exception of permitted greenhouses and horticultural structures, **all new construction *visible from the street* shall meet the following architectural design standards.**

   a. **Scale & Form:**

      1) ***Proportion of Height & Width****:* The relative proportion of height and width of any proposed new construction shall be visually compatible with that of surrounding structures. With the exception of greenhouses and agricultural barns, the mass and relative height of non-residential construction in the *Townhouse Corner District* shall mimic that of surrounding residential structures.
      For structures exceeding 3,000 square feet in area, reduction in the scale and mass of the building may be achieved by the following:

      (a) Orientation of shorter walls towards the public road, and longer walls away from public view.

      (b) Creation of façade divisions in long walls with architectural jogs, pediments, protruding vestibules, changes in siding or color, fences, walls, pergolas, and outdoor spaces such as patios.

      (c) Creation of multiple and distinct entrances by protruding or receding vestibules sidewalks and seating areas.

      (d) Reduction of roof mass by varying roof dimensions and pitches along with the application of dormers, parapets, turrets, firewalls, and cupolas.

      2) ***Roof Shape:*** Proposed roof pitches, orientations, and overall roof shape shall be visually compatible with those of surrounding structures, as observed from the street and/or sidewalk. As a general rule, roofs shall be pitched at a ratio of between 12"/8" to 12"/12", with pitches of less than 12"/8" encouraged only in *Hip Roof* and or gambrel construction.

      3) ***Scale:*** The size and mass of proposed structure(s) in relation to open spaces, windows, doors, porches, and stairs shall be visually compatible with principal structures and public spaces to which they are visually related. The intent of the scale is that it neither overpowers nor appears diminutive to the built character of the surrounding area.

**b. Facade Treatment:** For structures fronting or visible from the Public Street or sidewalk:

1) **Fenestration *(Windows and doors)***: The following principals shall govern the proposed fenestration for building rehabilitation and new construction:

**(a)** Window and door area shall be not less than 25%, nor more than 66% of the facade area facing the street or public sidewalk.

**(b)** The arrangement of the windows and doors shall provide a visual rhythm in the facade without appearing monotonous.

**(c)** Window dimensions and construction should be complimentary to the architectural character and where appropriate, the historical period, of the structure.

**(d)** Windows of differing dimensions are permitted as long as they occupy logical locations of the structure, such as a half-round window at a gable peak, and compliment the fenestration pattern.

**(e)** Ribbon windows and curtain glass walls are specifically prohibited.

2) ***Facade Materials****:* Facade materials shall be limited to clapboard, shake shingles, board and batten of similar texture, and color (excepting paint) as the dominate building materials within the district and especially of those structures to which the new construction is visually related. Corrugated metal, T-111, and exposed vapor barriers shall be prohibited. Quality vinyl siding may be permitted by the Planning Board.

**c. Architectural Details:** Much of the character of any building stock and hence the public's perception of that district as a unique area is partially determined by the presence of architectural detailing and pedestrian-scale structure.

Spindles, brackets, finials, and balustrades for porches, railings and roof overhangs are encouraged.

**d. Fences, Railings, & Steps:**

**(1)** Fences, steps, and porches should reflect the architectural character, materials, and historic period of the principal structure. Finials, reveals, balustrades, spindles and other decorative elements should be incorporated into the design wherever possible and appropriate.

**(2)** Free-standing fences visible from the sidewalk or street should be constructed of durable materials, such as cedar, redwood, pressure treated pine, matte surfaced PVC, or of metal or combination thereof and in a manner consistent with specifications of the Planning Board. Chain-link fences located within public view are discouraged.

**(3)** All fences and railings manufactured without integral color should be either painted or stained.

**2. Parking**

Notwithstanding the parking standards specified in Section 7.6 of this Ordinance, all uses in the *Townhouse Corner District*, with the exception of residential and lodging shall conform to the parking requirements established herein.

**a.** All off-street parking facilities accommodating four (4) or more spaces shall be buffered from adjacent residential properties and shall be screened from the street if so located in the front yard;

**b.** Off street parking spaces for non-residential structures exceeding 3,000 square feet in net leasable area located in the TC district shall be distributed in the following manner:

| | |
|---|---|
| *Front yard (area between the street and the building)* | *35% or less* |
| *Rear Yards* | *65% or more* |

**3. Signage:**

All signs in the Townhouse Corner District must conform to the following standards in addition to those of Section 7.12 of this Land Use Ordinance.

**a.** ***Materials:*** All proposed signage in the Townhouse Corner District shall be constructed of wood, metal and or fabric or composite materials.

**b.** ***Area & Dimensions***

**1)** Total aggregate signage located on the site, displayed on awnings, and affixed to the building, shall not exceed one (1) square foot of signage for every two (2) linear feet of *Building Sign Frontage* on a public street in the District.

**2)** Maximum aggregate signage for any business shall not exceed thirty (30) square feet

**3)** Free-standing signs shall not exceed eight (8) feet in height. Square footage of signage allocated for the free standing sign shall be subtracted from the maximum allowable square footage for the property.

**4)**. Permitted sign area is not transferable between sides of the building located on a corner lot.

**4. Lighting:**

Notwithstanding the standards specified in Section 7.5, all outdoor site lighting shall comply with the following standards:

**a.** Lighting fixtures in the front yard or visible from the street shall not exceed the height of the principal building or fifteen (15) feet, whichever is less. Lighting fixtures located in the rear yard or not visible from the street shall not exceed 20 feet in height.

**b.** Site lighting from a non-residential use shall not shed more than 0.1 foot-candles onto surrounding residential properties, or 1.0 foot-candles onto surrounding non-residential properties,

**c.** All outdoor lighting fixtures shall be shielded to prevent point source glare.

**d.** Floodlights shall be angled no less than 45 degrees to the plane of the building façade.

**e.** All outdoor lighting shall have a Color rendering index (**CRI)** of no less than 80.

**5. Landscaping**

Notwithstanding the standards specified in Section 7.8 of this Ordinance, new non-residential and mixed uses in the TC District shall conform to the following additional standards:

a. **Street trees:** Street trees shall be installed in the front yard of any property fronting a public street at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.

b. **Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the public street.

c. **Parking Lot Planting Strips:** In all other areas besides the front yard, a minimum five (5) foot planting strip shall separate parking areas and driveways and parking lots and buildings. Said planting strip shall be landscaped with two or more of the following: vegetative groundcover shrubs, perennial flowers, and/or trees; except in those situations where a paved and curbed sidewalk is provided between the building and parking lot. Plantings for all other parking in the Townhouse Corner District shall conform to the standards of Section 7.6 and 7.8 of this Ordinance.

d. **Side Yard Planting Strips:** A 10-foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

## 8.24 ALFRED ROAD BUSINESS DISTRICT (AR) (Adopted June 10, 2015)

### 8.24.1 Permitted Uses

The following are permitted uses in the Alfred Road Business District, providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

1. All legally existing businesses and associated structures operating in the AR district as of June 10, 2015.
2. All residences legally existing in the AR district as of June 10, 2015.
4. Expansions of legally existing businesses and residences operating the AR district as of June 10, 2015.
5. Accessory Buildings, Structures, or Uses
6. Accessory Apartments
7. Agriculture
8. Artist and Craftsman studios
9. Automobile service stations
10. Automobile Repair
11. Automobile, watercraft and recreational vehicle sales
12 Banquet Halls
13. Breweries and Wineries
14. Catering & Food preparation
15. Clubs
16. Commercial services
17. Contractor Yards 1 and 2
18. Convention Centers
19. Churches and parish houses
20. Day care facilities, including adult and child care
21. Drive-thru facility
22. Garden centers
23. Health Clubs
24. Health Services
25. Lodging and Boardinghouses
26. Low Impact Manufacturing
27. Medical facilities
28. Museums
29. Professional Offices
30. Public Facility
31. Theaters and Movie Theaters
32. Personal services
33. Recording Studios and Radio Stations
34. Recreational rentals, sales, supplies
35. Recreational Facility, Passive
36. Residential, limited to one single family unit on a lot of record existing as of June 10, 2015 and all subsequent lots that are exempt from *30A MRSA §4401.4 and §4401.4D-1,D-2,D-3, and D-4.*
37. Restaurants
38. Retail
39. Schools
40. Warehousing
41. Veterinary Hospitals
42. Yard sales.
43. Wind Energy Generation

### 8.24.2 Conditional Uses

The following uses are permitted as conditional uses in the *Alfred Road Business District*, providing that the uses meet all applicable performance standards herein and in section 7.0 of this Ordinance.

1. Age Restricted Community
2. Campgrounds
3. Congregate Care Facilities

4. Convention Center
5. Pet Day Care Facilities
6. Fuel storage and distribution operations
7. Golf Course
8. Kennels
9. Medium Impact manufacturing
10. Outdoor sales involving more than 5,000 square feet of sales area.
11. Public Utility
12. Recreational Facilities, Commercial *excluding power sports amusements*
13. Residential (to include single family, two family, and multi-family) provided that a minimum 20% of the aggregate floor area is used for commercial or non-residential purposes.
14. Taverns
15. Timber harvesting over 40% of the basal area of the forest stand.

### 8.24.3 Space & Bulk Requirements in the AR District

**Table 8.24-1**
**Dimensional Requirements**

| Zoning Standard | Non Residential Uses | Residential Uses |
|---|---|---|
| Minimum Lot Size | 1 acre | 1 acre |
| Maximum Building Coverage | 70% | 40% |
| Age Restricted Housing Density | | 2 units /1 acre NDD*<br>4 units /1 acre NDD* with 20% commercial/non-residential uses on the project site |
| Maximum Building Height | 50 feet | 50 feet |
| | | |
| | | |
| Front Yard Setback | 40 feet | 35 feet |
| Side Yard Setback | 15 feet | 15 feet |
| Rear Yard Setback | 25 feet + 5 feet for every story over 2 stories | 25 feet |
| Setback from adjacent residential building | 75 feet<br>Planning Board may reduce setback to no less than 40 feet | |
| Minimum Lot Frontage<br>Arterial /Collector Road | 100 feet | 175 feet |
| Minimum Lot Frontage<br>Local Road | 100 feet | 150 feet |
| Minimum Lot Frontage<br>On a cul-de-sac | 75 feet | 75 feet |

**NDD- Net Development Density: Parcel Area minus area of wetlands, steep slopes, and hydric soils.*

### 8.24.4 Signs

Notwithstanding standards established in Section 7.12, all signs in the *Alfred Road Business District* shall conform to the following performance standards:

1. **Materials:**

   All proposed signage shall be constructed of wood, metal, composite materials, glass or fabric. Unfinished construction materials such as plywood and oriented strand board (OSB) are expressly prohibited.

2. **Lighting:**

**a.** **External Illumination:** All proposed externally lighted signs shall be illuminated by one or more fully shielded external light fixtures affixed to the building, the sign, or up lights emanating from the ground and installed to produce no glare for motorists or pedestrians. *Vertical foot-candles on the face of the sign shall not exceed 20fc.*

**b.** **Internal- Lighted signs:** Internally illuminated signs shall have a dark field and light message. The aggregate output of the light sources shall not exceed 500 initial lamp lumens per square foot of sign face per side.

**c.** **Neon signage** shall be permitted, if integrated into a distinctive sign design as determined by the Planning Board.

**d.** No flashing or rotating signs or reader boards or string lighting shall be allowed.

**e.** Non-neon light emanating from said fixtures shall be white-colored illumination.

**3. Digital Signs:**

a. **Light Intensity:** Light intensity of digital signs shall not exceed 3000 nits during daylight hours and shall not exceed 125 nits between one half hour before dusk and one half hour after sunrise. The Planning Board, Staff Review Committee, or Code Enforcement Officer may require lower nit illumination standards based upon field conditions and nuisances to residents and motorists.

b. **Message Cycling:**

1) ***Digital Electronic Message Sign:*** Messages shall contain no more than 15 words and shall remain static for a minimum duration of thirty (30) seconds in non-residential areas, and no less than five (5) minutes in residential neighborhoods, and shall otherwise conform to sections 7.12.13 and 7.12.13.2.

2) ***Digital Graphic Sign:*** Sign displays shall not change more frequently than once every five (5) minutes.

3) ***Time and Temperature:*** Temperature displays shall change only in only one degree increments, and time displays shall be in one minute increments, and shall be displayed for no less than thirty (30) second cycles.

4) ***Digital Fuel Price Signs:*** Digital Fuel Price signs shall remain static, except when prices change.

**c.** **Sign Setbacks**: All digital signs shall be set back from another digital sign by at least thirty-five (35) feet, and *Digital Graphic Signs* shall be setback at least 100 feet from a single family residential property No flashing or rotating signs or reader boards or string lighting shall be allowed.

**4. Area & Dimensions:**

a. ***Area by Sign Types***:

| **Feature** | **Dimensional Requirement** | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Maximum Aggregate Sign Area** | 1 square foot of signage per linear foot of building sign frontage not to exceed 65 square feet | Varies by occupancy, excluding Directory signs. |
| **Post Signs** | | |
| ▪ Maximum Area | 40 square feet | Directory Sign-60 square feet |
| ▪ Maximum Area for *Digital Electronic Message Signs* and *Digital Graphic Signs* | 30 square feet | 30 Square feet |

| Feature | Dimensional Requirement | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Post Signs** (continued ) | | |
| ▪ Maximum Area for *Time & Temperature* and *Digital Fuel Price Signs* | 10 square feet | 10 square feet |
| ▪ Maximum Height | 15 feet | 15 feet |
| ▪ Illumination | Internal or external | Internal, external |
| ▪ Maximum Number of Post signs | One | One.<br>A second sign may be permitted by Planning Board if lot has more than 500 feet frontage, more than one access drive and the signs maintain a minimum 300 foot separation. |
| **Attached Signage** *(projecting and Wall signage)* | | |
| ▪ Maximum Area | One (1) square foot of signage of building sign frontage not to exceed 40 square feet. | One (1) square foot of signage of building sign frontage not to exceed 25 square feet per occupancy in addition to Directory Signage. |
| ▪ Illumination | Exterior Lighting | Exterior Lighting |
| ▪ Minimum Height above ground level | 8 feet | 8 feet |
| **Window Signage** | | |
| ▪ Maximum area-Ground floor | 30% of window area | 30% of window area |
| ▪ Maximum Area-2nd storey | 25% of window area | 25% of window area |
| ▪ Maximum Area-3rd storey + | Not Permitted | Not Permitted |
| ▪ Illumination | Any type of illumination provided the sign illumination is static and of constant intensity | |
| **Sandwichboard Sign** | Permitted in addition to all other signage | Permitted in addition to all other signage |
| ▪ Maximum Permitted | One (1) per Property | One (1) per ground level occupancy up to 1 sign per 50 feet of business signage area |
| ▪ Maximum Size | 24 inches by 36 inches | 24 inches by 36 inches |
| ▪ Illumination | None | None |
| **Roof Signs** | Not Permitted | Not Permitted |
| **Commercial Banners** | Permitted in Conformance with Section 7.12.B.1 | |
| ▪ Maximum area | 20 s.f per occupancy | 20 s.f. per occupancy |
| ▪ Illumination | None | None |

1) Sign area for Projecting signs and Post signs with parallel faces shall be calculated only on one of the faces. Sign area of one face of Post or Projecting sign shall be no more than the maximum allowed for that specific sign. The total area of all faces of a sign shall not exceed two times the area allowed for one face of that sign. Sign area of Post or projecting signs with more than two faces shall be calculated based on all the faces of the sign.

**5. Design Requirements for Post and Directory Signs**

**a. Sign Shape:** The main body of the sign may be of any shape, however round / oval and bow-topped signs are preferred. Simple rectangular signs must be mounted in a frame that provides a distinctive peak, finial, or oval shape at the top.

**b. Lettering:** Lettering on a sign shall be distinctive, be a recognized graphic font, and shall be either carved into the sign face, attached in relief or professionally painted on the sign surface.

**c. Sign Frame:** Sign frames and supports shall consist of the following:

(1). ***Vertical support posts*** shall be tapered, beveled, fluted, or accentuated with architectural flourishes shall be terminate by a post cap, finial, or bevel. All vertical posts shall be painted.

(2). ***Horizontal support members*** shall be painted. The top horizontal frame shall be peaked, rounded, or contain a distinctive eyebrow.

**d. E911 Address:** All Identification Signs for multiple occupancies or post signs for a single occupancy lot shall incorporate the assigned 911 street number address of the property at the peak of the sign, in either an eyebrow or a pediment of the sign body.

**e. Product Logo:** Signs shall not contain logos of manufacturers or products that are not the principal product sold by the business.

**8.24.5 Off-Street Parking and Loading Requirements**

All proposed uses in the *Alfred Road Business District* shall provide off-street parking in conformance with design standards established in Section 7.6, 7.7.B.1, and 7.7.D and according to the following special provisions:

**1. Shared Parking:** Parking spaces that are shared by two or more businesses with differing demand hours may be permitted to meet the parking standards of Section 7.6 contingent upon approval by the Planning Board.

**2. Parking Lot Connections:** Where feasible, parking lots shall be designed to be connected to existing or potential parking lots on adjacent parcels in order to minimize curbcuts on Route 111.

**3. Loading Areas** Loading areas shall be *screened* from public view, and *buffered* from adjacent residential properties and zoning district boundaries, as determined by the Planning Board or Staff Review Committee.

**4. Route 111 Intersection Standards:** All proposed streets, private ways, and driveways with ingress and/or egress onto Route 111 shall comply with design and construction standards specified in section 7.7.D.

**8.24.6 Lighting:**

Notwithstanding the standards specified in Section 7.5, all outdoor site lighting shall comply with the following additional standards:

**1**. No lighting fixture shall exceed the height of the principal building in the front yard area or twenty (20) feet, whichever is less, and no more than twenty-five (25) feet in the rear and side yards.

**2.** Site lighting from a non-residential use shall not shed more than 0.5 foot-candles onto surrounding residential properties, or 1.0 foot-candles onto surrounding non-residential properties,

**3.** All outdoor lighting fixtures shall be fully shielded to prevent point source glare.

**4.** Floodlights shall be angled no less than 45 degrees to the plane of the building façade.

**5**. All outdoor lighting shall have a Color rendering index (**CRI)** of no less than 65 in the front yard area and no less than 50 in the rear yards.

**8.24.7 Landscaping:**

New construction or any site improvements requiring Site Plan approval within the AR district shall be accompanied by the installation of plant material between public and private roads, driveways and buildings as follows:

1. **Front Yard Landscape Strip:** A fifteen (15) foot wide landscape strip shall be established in the front yard of the property between the building and the Public Street or private way and, consisting of vegetative ground cover, shrub plant material and or street trees. Sidewalks and courtyards may be located within the landscape strip.

2. **Street trees:** Street trees shall be installed in the front yard of any property fronting a public street or a private way at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.

3. **Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the Public Street and private ways.

4. **Parking Lot Planting Strips:** In all other areas besides the front yard, a minimum five (5) foot planting strip shall separate parking areas and driveways and parking lots and buildings. Said planting strip shall be landscaped with two or more of the following: vegetative groundcover shrubs, perennial flowers, and/or trees; except in those situations where a paved and curbed sidewalk is provided between the building and parking lot. Plantings for all other parking in the AR district shall conform to the standards of Section 7.8 of this Ordinance.

5. **Side Yard Planting Strips:** A 10-foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

## 8.25 BUSINESS/OFFICE PARK/INDUSTRIAL DISTRICT (BI) (Amended June 10, 2015)

The Business/ Office Park/Industrial District is established to as a district where the principal use of the land is for manufacturing, processing, treatment, research, warehousing, storage and distribution; excluding those uses where there is danger of explosions, chemical, radioactive, or biological contamination or other hazards to public health or safety.

### 8.25.1 Permitted Uses

The following uses in the Business/Office Park/Industrial District are permitted, providing that the uses meet all applicable performance standards herein, and conform to all applicable State and Federal regulations regarding the storage, handling, processing of materials and the disposal of solid, liquid, gaseous, and radiation waste:

**1.** Accessory Buildings, Structures, or Uses
**2.** Accessory Apartments
**3.** Agriculture and aquaculture
**4.** Automobile service station
**5.** Commercial Services
**6.** Contractor Yard I & II
**7.** Garden centers
**8.** Lodging facilities excepting Boarding Houses
**9.** Manufacturing including low and medium impact manufacturing, exclusive of processes cited as Prohibited Uses
**10.** Medical facilities, hospitals, and veterinarian offices/hospitals
**11.** Personal services
**12.** Professional Offices
**13.** Public Facility
**14.** Retail
**15.** Restaurants and take-out restaurants
**16.** Theatres and playhouses
**17.** Garden centers
**18.** Timber harvesting, less than 40% basal area
**19.** Recreational Facility, Commercial and Passive
**20.** Recreational Rental
**21.** Warehousing
**22.** Wholesale distributors
**23.** Yard sale

### 8.25.2 Conditional Uses

The Planning Board may authorize the following Conditional Uses:

1. Auto repair garage
2. Automotive and watercraft sales
3. Campgrounds
4. Churches
5. Clubs
6. Day Care Centers
7. Drive Thru Facilities
8. Fuel Storage and Distribution Facility
9. Golf Courses
10. Mineral Extraction Operations meeting the performance standards contained in Section 8.25.6.
11. Nursing home and congregate care facilities
12. Planned Mixed Unit Developments
13. Pet Day Care Facilities
14. Public Utility
15. Seasonal Resorts
16. Self Storage Facilities
17. Solid Waste Facility
18. Taverns, subordinate and accessory to a lodging establishment or golf

19. Timber harvesting, in excess of 40% basal area
20. Truck terminals
21. Residential uses, provided:
    a. The residence is subordinate and accessory to a commercial permitted use listed in 8.25.2 and is occupied by the owner or caretaker
    b. One single-family dwelling on a legally-conforming lot of record existing as of June 10, 2015.
    c. Age Restricted Residential development.

**8.25.3 Prohibited Uses**

1. Automobile salvage yards
2. Distillation of bones, fat rendering, glue, soap, or fertilizer manufacture
3. Refining of petroleum or its products, including tar distillation
4. Coal distillation or coke ovens
5. Creosote production or treatment
6. Stockyards and animal slaughtering
7. Used tire storage not associated with an on-site processing and remanufacturing operation.
8. Adult business
9. Pre-release facilities, medical marijuana dispensaries

**8.25.4. Space & Bulk Requirements for BI District**

| Zoning Standard | Dimension |
|---|---|
| • Minimum Lot Size | 1 acre |
| • Minimum Residential Lot Size | 60,000 sf |
| • Minimum Lot Frontage | 200 feet |
| • Minimum Lot Width | 200 feet |
| • Maximum Impervious Surface | 70 % |
| • Maximum Height: Principal Buildings & Garages | 50 feet |
| • Maximum Height: Accessory Buildings, excluding garages | 35 feet |
| • Minimum Front Yard Setback from Route 1 | 50 feet |
| • Minimum Front Yard Setbacks | 30 feet |
| • Minimum Side & Rear Yard Setbacks | 25 feet |
| • Minimum Setback from an abutting residential property (All non-residential uses abutting a conditional use residential property as permitted under Section 8.4.2.2 shall be exempt) | 50 feet |

**8.25.5 Performance Standards for the Business Industrial District**

In addition to the Performance Standards contained in Section 7.0 of the Land Use Ordinance, the following performance standards shall apply to all uses in the Business Industrial District.

**1. Parking & Loading:**

**a.** Parking and loading facilities shall be designed in conformance with the requirements of Section 7.6 of this Ordinance.

**b.** All proposed streets, private ways, and driveways with ingress and/or egress onto Route 1 shall comply with design and construction standards specified in section 7.7.D.

**c.** Where feasible, employee parking spaces should be located in the rear yards of the proposed use. Employee parking may be located in the side yards of two adjacent uses sharing a common access driveway.

**d.** Loading areas shall be *screened* from public view, and *buffered* from adjacent residential properties and zoning district boundaries, as determined by the Planning Board or Staff Review Committee.

e. **Shared Parking:** Parking spaces that are shared by two or more businesses with differing demand

hours may be permitted to meet the parking standards of Section 7.6 contingent upon approval by the Planning Board.

**f.** Outdoor loading activities located within 200 feet of residential uses shall not occur between the hours of 6 PM and 7 AM.

**2. Lighting:**

Notwithstanding the standards for parking lot lighting specified in Section 7.5, all free standing site lighting shall:

**a.** not exceed the height of the principal building or twenty (20) feet, whichever is less;

**b.** site lighting from a non-residential use shall not shed more than 0.1 foot-candles onto surrounding residential properties unless the two adjacent uses share common parking, driveway, loading or storage facilities.

**c**. no lighting shall shed in excess of 0.5 foot-candles beyond the property line of an adjacent non-residential use.

**d.** shall be shielded to prevent point source glare and ambient nighttime sky light.

**3. Signage:**

In addition to the provisions of Section 7.12, all signs in the Business Industrial District must conform to the following standards:

**a.** ***Materials:*** Proposed signage shall be constructed of wood, metal, fabric, plastic, LEDs, or composite materials;

**b.** ***Lighting:*** Exterior -Illuminated, Internally-illuminated, and Digital signs must conform to all of the standards specified in Section 7.12 of this Ordinance.

**c.** ***Area & Dimensions***

**1)** Total aggregate signage located on the site or affixed to the building shall not exceed one (1) square foot of signage for every two (2) linear foot of building frontage on a public street.

**2)** Maximum aggregate signage for any parcel shall not exceed 100 square feet, with no single sign to exceed fifty (50) square feet in area.

**3)** Principal business buildings containing more than two (2) licensed operations and setback a minimum of seventy-five (75) feet from the front yard property line may erect an additional central directory sign visible from the street and equal in area to 20% of the allowable sign area of the building not to exceed twenty (25) square feet.

**4)** Free-standing signs shall not exceed fifteen (15) feet in height, and shall not exceed the allowable square footage. Square footage of signage allocated for the free standing sign shall be subtracted from the maximum allowable square footage.

***d. Digital Sign Setbacks***: Digital signs shall be setback a minimum thirty-five (35) feet from any other digital sign, and one hundred (100) feet from any single-family dwelling.

**4. Landscaping:**

**a. Front Yard Landscape Strip:** A fifteen (15) foot wide landscape strip shall be established in the front yard of the property between the building and the Public Street or private way and, consisting of vegetative ground cover, shrub plant material and/or street trees.

**b. Street trees:** Street trees shall be installed in the front yard of any property fronting a public street or a private way at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.

**c. Parking Lot landscape Strip:** A twenty-five (25) foot wide landscape strip shall be established around all parking lots to provide *screening* between adjacent land uses and *buffering* for adjacent

residential dwelling units. The Planning Board may waive the requirement for the landscaped area along the side or rear lot line abutting a non-residential use when there is a coordinated design of parking, access and landscaping on the two lots.

**d. Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the Public Street and private ways.

**e. Rear & Side Yard Planting Strips:** A 15-foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the rear and side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

**5. Storage of Materials:**

**a**. Any material that is susceptible to producing dust, debris, emissions, or odors shall be stored in an enclosed structure that will prevent the dispersal of such nuisances.

**b**. To prevent groundwater contamination, caustic, corrosive, or toxic materials, salts, or petroleum-based liquids shall be stored and dispensed within a specified containment facility consisting of a non-porous surface and constructed of suitable depth to contain a major spillage of the stored material.

**c.** Outside storage of any hazardous material shall be protected by a minimum eight (8) foot high fence with a locked gate constructed around the storage area.

**d.** Materials, finished products, and equipment may be stored in the side and rear yards of the parcel, except no outdoor storage shall be permitted in the 50 foot setback from a residential property or zoning district boundary.

**e.** All salvage or reclamation materials shall be stored in the rear yard of the property, and no storage of salvage materials shall be stored within the 50 foot setback from a residential property or zoning district boundary.

**f.** Plant material associated with a garden nursery may be stored in the front, side or rear yards.

**g.** Outside storage areas shall be *screened* from view from a public way, and *buffered* from adjacent residential properties or zoning district boundaries in accordance with landscape performance standards established in Section 8.10.

**h.** Except for licensed automobile salvage yards existing as of June 10, 2015, no more than ten (10) unregistered motor vehicles shall be stored on the site at any time and no unregistered motor vehicle shall remain on the site for no more than sixty (60) days.

**6. Vibration:**

No proposed use shall generate earth vibration in excess of .003 of one inch at any time, measured at the property line. In cases where multiple uses occupy the same lot, vibration shall not exceed .003 of an inch measured within ten (10) feet of the source.

**7. Odors:**

No use shall emit offensive, harmful, or noxious odors beyond the property line.

**8. Solid Waste:**

**a.** All forms of solid waste excepting inert bulky waste shall be stored in enclosed containers, dumpsters, or an enclosed building on a non-porous floor, before transport to an approved disposal facility.

**b.** Inert bulky wastes shall be consolidated in the rear of the building.

**c.** All solid waste storage areas shall be buffered from adjacent properties in conformance with Section 5.6.4.

**d.** No solid waste storage areas shall be located within 50 feet of an adjacent residential property.

**9. Wastewater Disposal:**

No industrial, chemical, or radioactive wastewater shall be discharged into the surface or groundwater of the Town of Arundel. In addition all discharges shall comply with all applicable standards and provisions established by the Maine DEP and the Federal EPA.

**10. Hazards and Nuisances:**

No use shall conduct any operation that generates fire and explosive hazards, electromagnetic interference, radiation or biological hazards, or generates toxic materials that pose a danger to the health and safety of Town residents.

**8.25.6 Approval & Performance Standards for Mineral Extraction Operations in the BI District**

Mineral Extraction operations are permitted as conditional uses in the BI district and shall be restricted to the quarrying of rock and the on-site processing and short term storage of quarried rock from the site, provided the following performance standards are met in addition to the applicable standards specified in section 8.5:

1. **Objective:** The proposed mineral extraction operation shall be designed, graded, and restored at the termination of the operations so that the property may be immediately developed for business or industrial sites and serviced by roads and utilities infrastructure.

**2. Submissions for Mineral Extraction Permits in the BI District**

To determine the suitability of the site for quarrying operations and to insure that the proposed operation will meet the objectives of Section 8.25.6.1 above, the applicant shall submit the following materials to the Planning Board:

**a**. Concept plan drawn at a scale of not to exceed 1” = 50’ showing the final layout and finished site grades of the proposed excavated area(s), proposed building pads, lot layout if multiple sites are involved, as well as proposed roads, utility, and circulatory corridors within the site.

**b.** Orthographic projected drawing showing the layout of possible buildings and building envelopes, parking lots, service areas, road circulation, utility corridors, sidewalks, common spaces, and landscape buffers within the rehabilitated quarry.

**c.** Phasing Plan of the excavation operations in six-year increments.

**d**. Narrative of post excavation plans for the property.

**e.** Complete Conditional Use Application.

**3. Performance Standards for Quarries in the BI**

In addition to applicable standards of Section 8.5 Mineral Extraction, the following performance standards shall also apply to all quarrying operations in the BI district:

**a.** No quarrying operations requiring dislodging of rock via the use of explosives shall occur within 700 linear feet of a year-round single family residence existing as of June 10, 2015.

**b.** With the exception of subsurface drainage structures, underground utility trenching, or water features less than 40,000 square feet in size, all finished excavation elevations shall not be no lower than the elevation of Route 1 at the edge of the state right-of-way.

**c.** No cut slope face shall exceed 25 feet in height, and no slope shall exceed 1:0. Benching may be used to break up the face of a slope; with 10 feet of horizontal distance provided on the bench for every 10 feet of vertical height to a maximum vertical height for a single development pad of 60 feet.

**d.** The vertical height of a cut slope in stable consolidated material may exceed the limitations of Section 8.25.6.3. above, provided the excavation is associated with site preparation for a business use that has received a site plan or conditional use permit from the Planning Board.

**e.** The applicant shall submit a hydrogeologic study documenting that quarry operations in concert with existing quarry operations within the BI district will not adversely impact existing quantity and quality of bedrock groundwater resources and/or private wells located within the bedrock aquifer regime.

**f.** The applicant shall provide sufficient evidence that adjacent properties, structures and infrastructure as well as on-site wetlands, watercourses will not be adversely impacted by blasting operations.

**g.** Blast schedules and a Noise attenuation plan shall be submitted documenting that all operations for the life of the quarry operations will not exceed a 55 dB pressure for a period of 15 minutes at the property line of the project.

**h.** Pre-blast surveys shall be conducted of all structures located within 2000 horizontal feet of the designated areas of blasting.

**i.** Vibrations produced by blasting and processing of material shall not exceed 2 inches per second within a radius of 2000 linear feet.

**j.** Where feasible, all proposed quarry operations shall provide a secondary access road paralleling Route 1 and connecting to existing and proposed access roads on adjacent properties in order to minimize curb cuts as the reclaimed quarry sites are developed.

## 8.26 GATEWAY DISTRICT (GW) (Adopted June 10, 2015)

Located at to the northern end of the Route 1 Corridor, the Gateway District is a mixed-use district accommodating small to medium scale residential, business, and community uses. The intent of the district is to encourage more intensive and creative settlement patterns, architecture, and landscaping to foster a distinctive character area and the northern Gateway into the Town of Arundel.

### 8.26.1 Permitted Uses:

1. All legally existing businesses and associated structures operating in the GW district as of June 10, 2015.
2. Single-family and two-family dwellings
3. Accessory Apartment
4. Accessory buildings, structures or uses
5. Agriculture
6. Artist and Craftsmen Studios
7. Bed & Breakfast Lodging
8. Commercial Services
9. Day care home
10. Elder Day Care Facility
11. Farm Retail
12. Garden Centers
13. Home Occupations
14. Museum
15. Municipal Use
16. Personal Services
17. Professional Offices
18. Recreational facilities, Passive
19. Restaurants
20. Retail
21. Timber Harvesting 40% or less basal area
22. Yard Sales

**8.26.2 Conditional Uses**

1. Banquet Hall
2. Church
3. Convention Center
4. Drive Thru Facilities
5. Day Care Center
6. Low impact manufacturing, not to exceed 5,001 square feet in area.
7. Medical Facilities
8. Public Utility
9. Schools
10. Clubs, not serving alcohol
11. Take out Restaurant
12. Timber Harvesting 40% or more basal area
13. Recreational facilities, Commercial *excluding power sports amusements*
14. Veterinary Hospitals

**8.26.3 Prohibited Uses**

1. Adult Business
2. Automobile service stations
3. Mobile Homes
4. Taverns

5. Residential subdivisions, as defined in *Title 30-A, Maine Revised Statutes Annotated, Section 4401*, as amended from time to time.

**8.26.4 Space and Bulk requirements for the Gateway District**

| Zoning Standards | All Uses with Public Water and sewer | All Uses Without Public Water and sewer |
|---|---|---|
| •Minimum Lot Size | 30,000 sf NDD* | 1 acre NDD* |
| •Minimum Net Lot Area per Family Unit | 30,000 sf NDD* | 1 acre NDD* |
| •Minimum Lot Frontage | 100 feet | 100 feet |
| •Minimum Lot Width | 100 feet | 100 feet |
| •Maximum Lot Coverage | 80% | 60% |
| •Maximum Building Footprint | 10,000 sf | 10,000 sf |
| •Maximum Principal Building Height | 45 feet | 45 feet |
| •Minimum Front Yard Setback: | 25 feet | 25 feet |
| •Minimum Side Yard Setback: | 10 feet | 15 feet |
| •Minimum Rear Yard Setback: | 10 feet | 15 feet |

**Net Development Density*

1. **Net Development Density:** Lots created after June 10, 2015 and density requirements for residential duplexes units shall meet the net development density requirements specified in section 8.26.4.

**8.26.5 Performance Standards Specific to the Gateway District**

In addition to the Performance Standards contained in Section 7.0 of the Land Use Ordinance, the following performance standards shall apply to all new uses , structures, renovations, or expansions as in the Gateway District that are required to obtain a *Conditional Use* or *Site Plan* permit as defined in Section 9 of this ordinance. In instances where the regulatory standards of Section 8.26.4 and Section 7.0 conflict the standards of Section 8.26.4 shall prevail.

1. **Building Design:** The intent of the subsequent standards is to insure that construction, rehabilitation, or addition of non-residential structures and uses within the *Gateway District* will be visually harmonious with the architectural and landscape character of the existing settlement. New construction visible from the street or visible to the public shall be designed to reflect the residential character of the surrounding neighborhood. With the exception of permitted greenhouses and horticultural structures, all new construction v*isible from the street or an adjacent residential property* shall meet the following architectural design standards.

   a. **Scale & Form:**

      1) ***Proportion of Height & Width****:* The relative proportion of height and width of any proposed new construction shall be visually compatible with that of surrounding structures. With the exception of greenhouses and agricultural barns, the mass and relative height of non-residential construction in the GW District shall mimic that of surrounding residential structures.

      For structures exceeding 3,000 square feet in area, reduction in the scale and mass of the building may be achieved by the following:

      **(a)** Orientation of shorter walls away towards the public road, and longer walls away from public view.

      **(b)** Creation of façade divisions in long walls with architectural jogs, pediments, protruding vestibules, changes in siding or color, fences, walls, pergolas, and outdoor spaces such as patios.

      **(c)** Creation of multiple and distinct entrances by protruding or receding vestibules sidewalks and seating areas.

**(d)** Reduction of roof mass by varying roof dimensions and pitches along with the application of dormers, parapets, turrets, firewalls, and cupolas.

2). ***Roof Shape:*** Proposed roof pitches, orientations, and overall roof shape shall be visually compatible with those of surrounding structures, as observed from the street and/or sidewalk. As a general rule, roofs shall be pitched at a ratio of between 8/12 to 12/12, with pitches of less than 8/12 encouraged only in *Hip Roof* and or gambrel construction.

3). ***Scale:*** The size and mass of proposed structure(s) in relation to open spaces, windows, doors, porches, and stairs shall be visually compatible with principal structures and public spaces to which they are visually related. The intent of the scale is that it neither overpowers nor appears diminutive to the built character of the surrounding area.

**b. Facade Treatment:** For structures fronting or visible from the Public Street or sidewalk

**1). Fenestration *(Windows and doors)***: The following principals shall govern the proposed fenestration for building rehabilitation and new construction:

**(a)** Window and door area shall be not less than 25%, nor more than 66% of the facade area facing the street or public sidewalk.

**(b)** The arrangement of the windows and doors shall provide a visual rhythm in the facade without appearing monotonous.

**(c)** Window dimensions and construction should be complimentary to the architectural character and where appropriate, the historical period, of the structure.

**(d)** Windows of differing dimensions are permitted as long as they occupy logical locations of the structure, such as a half-round window at a gable peak, and compliment the fenestration pattern.

**(e)** Ribbon windows and curtain glass walls are specifically prohibited.

**2)** ***Facade Materials****:* Facade materials shall be limited to clapboard, shake shingles, board and batten of similar texture, and color (excepting paint) as the dominate building materials within the district and especially of those structures to which the new construction is visually related. Corrugated metal, T-111, and exposed vapor barriers shall be prohibited. Quality vinyl siding may be permitted by the Planning Board.

**c. Architectural Details:** Much of the character of any building stock and hence the public's perception of that district as a unique area is partially determined by the presence of architectural detailing and pedestrian-scale structure.

Spindles, brackets, finials, and balustrades for porches, railings and roof overhangs are encouraged.

**d. Fences, Railings, & Steps:**

**1)** Fences, steps, and porches should reflect the architectural character, materials, and historic period of the principal structure. Finials, reveals, balustrades, spindles and other decorative elements should be incorporated into the design wherever possible and appropriate.

**2)** Free-standing fences visible from the sidewalk or street should be constructed of durable materials, such as cedar, redwood, pressure treated pine, matte surfaced PVC, or of metal or combination thereof and in a manner consistent with specifications of the Planning Board. Chain-link fences located within public view are discouraged.

**3)** All fences and railings manufactured without integral color should be either painted or stained.

**2. Parking**

Notwithstanding the parking standards specified in Section 7.6 of this Ordinance, all uses in the *Gateway District*, with the exception of residential and lodging shall conform to the parking requirements established herein.

**a.** All off-street parking facilities accommodating four (4) or more spaces shall be *buffered* from adjacent residential properties and shall be *screened* from the street if so located in the front yard per standards prescribed in Section 7.8.6 of the Land Use Ordinance.

**b.** Off street parking spaces for non-residential structures exceeding 3,000 square feet in net leasable area located in the GW district shall be distributed in the following manner:

| | |
|---|---|
| *Front yard (area between the street and the building)* | *35% or less* |
| *Rear Yards* | *65% or more* |

**8.1.6 Signs**

Notwithstanding standards established in Section 7.12, all signs in the Gateway District shall conform to the following performance standards:

**1.** **Materials:** All proposed signage shall be constructed of wood, metal, composite materials, or fabric. Unfinished construction materials such as plywood and oriented strand board (OSB) are expressly prohibited.

**2.** **Lighting:**

**a.** **External Illumination:** All externally illuminated signs may be illuminated by one or more fully shielded external light fixtures affixed to the building, the sign, or up lights emanating from the ground and installed to produce no glare for motorists or pedestrians. *Vertical foot-candles on the face of the sign shall not exceed 20fc.*

**b.** **Neon signage** shall be permitted, if integrated into a distinctive sign design as determined by the Planning Board.

**c.** No flashing or rotating signs or reader boards or string lighting shall be allowed.

**d.** Non-neon light emanating from said fixtures shall be white-colored illumination.

**3. Digital Signs:**

**a.** **Light Intensity:** Light intensity of digital signs shall not exceed 3000 nits during daylight hours and shall not exceed 125 nits between one half hour before dusk and one half hour after sunrise. The Planning Board, Staff Review Committee, or Code Enforcement Officer may require lower nit illumination standards based upon field conditions and nuisances to residents and motorists.

**b.** **Message Cycling:**

**1)** ***Digital Electronic Message Sign:*** Messages shall contain no more than 15 words and shall remain static for a minimum duration of thirty (30) seconds in non-residential areas, and no less than five (5) minutes in residential neighborhoods, and shall otherwise conform to sections 7.12.13 and 7.12.13.2.

**2)** ***Digital Graphic Sign:*** Sign displays shall not change more frequently than once every five (5) minutes.

**3)** ***Time and Temperature:*** Temperature displays shall change only in only one degree increments, and time displays shall be in one minute increments, and shall be displayed for no less than thirty (30) second cycles.

**4)** ***Digital Fuel Price Signs:*** Digital Fuel Price signs shall remain static, except when prices change.

c. **Setbacks and use restrictions**: Notwithstanding the standards of section 7.12.13, digital signs in the DB-1 District shall meet the following additional standards:

1) **Setback:** All digital signs shall be located no less than 35 feet from another digital sign.

2) ***Digital Graphic Signs*** must be located in commercial areas only and sited no less than one hundred (100) feet from a residential dwelling.

3) ***Time and Temperature Signs*** must be located in commercial areas only or at a public facility.

**4. Area & Dimensions:**

**a. Area by Sign Types:**

| **Feature** | **Dimensional Requirement** | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Maximum Aggregate Sign Area** | 1 square foot of signage per linear foot of building sign frontage not to exceed 65 square feet | Varies by occupancy, excluding Directory signs. |
| **Post Signs** | | |
| ▪ Maximum Area | 40 square feet | Directory Sign-40 square feet |
| ▪ Maximum Area for *Digital Electronic Message Signs* and *Digital Graphic Signs* | 25 square feet | 25 square feet |
| ▪ Maximum Area for *Time & Temperature* and *Digital Fuel Price Signs* | 10 square feet | 10 square feet |
| ▪ Maximum Height | 8 feet | 10 feet |
| ▪ Illumination | Internal or external | Internal, external |
| ▪ Maximum Number of Post signs | One | One.<br>A second sign may be permitted by Planning Board if lot has more than 500 feet frontage, more than one access drive and the signs maintain a minimum 300 foot separation. |
| **Attached Signage** *(projecting and Wall signage)* | | |
| ▪ Maximum Area | One (1) square foot of signage of building sign frontage not to exceed 40 square feet. | One (1) square foot of signage of building sign frontage not to exceed 25 square feet per occupancy in addition to Directory Signage. |
| ▪ Illumination | Exterior Lighting , Digital | Exterior Lighting Digital |
| ▪ Minimum height above ground level for projecting sign | 8 feet | 8 feet |
| **Window Signage** | | |
| ▪ Maximum area-Ground floor | 30% of window area | 30% of window area |
| ▪ Maximum Area-2nd storey | 25% of window area | 25% of window area |
| ▪ Maximum Area-3rd storey + | Not Permitted | Not Permitted |
| ▪ Illumination | Any type of illumination provided the sign illumination is static and of constant intensity | |

| Feature | Dimensional Requirement | |
|---|---|---|
| | **Single Occupancy Lot** | **Multiple Occupancies Lot** |
| **Sandwichboard Sign** | Permitted in addition to all other signage | Permitted in addition to all other signage |
| ▪ Maximum Permitted | One (1) per Property | One (1) per ground level occupancy up to 1 sign per 50 feet of business signage area |
| ▪ Maximum Size | 24 inches by 36 inches | 24 inches by 36 inches |
| ▪ Illumination | None | None |
| **Roof Signs** | Not Permitted | Not Permitted |
| **Commercial Banners** | Permitted in Conformance with Section 7.12.8 | |
| ▪ Maximum Area | 20 s.f per occupancy | 20 s.f. per occupancy |
| ▪ Illumination | None | None |

**1)** Sign area for Projecting signs and Post signs with parallel faces shall be calculated only on one of the faces. Sign area of one face of Post or Projecting sign shall be no more than the maximum allowed for that specific sign. The total area of all faces of a sign shall not exceed two times the area allowed for one face of that sign. Sign area of Post or projecting signs with more than two faces shall be calculated based on all the faces of the sign.

**5. Design Requirements for Post and Directory Signs**

**a. Sign Shape:** The main body of the sign may be of any shape, however round / oval and bow-topped signs are preferred. Simple rectangular signs must be mounted in a frame that provides a distinctive peak, finial, or oval shape at the top.

**b. Lettering:** Lettering on a sign shall be distinctive, be a recognized graphic font, and shall be either carved into the sign face, attached in relief or professionally painted on the sign surface.

**c. Sign Frame:** Sign frames and supports shall consist of the following:

1) ***Vertical support posts*** shall be tapered, beveled, fluted, or accentuated with architectural flourishes shall be terminate by a post cap, finial, or bevel. All vertical posts shall be painted.

2) ***Horizontal support members*** shall be painted. The top horizontal frame shall be peaked, rounded, or contain a distinctive eyebrow.

**d. E911 Address:** All Identification Signs for multiple occupancies or post signs for a single occupancy lot shall incorporate the assigned 911 street number address of the property at the peak of the sign, in either an eyebrow or a pediment of the sign body.

**e. Product Logo:** Signs shall not contain logos of manufacturers or products that are not the principal product sold by the business.

**6. Landscaping**

Notwithstanding the standards specified in Section 7.8 of this Ordinance, new non-residential and mixed uses in the GW District shall conform to the following additional standards:

**a. Street trees:** Street trees shall be installed in the front yard of any property fronting a public street at no less than one (1) street tree for every fifty (50) feet of frontage. Street trees located under or in proximity of overhead utility lines shall select appropriate dwarf tree specimens from the approved tree list.

**b. Existing Vegetative Stands:** The requirement for Street tree plantings may be waived by the Planning Board or the Staff Review Committee provided that existing trees are located in the front yard and will be preserved to accomplish the intent of maintaining a street tree canopy along the public street.

**c. Parking Lot Planting Strips:** In all other areas besides the front yard, a minimum five (5) foot planting strip shall separate parking areas and driveways and parking lots and buildings. Said planting strip shall be landscaped with one or more of the following: vegetative ground cover, shrubs, perennial flowers and trees; except in those situations where a paved and curbed sidewalk is provided between the building and parking lot. Plantings for all other parking in the *Gateway District* shall conform to the standards of Section 7.6 and 7.8 of this Ordinance.

**d. Side Yard Planting Strips:** A 10-foot wide landscape strip meeting the buffering standards of section 7.8 shall be installed along the side lot lines unless a coordinated landscape plan between properties is approved by the Planning Board, or the Planning Board deems said buffer strip is unwarranted due to field conditions.

## 8.27 RESERVED

## 8.28 PET DAY CARE FACILITIES (Adopted June 10, 2015)

Pet day care centers are commercial operations, to be located in a commercial or mixed-use district as specified in this Ordinance. The provision of an on-site residence is permitted for the facility owner or designated manager.

**1.** Ancillary services may be provided at the facility including pet grooming, animal training classes, and/or animal care products.

**2.** No overnight accommodations shall be allowed for customers' animals. Hours of operation must be limited to between 6:00 am and 7:00 pm, unless otherwise specified in zoning district regulations.

**3.** Species served shall be limited to dogs, cats, and other domesticated pets. No exotic species including snakes, arachnoids and /or wild animals shall be served by the facility.

**4.** Facilities catering to dog day care must have at least one full-time staff member that is a Certified Pet Dog Trainer and a member of the Association of Professional Dog Trainers.

**5.** To prevent inter-species conflict, accommodations and exercise facilities for different species shall be physically separate at all times.

**6.** A minimum staff to dog ratio of 1:12 shall be maintained (no more than 12 dogs per one staff member).

**7.** No dog day care facility located in the BI, DB2, and R-4 districts shall care for more than 24 dogs at any given time. Pet Day Care Centers in the TC district shall care for no more than 12 dogs at any one time.

**8.** In order to prevent the overcrowding of people and dogs and accommodate necessary setbacks, a dog day care operation offering outdoor activities shall provide at least 150 square feet of play area per large dog, 100 square feet per medium dog and no less than 75 square feet of play area per small dog. No more than 50% of a property may be utilized for the outdoor portion of dog day care operations.

**9.** Any outdoor portion of a dog day care operation shall be entirely fenced to a height of no less than 8' to prevent dogs escaping and shall be set back at least 50' from the property line.

**10.** Outdoor play/exercise enclosures adjacent to existing residential properties shall be solid and opaque in order to minimize contact and interaction between the client animals and the resident and/or their pets.

**11.** Dogs shall not be caged individually, except for an area in which aggressive dogs can be separated.

**12.** A "double-gated" system for entering and exiting the pet day care operation from the parking area shall be used to prevent dogs escaping.

**13.** To prevent excessive barking by dogs, and in keeping with typical dog day care operations, activities shall generally be provided for dogs during hours of operation. Outdoor activities shall be supervised and barking dogs shall be brought indoors.

**14.** The indoor portion of the dog day care operation shall be of sufficient size to accommodate the maximum number of dogs that the operation will care for at any one time and meet minimum space and design standards as established by the *" Guidelines for Standards of Care in Animal Shelters",* as published by the Association of Shelter Veterinarians (latest revision).

**15.** Dog waste shall be picked up from the outdoor portion of the operation on a daily basis. Storage of dog waste shall utilize airtight containers and shall be disposed of via a commercial trash contractor.

**16.** Excessive barking by dogs at a permitted day care operation will be grounds for revocation of Conditional Use permit after notice and a hearing. "Excessive" barking shall be defined as continuous barking for more than 30 minutes at a time for more than two (2) days.

## 8.29 CONTRACTOR YARDS (Adopted June 10, 2015)

### 8.29.1. Exemption of Existing Operations:

All existing non-conforming business operations meeting the definition of a Contractor Yard 1 or Contractor Yard 2 as of June 10, 2015 may be reclassified and operate at their current location as a Contractor Yard 1 or Contractor Yard 2 provided that the business complies with the registration process described in section 8.29.2 and the performance standards of Section 8.29.2.3 for Contractor Yard 1 and Section 8.29.2.4 of this Ordinance for Contractor Yard 2 operations.

### 8.29.2. Registration of Existing Contractor Yards

All existing non-conforming contracting operations as described in Section 8.29.2 shall register as an *Existing Operation* with the Planning Board by August 1, 2016. Any existing non-conforming Contractor Yard that fails to register as an *Existing Operation* by August 1, 2016 shall be deemed a non-conforming use and shall not expand in scope or intensity of its current operations or in the number of employees until first obtaining a Conditional Use Permit from the Planning Board. Existing non-conforming contractor businesses that were established in violation of the Arundel Land Use Ordinance may be subject to legal action by the Town.

**1. Application Submissions:** Applicants seeking status as an *Existing Operation* shall submit an application to the Planning Board on forms provided by the Town of Arundel. Submissions shall include ten (10) copies of the following:

**a)** Recent aerial photograph or topographic survey prepared by a licensed land surveyor showing parcel property lines, vegetative, structural, and/or topographic buffering of adjacent properties, location of all outdoor and indoor material storage areas, existing structures, outdoor lighting fixtures, equipment storage areas, fuel storage areas and fueling pads, driveways and parking lots;

**b)** Inventory of all construction and transportation equipment stored at the site by the business;

**c)** Inventory and average quantities of materials stored at the business site;

**d)** Mitigation measures currently employed to minimize odors, dust, noise, and other off-site nuisances;

**e)** Information on the number of average daily truck trips off-site, the amount of bulk material imported and exported off-site on a monthly basis; and

**f)** A non-refundable registration fee of $200.

**2. Registration Process:**

Within 30 days of receiving a complete application, the Planning Board will hold a public hearing. All

property owners located within 200 feet of the proposed Contractor Yard will be notified at least 7 days prior to the public hearing. Within 30 days of the public hearing, the Planning Board shall determine whether the existing business activity will be registered or be required to implement mitigation measures to meet the standards of Section 8.29.B.3 for a Contractor Yard 1 and Section 8.29.4 for a Contractor Yard 2.

**3. Performance Standards for Existing Contractor Yards 1**

Any operation existing as of June 10, 2015 that meets the definition of a Contractor Yard 1 and is located in the R1, R2, R3 or R4 districts must meet the following minimum performance standards:

**a)** All parking and storage areas shall be visually blocked from both the street and abutting properties by a solid fence, earth barrier, and/or vegetative planting that at the time of installation shall not be less than eight (8) feet in height.

**b)** That any storage yard illumination shall consist of shielded down-light fixtures and shall not shed more than 0.05 lumens at the property line.

**c)** All materials likely to produce odors, dust, debris, or similar nuisances shall be contained either within a enclosed structure or container, or in a manner in which these nuisances shall not adversely impact adjacent properties.

**d)** No more than four (4) vehicles used by the business shall be stored on the site and the type of vehicles shall be limited to the following:

(1) No more than one (1) vehicle classified as a Code 25 vehicle or a Code 30 vehicle as illustrated in Figure 8.29-1

(2) No more than one (1) vehicle as a Code 35 vehicle or a Code 40 vehicle as illustrated in Figure 8.29-1

**e)** Tractors and construction equipment stored on the site shall be limited to an aggregate weight of 35,000 pounds.

**f)** Hours of Operation: Construction equipment shall not be operated or loaded or unloaded on the site between the hours of 10 PM and 6 AM.

**4. Performance Standards for Existing Contractor Yards 2**

Any operation existing as of June 10, 2015 that meets the definition of a Contractor Yard 2 and that is located in the R1, R2, R3, or R4 districts must meet the following minimum performance standard:

**a) Space and Bulk Standards:**

| | |
|---|---|
| Minimum Lot Size | 5 acres |
| Minimum Side & Rear yard setback for storage and employee parking areas | 25 feet |
| Minimum Front Yard Setback for storage areas | |
| • Public street | 50 feet |
| • Private way | 20 feet |
| Minimum Accessory Building setback | 20 feet |
| Minimum Principal Building setbacks | Same as underlying district |

**b)** Driveway entrances from the street to parking and storage areas shall not be located within fifty (50) feet of any adjacent residential property.

**c)** All parking and storage areas shall be visually blocked from both the street and abutting properties by a solid fence, earth barrier, and/or vegetative planting that at the time of installation shall not be

less than (8) feet in height.

**d)** That any storage yard illumination shall consist of shielded down-light fixtures and shall not shed more than 0.05 lumens at the property line.

**e)** All materials likely to produce odors, dust, debris, or similar nuisances shall be contained either within an enclosed structure or container, or in a manner in which these nuisances shall not adversely impact adjacent properties.

**f)** Existing asphalt paving operations shall provide an enclosed structure to house pavers, screeds, and other asphalt equipment in order to minimize odors and fumes for adjoining properties.

**g)** Hours of Operation: Construction equipment shall not be operated or loaded or unloaded on the site between the hours of 10 PM and 6 AM.

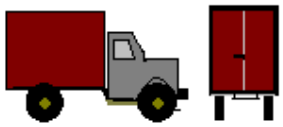
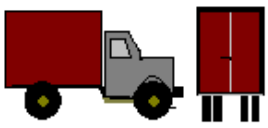
**h)** Parking: One parking space shall be provided for each employee and no more than two parking spaces for customers.

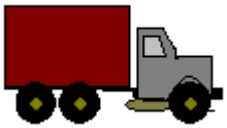
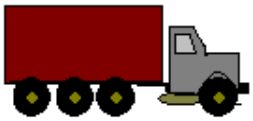
**8.29.3. Contractor Yard 1:**

Contractor Yard 1 operations commencing after June 10, 2015 are permitted uses in the AR, BI, DD-2 districts, and may be permitted as Conditional Uses in the DD-1, SO, TC, R3, and R4 districts, provided the following conditions are met to the satisfaction of the Planning Board:

1. Driveway entrances from the street to parking and storage areas shall not be located within fifty (50) feet of any adjacent residential property.
2. All parking and storage areas shall be visually blocked from both the street and abutting properties by a solid fence, earth barrier, and/or vegetative planting that at the time of installation shall not be less than (8) feet in height.
3. That any storage yard illumination shall consist of shielded down-light fixtures and shall not shed more than 0.05 lumens at the property line.
4. All materials likely to produce odors, dust, debris, or similar nuisances shall be contained either within an enclosed structure or container, or in a manner in which these nuisances shall not adversely impact adjacent properties.

Figure 8.29-1
**Contractor Yard Construction Vehicles**

| Vehicle | Style Code | Description |
|---|---|---|
|  | **Code 10** | 2 Axles<br>4 Tires |
|  | **Code 20** | 2 Axles<br>6 Tires |

| | | |
|---|---|---|
|  | **Code 30** | 3 Axles<br>10 Tires |
|  | **Code 40** | 4 Axles<br>14 Tires |
| ***Semi Tractors*** | | |
| | **Code 25** | 2-Axle<br>Tractor<br>6 Tires |
| | **Code 35** | 3 Axle<br>Tractor<br>10 Tires |

**5.** No more than four (4) **v**ehicles used by the business shall be stored on the site and the type of vehicles shall be limited to the following:

**a.** No more than one (1) vehicle classified as a Code 25 or Code 30 vehicle as illustrated in Figure 8.29-1

**b.** No more than one (1) vehicle as a Code 35 or Code 40 vehicle as illustrated in Figure 8.29-1

**c.** Backhoes, excavators, trailers and similar construction equipment stored on the site shall be limited to an aggregate gross vehicle weight of 35,000 pounds.

**6.** Contractor Yard 1 operations shall be permitted only on lots that containing a single-family detached dwelling or a duplex. The storage area and/or associated accessory structures of the operation must be located in the rear yard area of the residential dwelling.

**7.** Construction equipment shall not be operated or loaded or unloaded on the site between the hours of 10 PM and 6 AM.

**8.** The total number of vehicle trips egressing and ingressing the facility shall not exceed 50 trips per day.

**9.** Total quantity of fuel stored on site or in the bed of a vehicle shall not exceed two hundred (200) gallons. An emergency *Spill Kit* will be required to be kept on site at all times.

**8.29.4. Contractor Yard 2**

**1. Applicability:** Contractor Yard 2 operations commencing after June 10, 2015 are permitted uses in the AR, BI, DD-2 districts and conditional uses in the R4 and SO districts, providing the operation conforms to the space and bulk requirements, performance standards of the district, and the standards of Section 8.29.D.2 below.

**2. Performance Standards:** All Contractor Yard 2 operations shall conform to the following additional standards:

**a.** All parking and storage areas shall be visually blocked from both the street and abutting properties by a solid fence, earth barrier, and/or vegetative planting that at the time of installation shall not be less than (8) feet in height.

**b.** That any storage yard illumination shall consist of shielded down-light fixtures and shall not shed more than 0.1 lumens at the property line, and at 0.05 lumens at the boundary of any residential property.

**c.** All materials likely to produce odors, dust, debris, or similar nuisances shall be contained either within a enclosed structure or container, or in a manner in which these nuisances shall not adversely impact adjacent properties.

**d.** Equipment and material storage are prohibited from location in the lot front, side, or rear setbacks.

**e.** Parking: One parking space shall be provided for each employee and one parking space for every 300 square feet of showroom or customer office space. One additional handicap parking space shall be provided for customer use.

**f.** A fuel containment system shall be installed surrounding any above ground fuel storage tanks and oil and water separators shall be installed to prevent runoff from such containment structures and on site vehicle and equipment fueling locations.

## 8.30 DRIVE-THRU FACILITIES (Adopted June 10, 2015)

All drive-thru facilities shall conform to the following standards:

**1. Design Specifications:**

**1.** All drive-thru lanes shall be physically separated from on-site parking areas and associated circulation lanes and driveways, preferably by a planted traffic island as specified by the Planning Board.
**2.** Lane width shall be a minimum of twelve (12) feet
**3.** Lanes shall be provided with adequate signage, striping, and pavement arrows to control and direct vehicles.

**2. Circulation *:***

**1.** Drive-thru lane(s) shall be designed to move traffic in a counterclockwise direction around the principal building.
**2.** Drive-thru uses located within a shopping center or other combined-use facility shall not directly access the public street.
**3.** No drive-thru facility shall access a public street within fifty (50) feet of a street intersection.

**3. Queue Lengths*:***

Drive-thru lanes shall be designed to accommodate the following queue loads of vehicles outside of parking lot circulation lanes or driveways:

| ***Proposed Use*** | ***# Vehicles Per Drive-Thru Window*** | ***Typical Lane Length*** |
|---|---|---|
| Bank & other uses | 5 | 80 feet |
| Food Service | 8 | 130 feet |

**4. Pedestrian Safety:**

**1.** Drive-thru lanes shall be designed to create minimum pedestrian and vehicular conflict. In all cases, the drive-thru lane shall not cross the primary pedestrian path to the principal entry of the building.

**2.** Traffic control devises such as stop signs and speed bumps and crosswalk makings shall be provided where appropriate to maintain pedestrian and customer safety.

# SECTION 9 ADMINISTRATION, ENFORCEMENT AND PENALTIES

## 9.1 BASIC REQUIREMENTS

The following activities shall not require a building permit: repairs, replacement, and/or normal maintenance not requiring structural elements, decorative changes in existing structures or **buildings**, provided that the activity is in conformance with federal, state or local laws and does not involve any physical modifications or changes requiring a permit under this ordinance. The commencement of construction of a structure or undertaking of a land use without a permit shall constitute a violation under this section which may include a fine of a minimum of $100.00 to a maximum of $2,500.00.

## 9.2. PERMIT APPLICATION

9.2.A Every applicant for a permit shall submit a written application which shall include:

9.2.A.1 Structures to be erected, structures to be moved and exterior additions to existing structures:

9.2.A.1.a A plan indicating the shape, size and location of the lot for which application is made, drawn to an appropriate scale.

9.2.A.1.b The plan shall include the size and location of any existing structures on the lot with reference to the distance from all lot lines.

9.2.A.1.c The plan shall include the size and location on the lot of any proposed structure(s), and of proposed additions to existing structures with reference to the distance from all lot lines.

9.2.A.1.d The applicant may, at the C.E.O.'s discretion, require the location of adjacent structures on adjacent lots, with reference to the distance from the lot line.

9.2.A.2 The above requirements shall not apply to alterations wholly within an existing structure.

9.2.A.3 All applications shall also include:

9.2.A.3.a The name and address of the property owner.

9.2.A.3.b The name, address and telephone number of the person, firm, or firms, involved in the construction on the property.

9.2.A.3.c An estimate of value for the proposed construction.

9.2.A.3.d A statement of the proposed use for any new or moved structure or altered portion of an existing structure.

9.2.A.3.e Any other information the applicant wishes to furnish.

9.2.A.3.f Any other information requested by the Code Enforcement Officer to make the application intelligible, and to determine whether the proposed construction will conform to this ordinance, other local ordinances and state law. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the plumbing inspector, shall be submitted.

9.2.A.3.g A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.

9.2.A.4 All applications shall be signed by the person or firm to do the work and/or by the owner of the property or other person authorizing the work.

9.2.A.5 All applications shall be dated and filed with the Code Enforcement Officer accompanied by the appropriate application fee. The C.E.O. shall note upon each application the date and time of its receipt at his office.

9.2.A.6 The Board of Selectmen shall, on an annual basis, set the fees for permits. (Amended June 14, 2000)

9.2.A.7 Commencement of construction or establishment of a use prior to obtaining a permit shall result in the fee being doubled. (Amended June 14, 2000)

9.2.B Upon receipt of a permit application the Code Enforcement Officer shall:

9.2.B.1 Decide whether the information in the application is sufficient for him to determine whether, under this ordinance, the permit should be issued, or if the application is otherwise inadequate. If he feels the application is insufficient or inadequate, he shall at once notify the applicant within 15 business days, in writing, what the necessary information is required to correct the application. If the application is not corrected and resubmitted with 10 business days, he shall deny it.

9.2.B.2 When an application conforms to the provisions of this ordinance and other codes and ordinances of the town, upon payment of the required fee, he shall within 10 days of its receipt issue the permit. He shall keep a copy of the application and permit in a permanent file in his office. The C.E.O. shall also notify abutters, landowners who share a common property boundary with or who own across a public or private way from the applicant, of the issuance of any building permits for new construction or change of use.

9.2.B.3 If the application does not conform, he shall, within business 10 days, deny the permit in writing, stating his reasons for such denial. In the event the proposed building or structure is so constructed or is of such usage as to require a review of the application by other authorities or boards, as determined by reference to these land use regulations, the Code Enforcement Officer shall refer the applicant to the appropriate authority or board for review, for approval or denial. Upon his receipt of the approval decision of the reviewing authority or board, in writing, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the reviewing authority or board.

9.2.B.4 If the C.E.O. shall fail, for any reason, within 10 days either to issue a permit or deny an application in writing, such failure shall be deemed a denial so that the applicant may appeal to the Board of Appeals.

9.2.C Following the issuance of a building permit, if no substantial start is made on the construction within six months of the date of the permit, it shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved. The fee for such permit shall be charged as a renewal fee.

9.2.D Any permit issued which is not in conformity with the provisions of this ordinance confers no rights and is void.

9.2.E No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed. (Adopted June 13, 2007)

## 9.3 CERTIFICATE OF OCCUPANCY REQUIRED

A Certificate of Occupancy issued by the Code Enforcement Officer is required in advance of the use or occupancy of any lot, structure or change of the use thereon. No certificate of occupancy shall be issued unless the lot or **building** or structure complies with all the provisions of this ordinance and other local and state laws. A record of all certificates of occupancy shall be kept on file and state specifically the uses which it permits.

## 9.4 ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. The Code Enforcement Officer may revoke or suspend a permit if it was issued in error, based on erroneous information or violates any term or condition of this ordinance or permit approval. If the Code Enforcement Officer shall find that any provision of this ordinance is being violated, he shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. He may order the removal of illegal buildings, structures, additions or work being done, or shall take any other action authorized by this ordinance or state law to insure compliance with, or to prevent violation of, its provisions.

9.4.A The Code Enforcement Officer should maintain a current file of all pertinent federal, state and local statutes, ordinance regulations, codes, and plans relating to land use regulation including local subdivision plans.

9.4.B The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with applicable state laws or local ordinances.

## 9.5 LEGAL ACTION AND VIOLATION

When any violation of any provision of this ordinance shall be found to exist, the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the town, in accordance with Title 30-A M.R.S.A. § 4452.

## 9.6 PENALTIES

Any person, including, but not limited to, a landowner, his agent or a contractor who violates a provision of this ordinance shall be liable for any penalties as set forth in Title 30A M.R.S.A. § 4452. Each day a violation is continued shall constitute a separate violation. Fines shall be payable to the Town.

## 9.7 CONDITIONAL USE PERMITS

### 9.7.A Purpose and Authorization

The purpose of site plan reviews of conditional uses is to insure adequate scrutiny of plans for certain uses which have the potential to significantly impact a neighborhood environment and affect the public safety, health and welfare. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits, in accordance with State Law and the provisions of this ordinance. The Board shall approve, approve with modifications or conditions, or deny applications for a Conditional Use Permit classified as major developments. Minor developments shall be reviewed by the Staff Review Committee.(Amended June 13, 2013)

### 9.7.B Classification for Review

Conditional uses classifications shall be determined by the Codes Enforcement Officer and classified as either minor or major developments as follows:

#### 9.7.B.1 Minor Developments

9.7.B.1.a Any expansions of an existing conditional use either in floor space or ground area, by 25% or 500 sq. ft., whichever is less since 1979. (Amended June 15, 2011)

9.7.B.1.b A change of use from permitted to conditional use that does not involve any change in the building coverage, parking, driveways or other site plan details. (Amended June 13, 2001, June 15, 2011)

9.7.B.1.c Filling of a wetlands which require N.R.P.A. permits from D.E.P. or Nationwide Permits from the A.C.O.E.

#### 9.7.B.2 Major Developments

Any development not classified as minor requiring a Conditional Use Permit shall be reviewed by the Planning Board.

### 9.7.C Existing Conditional Use or Structure

A Conditional Use which lawfully existed prior to the effective date of this ordinance may be expanded or changed to another Conditional Use category as listed in Section 6.2, in conformity with all regulations of this ordinance pertaining to Conditional Uses, under the following provisions: (Amended June 12, 1996)

9.7.C.1 By permit by the Codes Enforcement Officer if the change of use will not result in expansion or intensification of use or the expansion of a structure or outdoor storage or parking areas; (Amended June 12, 1996)

9.7.C.2 With Staff Board Review if the change of use will result in intensification of use but not a substantial expansion of use as defined. (Adopted June 12, 1996)

9.7.C.3 With Planning Board Review for substantial expansions of use as defined. (Adopted 6/12/1996)

9.7.D **Application Procedure & Submission Requirements**

An applicant for a use that requires a Conditional Use Permit shall file an application for the permit with the Town Planner, and shall submit all designated application and administration fees, as determined by the Arundel Board of Selectmen at the time of application. The town may use any development review fee as established by the Board of Selectmen, to cover its costs of hiring expert assistance in reviewing the application. Any portion of the development review fee not used by the town shall be returned to the applicant. The following information must be present on all applications for Conditional Uses: (Amended June 14, 2000, June 11, 2008, June 15, 2011)

9.7.D.1 The name and address of the applicant (or his authorized agent); the name of the proposed development and the location of property; and a Statement of Conditional Use requested. (Amended June 15, 2011)

9.7.D.2 Evidence of applicant's right, title or interest (deed, lease agreement, purchase & sale, or letter of authorization) in the property and any deed restrictions or easements on the property.

9.7.D.3 Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel, total acreage and date of survey.

9.7.D.4 A list of the name and addresses of all abutters and property owners within 500 feet of the boundaries of the property involved (including land across a public street) as disclosed on the tax maps on file in the Town Offices as of the date of the development plan review application.

9.7.D.5 Total floor area, ground coverage, and location of each proposed building, structure or addition. Location of all utilities, lighting, roads, drainage and parking areas.

9.7.D.6 All existing and proposed setback dimensions.

9.7.D.7 The size, location, direction and intensity of illumination of all signs and a lighting plan which includes.

9.7.D.7.a The location of all existing and proposed exterior lighting fixtures.

9.7.D.7.b Specifications for all proposed lighting fixtures including photometric data, color-rendering index of all lamps and other descriptive information of the fixtures.

9.7.D.7.c Proposed mounting height of all exterior lighting fixtures

9.7.D.7.d Analyses and illuminance level diagrams showing that the proposed installation conforms to the light level standards of Sect.7.5.

9.7.D.7.e Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls, and the aiming points for any remote light fixtures. (Section 9.7.D.7 adopted June 14, 2000)

9.7.D.8 The type, size and location of all incineration devices.

9.7.D.9 The type, size and location of all equipment generating significant noise, measured at lot lines.

9.7.D.10 The location, type and size of all existing and proposed catch basins, storm drainage facilities, streams and water courses, and all utilities, both above and below ground.

9.7.D.11 An on-site soils investigation report by a Maine Department of Human Services licensed Site Evaluator (unless the site is to be served by public sewer). The report shall identify the types of soil, location of test pits, and proposed location and design for the subsurface disposal system.

9.7.D.12 The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties.

9.7.D.13 Existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed. Contour intervals shall be specified by the Planning or Staff Review Board. (Amended June 12, 1996)

9.7.D.14 The location, type, and size of all curbs, sidewalks, driveways, fences, retaining walls, parking space areas, and the layout thereof, together with the dimensions.

9.7.D.15 All landscaped areas, fencing, and size and type of plant material upon the premises in question.

9.7.D.16 All existing or proposed rights-of-way, easements, and other legal restrictions which may affect the premises in questions.

9.7.D.17 The location, names, and widths of all existing and proposed streets abutting the premises in question.

9.7.D.18 Any other information or data necessary for proper review and in conformance with all requirements set forth in the Arundel Subdivision Review Standards.

9.7.D.19 An appropriate place for the signatures of the Planning Board and Staff Review Board. (Amended June 12, 1996)

9.7.D.20 A traffic engineering study may be required, should the project be considered on of substantial magnitude. A traffic study requested by the Planning Board must include the following data:

9.7.D.20.a An estimate of peak-hour traffic to be generated by the proposal.

9.7.D.20.b Existing traffic counts and volumes on surrounding roads.

9.7.D.20.c The capacity of surrounding roads and nay improvements which may be necessary on such roads to accommodate anticipated traffic generation.

9.7.D.20.d The need for traffic signals and signs or other directional markers to regulate anticipated traffic.

9.7.D.21 Written copies of all required state and federal approvals. Relevant state and federal laws include, but are not limited to: Site Location of Development Act, Natural Resources Protection Act, and Sec. 404 Clean Water Act (federal).

9.7.E **Waivers**

The Board may grant a waiver or modification of these standards after the submission of a written request by the applicant and the Board by a unanimous vote of its quorum makes findings that:

9.7.E.1 the waiver or modification of the standard will not cause an adverse effect to the neighboring properties; and

9.7.E.2 the waiver or modification of the standard will not cause an adverse effect to the general health, safety and welfare to the town's residents; and

9.7.E.3 the cost of compliance with the standard is prohibitive in relation to the overall size and cost of the proposed use; and

9.7.E.4 there are no similar uses in the neighboring area which have been required to comply with the standard.

9.7.F **Public Hearing**

9.7.F.1 **Public Hearings for Major Developments**: Within forty-five (45) days after receipt of a complete conditional use application for a major development, the Planning Board shall hold a public hearing on-the proposed project. Ten (10) days prior to the public hearing, the Planning Board shall publish notice of the public hearing on the Town website, the Town bulletin board, and in a newspaper of daily circulation in the Town of Arundel. Notices of the public hearing shall be sent to all owners of property located in Arundel situated within 500 feet of the proposed major development project. (Amended June 15, 2011)

9.7.F.2: **Public Hearing for Minor Developments:** Within fourteen (14) business days of receipt of a complete minor development conditional use application, the Staff Review Committee will hold a public hearing during business hours to review the application. The location of this public hearing may be at Town

Offices or at the proposed project site. Seven (7) days prior to the public hearing, notices of the hearing shall be mailed to all Arundel property owners located within 500 feet of the proposed project site. (Amended June 15, 2011)

9.7.G **Decision**

The decision of the Planning Board or Staff Review Committee shall be in writing and shall be based on findings whether the standards of Subsection 9.7.H have been or will be met. Appeals of decisions of the Staff Review Committee by an applicant, abutter, may be made to the Arundel Planning Board as Conditional Use. Failure to start construction or establish a use authorized by a conditional use permit within two years of the date of approval shall result the expiration of the approval. (Amended June 14, 2000; June 13, 2012)

9.7.H **Standards for a Conditional Use Permit**

An applicant, who seeks a Conditional Use Permit, shall submit to the Board or Committee adequate evidence which will become part of the record, illustrating the proof required by this section. The Board shall review the application in accordance with all of the evidence submitted by the applicant, and shall make specific factual findings that the following are met:

9.7.H.1 That the use is compatible with and similar to the general categories of uses of neighboring properties.

9.7.H.2 That the use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood.

9.7.H.3 That there is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the use.

9.7.H.4 That there is adequate water supply and sewage disposal available to service the use.

9.7.H.5 That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties.

9.7.H.6 That the physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use.

9.7.H.7 That the use will not constitute a public or private nuisance.

9.7.H.8 That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.

9.7.I **Conditions Attached To Conditional Uses**

Upon consideration of the factors listed above, the Board or Committee may attach such conditions, in addition to those required in this ordinance that it finds necessary to further the purposes of this ordinance. Violation of any of these conditions shall be a violation of this ordinance. Such conditions may include, but are not limited to, specification for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operations controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purposes of this ordinance at the expense of the applicant. (Amended June 12, 1996)

In evaluating each application, the Board or Committee may request the assistance of the York County Soil and Water Conservation District, state or federal agencies, or consultants which can provide technical assistance at the expense of the applicant.

# 9.8 SITE PLAN REVIEW

## 9.8.A PURPOSE

The purpose of Site Plan Review by the Planning Board is to promote the proper design and construction of non-residential uses, multi-family residential, mining, and similar activities in a manner that is consistent with the general character and environmental quality of the community, and preserves the safety, health and general welfare of the Town of Arundel.

## 9.8.B APPLICABILITY

**9.8.B.1 Jurisdictional Activities:** The requirements of Section 9.8 shall apply to the following activities:

**a.** The one-time construction or expansion of any non-residential structure or building in excess of a total floor area of 1,000 square feet, or the establishment of new non-residential use involving more than 1,000 square feet of area, even where no buildings or structures are proposed;

**b.** The conversion of 1,000 square feet of floor area or more in an existing building or use, in whole or in part, from a residential to a non-residential use;

**c.** The construction, modification, expansion, or conversion of any building that currently contains or is proposed to contain three (3) or more residential dwelling units;

**d.** Change of use in an existing facility or area of 4,000 square feet or more, or a change of use generating 10% or more increase in motor vehicle trip generation from the site.

**e.** A one-time construction or expansion of all off-street parking and loading facilities involving 810 square feet or more of area, and driveway entrances to non-residential and residential uses containing three (3) or more residential units;

**~~f.~~** Any activity or improvement that expands the total impervious area on the lot to 50% or more.

**g.** Earth moving activities, including deposition, excavation, and site grading involving in excess of one hundred (100) cubic yards of material which is not associated with an approved building construction project and not exempt per Section 9.8.B.2.

**h.** Establishment or expansion of a Home Occupation.

**i.** The installation or modification of signage in excess of thirty (30) square feet in area.

**9.8.B.2 Exemptions from Site Plan Review:**

The following activities shall be exempt from site plan review.

**a.** Construction or modification of single or two family dwellings.
**b.** Location of farm stands of 200 square feet or less of gross leasable area.
**c.** Outdoor agriculture and cultivation of crops.
**d.** Temporary structures.
**e.** Earth moving activities associated with installation of ornamental landscaping, normal property maintenance, and farming activities.
**f.** Municipal uses.
**g.** Forest management.

**9.8.B.3 Permit Required:**

No land, building, or structure shall be constructed, used, or occupied, no earthmoving activity shall commence, and no building permit, sign permit, or certificate of occupancy shall be issued for any activity within the scope of this section unless and until a final plan of the proposed development has been approved in accordance with the procedures set forth below.

## 9.8.C CLASSIFICATION OF PROJECTS

Projects subject to Site Plan Review shall be classified into two categories, those subject to *Administrative Site Plan Review* and those subject to *Plenary Site Plan Review*.

**9.8.C.1 Administrative Site Plan Review:**

Administrative Site Plan Review is required for the following activities:

a. A one-time construction or expansion of a non-residential parking and driveway area in excess of 810 square feet or three (3) parking spaces.

b. One time construction or expansion of a non-residential or multi-family building or use to a maximum of 2,500 square feet.

c. Excavation or deposition of earth material between 101 and 500 cubic yards per calendar year not associated with construction of a proposed building, and not requiring a Natural Resources Protection Act Permit from the Maine Department of Environmental Protection.

d. Establishment or expansion of a Home Occupation.

e. Installation of new signage or modification of existing signs in excess of thirty (30) square feet in area.

**9.8.C.2 Plenary Site Plan Review:**

*Plenary Site Plan Review* is required for all activities subject to site plan review which are not enumerated in Section 9.8.C.1 above. In addition, the Town Planner may refer an application for a Section 9.8.C.1 activity to the Planning Board for *Plenary Site Plan Review* if it is determined that the proposed activity poses significant potential impacts due to highly constrained lot dimensions, off-site traffic, noise, drainage or lighting.

## 9.8.D REVIEW AUTHORITY

**1. Administrative Site Plan Review Committee**

The Staff Review Committee shall consist of the Town Planner, Code Enforcement Officer, Public Works Director, and the Fire Chief and shall have the authority to review and approve or deny all *Administrative Site Plan Review* applications. If Staff Review Committee is unable to agree on the action to be taken on an application, the Committee shall refer the application to the Planning Board, which shall then conduct the site plan review. The applicant may request that the Planning Board rule directly on an Administrative Site Plan application following the procedures outlined in Section 9.8.F.2.a. Administrative Review

**2. Planning Board**

The Planning Board shall have the authority to review and act on all *Plenary Site Plan Review* applications, and in consideration of said review may approve, approve with conditions, or deny all applications.

## 9.8.E APPLICATION

All applications for *Administrative Site Plan Review* and *Plenary Site Plan Review* shall be submitted on forms available from the Planning Department along with all pertinent information, plans, drawings, reports, and specifications required by either the Staff Review Committee or the Planning Board. Specific submission requirements are to be provided as outlined below:

**1. Administrative Site Plan Review Application Requirements:**

The applicant shall file all designated application fees, as determined by the Board of Selectmen, and provide four (4) copies of the application and relevant submissions as provided and specified by the Planning Department. Submissions shall include but not be limited to 1) proof of right title and interest in the subject property, 2) a scaled Site Plan showing existing and proposed site features; 3) Stormwater and Soil Erosion Control Plan if applicable; 4) scaled building elevations and proposed sign layouts if applicable; 5) Property Boundary and/or Topographic Survey if applicable; 6) cost estimates of all proposed improvement, and 7) any other information deemed necessary by the Town Planner to make a reasonable and informed ruling on the proposed project.

**2. Plenary Site Plan Review Application Requirements**

The applicant shall file all designated application fees, as determined by the Board of Selectmen, and provide ten (10) copies of the following submission items:

**a.** A fully executed and signed *Plenary Site Plan Review* application

**b.** Copy of property deed, option to purchase, or other documentation to demonstrate the applicant's right, title or interest in the property

**c.** Proposed Site Plan, drawn at a scale not to exceed one inch equals forty feet (1" = 40') or at a scale otherwise required by the Town Planner. Said plan shall be sealed by a Professional Engineer, Landscape Architect, or a Surveyor licensed in the State of Maine, and containing the following information:

1). *Property Boundary Survey signed & sealed by a Maine Licensed Land Surveyor, showing bearings and distances of the subject property boundary(s), topographic elevations at a contour interval of no more than two (2) feet, location and elevation of all existing and proposed structures, site features and site improvements.*

2). *Information Block containing location, address, Map-Block-Lot number(s) of the subject property, as recorded in the Town Assessor's Office, name and address of the applicant(s), and owner(s) if different;*

3). *Approval Block providing space for the signatures of Planning Board members;*

4). *The existing zone in which the property is located. In the event the property is divided by a zone line, the line shall be delineated and labeled on the Site Plan;*

5). *Map scale, north arrow (True North), and date Site Plan was prepared including the date of any subsequent revisions made to the plan;*

6). *Identification and location of all abutters to the applicant's property;*

7). *The dimensions and layout of all building and zoning setback lines;*

8). *Delineation of all existing and proposed public and private easements on or directly adjacent to the property;*

9) *Location, dimensions, and layout of all existing and proposed built elements, including buildings and structures, parking areas, driveways, Town/State roads, sidewalks, fences, walls, steps, piers and docks, patios, swimming pools, and signage;*

10).*Location of existing site features located on the property, including but not limited to existing streams, wetlands, drainage swales, tree lines, identification and location of specimen trees greater than eight inches (8") caliper, location of existing rock outcrops, and boundary of 100-year Flood Zone as defined by the FEMA* Flood Insurance Rate Map *for the Town of Arundel;*

11) *Location of existing and proposed utilities including overhead telephone poles and/or underground cables, public sewer and water lines, gate valves, fire hydrants, dumpsters or waste receptacles, private septic systems and water supply wells;*

12) *Specification, layout, and quantity of proposed landscaping plant materials;*

13). *Location, layout, and dimensions of all existing and proposed drainage facilities, accompanied by detailed drainage calculations signed and sealed by an Professional Engineer licensed in the State of Maine;*

14). *Location, specification, height and photometric data of existing and proposed exterior lighting;*

15) *Sight distances delineated on the site plan for all driveway and street openings and all easements required to maintain such sight distances in perpetuity shall also be delineated on the plan;*

16). *Soil Erosion Control Plan showing location, quantity, and specifications of erosion control devises and strategies to be implemented to minimize on and off-site sedimentation.*

**d.** Cost estimates for all proposed site improvements.

**e.** Building Plans of all proposed structure(s) including interior layout, side, and front elevations drawn to a scale of not less than 1/4 inch to 1 foot.

**f.**. Schematic elevation of proposed signs, drawn to a scale of not less than 3/4 inches to 1 foot, and illustrating sign layout, lettering, graphics and logos, materials, color, and proposed illumination.

**g.** Additional Submittals: In addition, the Planning Board may require any one or all of the additional impact studies and information to be submitted as part of the Site Plan Review Application:

1). *Fiscal Impact Assessment:* Analyzing the projected fiscal impacts to the municipal service delivery system

2) *Traffic Impact Assessment:* Analyzing the potential trip generation created by the proposed project and its cumulative impact upon traffic capacity of servicing public highways and level of service performance at off-site intersections.

3). *Groundwater Study:* Analyzing the individual and cumulative impacts of the proposed project upon existing groundwater quality.

4). *Market Study:* Prepared by a qualified market research firm, and indicating the potential feasibility and projected success of a proposed use.

**h**. Any other information requested by the Planning Board deemed necessary to make a reasonable and informed decision about the proposed project.

**3. Waiver of Submission Requirements:**
Specific submission requirements of Sections 9.8.E.1 and 9.8.E.2 may be waived by the reviewing authority if said authority rules that the required application submission will not yield any useful information given the nature and scope of the proposed activity or the existing character of the site.

## 9.8.F SITE PLAN REVIEW PROCEDURES

1. **APPLICATION CLASSIFICATION:** The Town Planner shall be responsible for determining whether an application qualifies for Administrative or Plenary review.

2. **ADMINISTRATIVE SITE PLAN REVIEW PROCEDURE:** The following procedures shall govern the Administrative Site Plan Review process:

**a.** **Pre-Application Conference** The Pre-Application Conference can save the applicant time, effort, and can expedite the approval process. All applicants are advised to schedule a Pre-Application Conference with the Town Planner prior to submitting an Administrative Site Plan Application. The Pre-Application Conference assists the applicant in determining the submission requirements necessary to provide a *complete application*, identifies potential conflicts with existing ordinances or land use policies, familiarizes the applicant with review procedures and approval criteria, and familiarizes the Planning Department with the project. No binding decisions shall be made by the staff at this meeting.

**b.** **Determination of a Complete Application:** Within ten (10) days after an application is classified as an *Administrative Site Plan Review* Application by the Staff Review Committee, a determination shall be made whether the application is Complete and contains submission receipts of all relevant State and Federal permits, complete plan submissions as required by this Ordinance, and all

relevant information necessary to make a reasonable and informed decision. Notification of this application shall be sent to all property owners within a one hundred (100) foot radius from the applicant's property line at least 7 days prior to the issuance of the final approval.

**c.** **Staff Review Committee Ruling:** Within thirty (30) days of ruling that the application is a *Complete Application*, the Staff Review Committee shall approve, approve with conditions, or deny the application based on criteria pursuant to Section 9.8.6.4 herein. Absent an extension under subparagraph (3) below, the application shall be denied if the Staff Review Committee does not act within the 30 days.

**d.** **Request for Extension:** The thirty (30) day period of subparagraph (2) above may be extended by agreement between the applicant and the Staff Review Committee or upon written request of the applicant in order to amend the application prior to the issuance of a decision. An extension granted upon request of the applicant shall not exceed 30 days and no more than one such extension shall be granted.

**e.** **Document Filing:** No Administrative Site Plan approval shall become effective until a record reproducible copy of the approved plan is signed by the Staff Review Committee and the applicant; all conditions of approval mandated are drafted on the record plan; all Peer Review fees (Section 9.8.8) have been paid, and Performance Assurances ( Section 9.8.7) supplied to the Town.

**f.** **Planning Board Notification:** Any Administrative Site Plan approval or denial shall be communicated to the Planning Board at the next scheduled Planning Board meeting.

**3. PLENARY SITE PLAN REVIEW PROCEDURE**

**a.** **Sketch Plan Review:** Prior to submitting a formal Plenary Site Plan Application, all applicants are encouraged to present the Planning Board with a preliminary sketch plan of the proposed activity. This informal consultation will assist the applicant in determining the submission requirements necessary to provide a *complete application* and can identify site issues and constraints that the applicant should resolve prior to submission of the application. No binding decisions shall be made by the Planning Board at this meeting

**b.** **Determination of a Complete Application:** Applications will be reviewed for their classification and completeness at the next regularly-scheduled meeting of the Planning Board. The Planning Board shall designate the application as a *Complete Application* if it includes submission receipts of all relevant State and Federal permits, complete plan submissions as required by this Ordinance, and contains all relevant information necessary to make a reasonable and informed decision. Conversely, if the application is lacking data required by the Planning Board, the applicant shall provide the requested information before the application is designated as being *Complete*. Applications failing to be designated as a Complete Application within six (6) months from the date of submission to the Planning Board shall be denied by the Board.

**c.** **Public Hearing:** Within thirty (30) days of designating a Plenary Site Plan Review application as a *Complete Application*, the Planning Board shall conduct a Public Hearing, during which abutters to the proposed project and any other members of the public shall have an opportunity to express their opposition or support for the proposed project. Notification of this Public Hearing shall be sent to all Arundel property owners within a two-hundred (200) foot radius of the applicant's property line, a minimum of ten (10) days prior to the hearing.

**d.** **Site Walk:** At any time during the review of the application, the Planning Board may conduct a Site Walk. The Site Walk shall be open to the public and notification of the Site Walk shall be legally-posted on the Town website and on the Town Bulletin Board at least seven (7) days prior to the meeting. No formal action shall be taken by the Planning Board at any site walk

**e.** **Site Plan Review-Ruling:** Within thirty (30) days of the Public Hearing or within sixty (60) days after designating an application a Complete Application, the Planning Board shall approve, approve with conditions, or deny the application based on the application's conformance with the applicable performance standards and regulations of the Zoning Ordinance.

**f.** **Request for Extension:** Applicants may submit a written request to the Planning Board for no more than two (2) thirty (30)-day extensions in order to amend the application prior to the issuance of a Plenary Site Plan Review-Ruling.

**g.** **Document Filing:** No Plenary Site Plan approval shall become effective until a record reproducible copy of the approved plan is signed by the Planning Board members, all conditions of approval mandated by the Planning Board are drafted on the record plan, the record reproducible plan is filed with the Planning Department, all Peer Review fees (Section 9.8.H) have been paid, and Performance Assurances (Section 9.8.G) supplied to the Town.

**4. CRITERIA FOR APPROVAL**

All Site Plan Review applications shall be evaluated, approved, approved with conditions, or denied based on the following findings of fact:

**a.** The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in Sections 7, 8, and 9.8 of this Ordinance;

**b.** The proposed project has received all applicable Federal and State Permits.

**c.** The proposed project does not unreasonably impact public safety and fire protection, and will not create a financial burden for the Town of Arundel in the provision of emergency services and law enforcement to the project site and the neighborhood;

**d.** The proposed project will not have an adverse impact upon the quality of surface or groundwater resources;

**e.** The project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event and will not have an undue impact on municipal stormwater facilities or downstream properties;

**f.** The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood;

**g.** The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community;

**h.** The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life of surrounding parcels.

**i.** The proposed project will not have a negative fiscal impact on municipal government.

## 9.8.G PERFORMANCE ASSURANCES

To insure that the terms and conditions accompanying any issuance of an Administrative or Plenary Site Plan Review approval are met pursuant all sections of this Zoning Ordinance, the applicant shall submit a fully-executed performance assurances pursuant to Sections 9.8.G.1 & 9.8.G.2 to the Planning Department prior to the issuance of a Building Permit, a Certificate of Occupancy, or the commencement of the approved activity:

**1. Elements of Performance Assurance.**

Prior to granting final site plan approval, the Staff Review Committee or the Planning Board shall determine the following elements of the Performance Assurance:

**a.** The Required Improvements, consisting of those improvements which are necessary to ensure compliance with the standards of this Ordinance and any conditions of approval;

**b.** The Construction Schedule, consisting of the date of the anticipated commencement of construction and the last date for completion of the Required Improvements;

**c.** The Performance Assurance Amount, consisting of the estimated cost of the Required Improvements, the estimated cost of the inspection of the Required Improvements by the Town, and a contingency allowance of fifteen percent (15%) of the estimated cost of the Required Improvements.

**2. Performance Assurance Instruments.**

Based upon the determinations made in Section 9.8.G.1 above, the Staff Review Committee or the Planning Board, whichever approves the site plan, may require the applicant to guarantee completion of the Required Improvements by one or more of the following methods:

**a.** **Escrow Agreement.** Delivery of the Performance Assurance Amount to the Town Planner in cash pursuant to an Escrow Agreement satisfactory in form and content of the Town Planner. The Escrow Agreement shall give the Town the right to withdraw from the Escrow Account without the applicant's consent if the applicant fails to complete the Required Improvements pursuant to the Construction Schedule. The Escrow Agreement may allow interim reductions in the Performance Assurance Amount as certain of the Required Improvements are completed, in increments of no less than $2,500. Expiration of the Escrow Agreement shall be at least 30 days later than the last date for completion of the Required Improvements.

**b.** **Letter of Credit:** Delivery to the Town of an ***Irrevocable Standby Letter of Credit*** for the Performance Assurance Amount, in form and from an issuer acceptable to the Town Planner. The Letter of Credit may allow interim reductions in the Performance Assurance Amount as certain of the Required Improvements are completed, in increments of no less than $2,500. Expiration of the Letter of Credit shall be at least 30 days later than the last date for completion of the Required Improvements.

**c.** **Tri-Party Agreement:** Delivery to the Town of a ***Tri-Party Agreement*** for the Performance Assurance Amount, in form and from an issuer acceptable to the Town Planner. The issuer shall be a financial institution that shall hold the performance assurance and shall not release any or all of the funds to the Owner or the Owner's contractor unless so authorized by the Town Planner

**d.** **Extensions and Modifications.** The Planning Board or its authorized agents may extend the last date for completion of the Required Improvements provided that the applicant requests an extension prior to the expiration of the Performance Assurance Instrument and provided the applicant delivers a new or extended Performance Assurance Instrument. The Staff Review Committee or the Planning Board, whichever issued the approval, may also modify the terms of the existing Performance Assurance Instrument or substitute one Performance Assurance Instrument for another, in whole or in part, where circumstances reasonably require such modification or substitution.

**3. Refund on Completion of Improvements**.

If the Town withdraws funds pursuant to an Escrow Agreement or draws on a Letter of Credit and causes the Required Improvements to be completed, or when the applicant has completed the Required Improvements, any portion of the Performance Assurance remaining in the Town's possession or control after the Town has paid all expenses which the Town may have incurred in completing the Required Improvements (including administrative and legal costs) shall be returned to the applicant.

**9.8.H Peer Review**

The Planning Board and/or the Staff Review Committee may contract with any consultant, of its own selection, to provide peer review of technical reports, drawings, design specifications, or any other material submitted by the applicant in support of the application. The Peer Review Consultant shall take direction only from the Planning Board and/or Planning Department; however the applicant shall pay the Peer Review Consultant for all services rendered prior to the signing and filing of the Record Site Plan pursuant to Section 9.8.F.2.c.

**9.8.I Duration of Site Plan Approval**

Site Plan approval and all the legal rights, privileges, and duties thereof shall expire if project construction has not commenced within one (1) year of the approval date and if the project is not substantially completed within two (2) years of the approval date. The Staff Review Committee may grant up to a one (1) year extension on Administrative approvals and similarly the Planning Board may grant a one (1) year extension on Site Plan Review approvals if compelling evidence is presented that additional time is required to meet Federal, State, or local permit requirements or in reaction to market changes.

**9.8.J APPEALS**

**9.8.J.1 Appeals: Administrative Site Plan Review Rulings**

Any property owner or resident of the Town of Arundel aggrieved by the decision of the Staff Review Committee may appeal said decision to the Planning Board. In all cases, appeals to the Planning Board may be made only from a decision, ruling, or order relative to an application for an Administrative Site Plan Review.

**a. Authority of the Board:** The Planning Board may affirm or reverse in whole or in part or may modify any order or decision, and to that end shall have all the powers of the officers from whom the appeal is made and may issue or direct the issuance of a Administrative Site Plan Review permit.

**b. Basis of Appeal:** Aggrieved parties requesting an appeal from the decision of the Staff Review Committee shall conclusively demonstrate that the decision in the granting or denial of an Administrative Site Plan Review is in error, and a misinterpretation of Section 9.8 of this Ordinance.

**c Appeal Procedure:**

**1)** All aggrieved parties with standing shall file the appeal within twenty (20) days after receipt of a written decision of the Staff Review Committee. The appeal shall be filed on forms authorized by the Board and the aggrieved person shall explicitly set forth on said forms the grounds for his appeal.

**2)** Within thirty (30) days of the submission of a completed appeal application and the payment of all associated fees, the Planning Board shall accept the appeal for consideration.

**3)** Within forty-five (45) days of accepting an appeal application, the Board shall render a decision on whether to affirm, reverse in whole or in part, or modify the decision of the Administrative Site Plan Review ruling.

**d. Repetitive Appeals Prohibited:** Upon the denial of an appeal by the Planning Board, a second appeal of a similar nature for the same property shall not be brought before the Board ***within one year*** of the date of denial by the Board of the first appeal, unless the Board finds that either significant new evidence can be introduced that would substantially alter the result of the decision; or the Board finds, in its sole and exclusive judgment, that an error or mistake of the law or misunderstanding of fact shall have been made.

**9.8.J.2 Appeals: Plenary Site Plan Review**

Decisions of the Planning Board on Site Plan Review applications and on appeals under Section 9.8.10.1 are appealable to the Arundel Zoning Board of Appeals, following the procedures established in Section 10.5 herein.

**9.8.J.3 Appeals: Superior Court**

Decisions of the Planning Board on Site Plan Review applications and on appeals under Section 9.8.J.1 may be appealed to the Maine Superior Court pursuant to M.R. Civ.P.80B or as amended from time to time.

(Adopted June 15, 2011)

# SECTION 10 BOARD OF APPEALS

## 10.1. ESTABLISHMENT AND ORGANIZATION

A Board of Appeals is hereby established which shall consist of five (5) members and two (2) associate members. The term of office of a member or associate is three (3) years serving staggered terms. A municipal officer or his spouse may not be a member or associate member of the Board of Appeals. When a regular member of the Board is unable to act because of interest, physical incapacity or absence, an associate member shall act in his stead. Members of the Board of Appeals shall be appointed by the Town Manager in accordance with the Town Charter. When there is a permanent vacancy, the Town Manager shall appoint a new member to serve for the remainder of the unexpired term. Members of the Board of Appeals may be removed from office by the Town Manager for cause upon written charges and after public hearing. The Board of Appeals shall elect a chairman and secretary from its own membership.

## 10.2 PROCEEDINGS OF THE BOARD OF APPEALS

The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this ordinance and Title 30-A, §2691 and §4353 of the Maine Revised Statutes Annotated. Meetings shall be held at the call of the Chairman and or by a request of a majority of the Board or Selectmen. The Chairman, or in his absence, the Acting Chairman, shall preside at all meetings of the Board and may administer oaths and compel the attendance of witnesses. A quorum of the Board, consisting of three members, shall be present to conduct official business. All meetings shall be open to the public. The Secretary shall keep minutes of the Board's proceedings, showing the vote of its members upon each question, or of absence or failure to vote, and shall keep records of its examinations, official actions and all correspondence, all of which shall be a public record and be filed in the Town Clerk's offices. The Board of Appeals may adopt by-laws which provide for procedures related to the conduct of business before the Board and conduct of its membership. A quorum of the Board shall be at least 3 members, present and eligible to vote, in order to conduct official business requiring a decision on appeal.

## 10.3 POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers:

10.3.A **Administrative Review & Interpretations of the Ordinance**.

To hear and decide appeals where it is alleged there is a zoning violation or error in any order, requirement, decision, interpretation, or determination made by, or failure to act by, the Codes Enforcement Officer or reviewing authority, in the enforcement or administration of this ordinance. When an error of an administrative procedure or interpretation is determined by the Board of Appeals, the matter shall be remanded to the Codes Enforcement Officer or appropriate review authority for reconsideration.

10.3.B **Variances**. (Amended June 14, 2000)

To grant variances upon appeal in specific cases, but only within the limitations set forth in this ordinance. The Board shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance and it may impose such conditions as it deems necessary, to this end. (Amended June 14, 2000)

10.3.C **Appeals**

Any aggrieved party may appeal the decision of the Codes Enforcement Officer, Planning Board or Review Board, within 30 days after applicant has been notified of a decision as follows:

10.3.C.1 Appeals involving administration procedures or interpretation of this ordinance may be heard and decided by the Board of Appeals, as detailed below:

10.3.C.1.a When errors of administration procedure are found, the case shall be referred back to the appropriate official or board for rectification.

10.3.C.1.b When the true intent and meaning of this ordinance has been misconstrued or wrongfully interpreted, the Arundel Board of Appeals may modify or reverse the order of action but may not

alter the conditions attached by the Codes Enforcement Officer, Planning Board or Review Board. All changes in conditions, shall be made by the Codes Enforcement Officer, Planning Board or Review Board in accordance with the Arundel Board of Appeal's interpretation.

10.3.C.1.c Appeals involving administration procedure or interpretation shall lie from the decision of the Codes Enforcement Officer, Planning Board or Review Board to the Arundel Board of Appeals and from the Arundel Board of Appeals to the Superior Court according to State law.

10.3.C.1.d Appeals involving conditions imposed by the Codes Enforcement Officer, Planning Board or Review Board, or a decision to deny approval, shall be from the Codes Enforcement Officer, Planning Board or Review Board to the Superior Court, according to State law, when such appeals do not involve administration procedures or interpretation.

## 10.4 VARIANCES

Variances may be permitted only under the following conditions:

No variances shall be granted to an applicant seeking a variance from those dimensional requirements established for maximum tower height standards as established in the telecommunication overlay zones by the provisions of Section 8.13 relating to Telecommunications Structures /Facilities. (Amended April 15, 1998) (Amended June 14, 2000)

10.4.A Except as set forth above and in Sections 10.4.B and 10.4.C, variances may be granted by the Board of Appeals for a deviation in the setback requirements and from dimensional requirements for lot frontage, lot area, height, structure size, lot coverage and open space requirements. The Board shall not grant a variance unless it finds that all the following criteria are met: (Amended June 14, 2000)

10.4.A.1 The land in question cannot yield a reasonable return unless a variance is granted;

10.4.A.2 The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

10.4.A.3 The granting of a variance will not alter the essential character of the locality; and

10.4.A.4 The hardship is not the result of action taken by the applicant or a prior owner.

10.4.A.5 The proposed use will not cause or result in unsafe, unhealthful or nuisance conditions.

10.4.A.6 When considering a variance for other than maximum height in Telecommunications Facilities Overlay Zone III, the Appeals Board may require further size information, such as balloon tests, expanded viewshed analysis, or other informational aids before considering an appeal to height designations when an applicant does not have a sufficient number of collocators. (Adopted April 15, 1998)

10.4.B **Disability Variance**

A disability variance may be granted by the Board of Appeals from setback requirements to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property.

10.4.B.1 The Board shall restrict the variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the property. The Board shall limit the variance to the duration of the disability or to the time the person with the disability lives on the property. Disability shall have the same meaning as a physical or mental handicap as under MRSA 5, §4553.

10.4.C **Setback Variance For A Detached Single Family Dwelling**

A setback variance of up to 20%, may be granted by the Board of Appeals, from setback requirements, to a property owner for his primary year round residence when the strict application of the standards would cause an undue hardship to the applicant and his property. The Board shall not grant a variance if the variance would cause the dwelling to exceed the lot coverage and unless it finds that all the following criteria are met:

10.4.C.1 The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

10.4.C.2 The granting of a variance will not alter the essential character of the locality; and

10.4.C.3 The hardship is not the result of action taken by the applicant or a prior owner.

10.4.C.4 The granting of the variance will not substantially reduce or impair the use of the abutting property;

10.4.C.5 The granting of the variance is based upon the demonstrated need, not convenience, and no other feasible alternative is available.

10.4.D [Repealed June 14, 2000]

## 10.5 APPEALS TO THE BOARD OF APPEALS

### 10.5.A Making an Appeal

An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the decision appeals from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

10.5.A.1 Such appeal shall be made by filing with the Board of Appeals a written notice of appeal specifying the grounds for such appeal. For a variance appeal the applicant shall submit:

10.5.A.1.a a sketch drawn to scale showing lot lines, location, of existing building and other physical features pertinent to the variance request.

10.5.A.1.b a concise written statement stating what variance is requested.

10.5.A.2 Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by an administrative fee of two hundred and fifty dollars ($250.00) to cover advertising and administrative costs. If the actual cost of advertising exceeds two hundred and fifty ($250.00) the applicant shall pay the balance. The administrative fee may be increased by the Board of Selectmen, after a public hearing, upon determination that the revenues generated do not cover the administrative costs. The Board of Appeals shall hold a public hearing on the appeal within forty-five calendar (45) days. (Administrative Fee increased from $100.00 to $250.00 by the Board of Selectmen on May 28, 2002 after Public Hearing.)

10.5.A.3 A copy of each variance request within the Shoreland Zone including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### 10.5.B Procedure On Appeal

10.5.B.1 At least ten (10) days prior to the date of the hearing on such appeal, the Board shall cause to be published in one issue in a newspaper of general circulation in the town a notice which includes:

10.5.B.1.a the name of the person appealing.

10.5.B.1.b a brief description of the property involved.

10.5.B.1.c a brief description of the decision appealed from, or the nature of a variance appeal.

10.5.B.1.d the time and place of the Board's hearing.

10.5.B.2 At least ten (10) days prior to the date set for hearing, the Board shall give similar written notice to:

10.5.B.2.a all property owners of record whose properties lie within 500 feet of the affected property;

10.5.B.2.b the person making the appeal; and

10.5.B.2.c the Planning Board and any other parties of record.

10.5.B.3 The notice will be sent by U.S. Mail, postage prepaid to those persons as listed on the town's tax records.

10.5.C **Hearings**

10.5.C.1 The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.

10.5.C.2 The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman.

10.5.C.3 At any hearing, a party may be represented by agent or attorney. The hearing shall not be continued to other times except for good cause.

10.5.C.4 If a party does not attend a hearing and is not otherwise represented, its case will be deemed to have been withdrawn without prejudice to refile the appeal. The $100 filing fee will not be refunded to any applicant whose appeal is withdrawn in this manner.

10.5.C.5 The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.

10.5.C.6 The transcript or tape recording of testimony, prepared by the Board, and the exhibits, together with all papers and requests filed in the proceedings, shall constitute the public record.

## 10.6 DECISIONS OF THE BOARD OF APPEALS

10.6.A The concurring vote of a quorum of the members of the Board, present and voting, shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance.

10.6.B The Board shall decide all appeals within thirty (30) days after hearing, and shall issue a written decision on all appeals.

10.6.C All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis for, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, agency or office and the Selectmen within seven (7) days of the decision date.

The Board may reconsider any decision within 30 days of its decision. A vote to reconsider and action thereon shall occur and be completed within 30 days of the original vote. Additional hearings may be held to receive further evidence and testimony.

10.6.D Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall issue a Permit in accordance with the conditions of the approval, unless the applicant needs a Conditional Use Permit.

10.6.E A variance secured under the provisions of this ordinance by vote of the Board of Appeals shall expire if the work or change involved is not completed within two (2) years of the date on which the variance is authorized.

10.6.F Appeals may be taken from any decision of the Board of Appeals within 45 days of the vote on the original decision to Superior Court as provided by law.

10.6.G The Chairman of the Board of Appeals shall notify the Department of Environmental Protection of variances granted in the Shoreland Zone within fourteen (14) days of the decision.

10.6.H A variance granted by the Board of Appeals is voided unless the applicant records a certificate, within 90 days of the written approval (the date stated on the written approval), in the York County Registry of Deeds, which includes the following:

10.6.H.1 Name of the property owner;

10.6.H.2 Book and Page reference of last recorded deed in the property's chain of title;

10.6.H.3 Statement of the variance, including any conditions, and the date of approval.

## 10.7 REPETITIVE APPEALS

10.7.A The Board of Appeals may not consider a second appeal of the same or similar nature for the same property within two years of the date of a denial of an appeal, unless, in a majority opinion of the Board, substantial new evidence is submitted that in the Board's judgment would indicate that an error in law or misunderstanding of facts, has been made. (Adopted June 12, 1996)

# SECTION 11 AMENDMENTS

## 11.1 AUTHORITY

The legislative body of the Town of Arundel may from time to time amend the boundaries of the districts established on the Official Land Use Map or the regulations set forth in this ordinance.

## 11.2 PROCEDURE ON AMENDMENTS

11.2.A **Proposed Amendment by Municipal Officers, Planning Board or Upon Petition**.

If either the Municipal Officers or the Planning Board desire to propose any changes to this ordinance, or if a citizen petition as set forth herein is brought, the following procedure shall be followed:

11.2.A.1 If the proposal is initiated by the Municipal Officers, they shall formally request the Planning Board to hold a public hearing as set forth below, and to carry out the other procedural requirements of this section.

11.2.A.2 If the proposal is initiated by the Planning Board, it shall be by majority vote of the Board.

11.2.A.3 If a petition requesting amendment of this ordinance is submitted, signed by at least ten percent (10%) of the registered voters of the town based on the latest gubernatorial election and filed with the Town Clerk, the Clerk verify the signatures. If the Clerk verifies that the signatures are valid, the Town Clerk shall notify the Board of Selectmen and Planning Board of the proposed amendment for consideration at the next town meeting. The Planning Board shall then carry out the other procedural requirements of this section. (Amended June 10, 1997)

11.2.A.4 As soon as the amendment procedure is initiated by any of the above methods, the Board shall cause the Town Clerk to give public notice of a public hearing on the proposed changes, which notice shall posted at the Arundel Town Hall and be published in a newspaper of general circulation in the town, at least seven (7) days prior to the date of hearing. The notice shall contain the time, date, and place of hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.

11.2.A.4.a Prior to a public hearing the individuals requesting the amendment shall pay to the Town Clerk a five-hundred dollar ($500.00) fee to cover staff, professional and advertising expenses. If the actual costs exceed this amount then the individuals requesting the amendment shall be responsible for the balance to be paid prior to Town Meeting. All fees shall be in accordance with a Schedule of Fees established by the Board of Selectmen. (Amended November 13, 2007)

11.2.A.5 The public hearing shall be held by the Planning Board.

11.2.A.6 As soon as possible after such public hearing and in any event within forty-five (45) days thereafter, the Planning Board shall make a written recommendation, for or against the proposed changes to the Board of Selectmen.

11.2.A.7 This ordinance may be amended by either: ballot referendum vote or a vote at the annual or special town meeting. (Amended November 7, 2000)

11.2.B **Proposed Amendment by Individuals**

Any owner of property, or holder of a valid option or sales contract for purchase of property, may propose the redistricting of that property into another district. In such case the following procedure shall be followed:

11.2.B.1 The applicant shall file with the Town Clerk an application signed by him which shall give an adequate description of the property for which the redistricting is requested, and shall indicate clearly what redistricting is requested. The applicant shall also furnish the Town Clerk with a plan showing this property in relation to the present district boundaries, with sufficient detail to adequately identify it. . The applicant shall also at this time pay to the Town Clerk a five-hundred dollar ($500.00) fee to cover staff, professional and advertising expenses. If the actual costs exceed this amount then the individuals

requesting the amendment shall be responsible for the balance to be paid prior to Town Meeting. All fees shall be in accordance with a Schedule of Fees established by the Board of Selectmen. (Amended November 13, 2007)

11.2.B.2 Immediately upon receipt of such an application, the Town Clerk shall forward a copy thereof to the Planning Board, which shall promptly schedule a public hearing on the application in accordance with procedures set forth in Subsection 11.2.A. The Planning Board shall promptly notify the Town Clerk of the date, time, and place of hearing, and the Clerk shall inform the applicant. It shall be the responsibility of the applicant to find out from the Clerk the details of the hearing in order to post the required sign as required by the following section.

11.2.B.3 At least ten (10) days prior to the scheduled hearing, the applicant shall erect at his expense, on the property, in a conspicuous location, a sign containing not less than nine (9) square feet of area, with a white background on which shall be written in letters a least three (3) inches high:

NOTICE TO THE PUBLIC

An application has been filed with the Town Clerk requesting that this property be redistricted from (insert present district name) to (insert proposed district). A public hearing will be held at (insert place) on (date) at (time). All those having an interest in this application should be present.

/s/_____ _____
Applicant Address

The applicant shall also be responsible for maintaining this sign continuously in the same location until the date of the hearing. The C.E.O. shall verify the installation of, and monitor the maintenance of the sign.

11.2.B.4 Upon receiving notification from the Planning Board of the details of the hearing, the Town Clerk shall:

11.2.B.4.a At least fourteen (14) days prior to the schedule hearing post notice at the Arundel Town Hall and give written notice, with sufficient information to identify the property, the district change requested, and the applicant to all property owners of record, (as evidenced by the town tax files) within five hundred (500) feet to the subject property. This notice shall be sent by regular U.S. mail, first class, postage prepaid, at least fourteen (14) days prior to the schedule hearing. Failure of any actual property owner to receive such notice, for any reason, shall not invalidate the amendment proceedings.

11.2.B.4.b Publish a copy of such notice, in a newspaper of general circulation in the town, in two issues of such paper, at least seven (7) days prior to the scheduled date of the hearing.

11.2.B.5 The public hearing shall be held by the Planning Board.

11.2.B.6 As soon as possible after such public hearing and in any event within forty-five (45) days, the Planning Board shall make a written recommendation, for or against the proposed changes to the Board of Selectmen. The applicant may be required by the Planning Board to post a performance bond equal to at least 25% of the estimated cost of the development, payable to the Town if the project is not substantially constructed within one year of the effective date of the redistricting.

11.2.B.7 After the Board of Selectmen conduct a public hearing this official map may be amended by either: ballot referendum vote or a vote a the annual or special town meeting.

## 11.3 REPETITIVE PETITIONS

11.3.1 No proposed change to this Ordinance which has been unfavorably acted upon by a town meeting vote or referendum vote shall be considered on its merits by the governing body within two (2) years after the date of such unfavorable action unless the proposed change is recommended by unanimous vote of the Arundel Planning Board and Board of Selectmen or has been submitted under Section 11.2.A.

# SECTION 12 LEGAL STATUS PROVISIONS

## 12.1 CONFLICT WITH OTHER LAWS

When the provisions of this ordinance specify more restrictive standards than required by any other statute or ordinance the requirements of this ordinance shall govern.

## 12.2 VALIDITY AND SEVERABILITY

Should any section or part of a section or any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

## 12.3 REPEAL OF PRIOR LAND USE ORDINANCES

All prior Land Use Ordinances are repealed.

## 12.4 EFFECTIVE DATE

This ordinance shall take effect and be in force from the date of its adoption, June 14, 1995 and amendments shall be effective upon their subsequent passage any town meeting vote.

# SECTION 13 DISTRICT DESCRIPTIONS

The boundaries of all zoning districts within the Town of Arundel shall be established as delineated on the Official Land Use Map and certified by the Town Clerk. Where possible, Zoning district boundaries follow lot lines, road rights-of ways, or natural features such as watercourses. Additional descriptions for different districts below are provided for clarification purposes given the scale of the Land Use Map. (Adopted June 10,2015)

Shoreland Zoning boundaries on the Official Land Use Map are for illustrative purposes only and are determined by field conditionals as described in Section 6.4.B. (Adopted June 10,2015)

## *COMMERCIAL DISTRICTS*

### 13.1 DOWNTOWN BUSINESS 1 DISTRICT (DB-1) (Adopted June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 15, 29, 30, 33, 34, 35, 36, and 43 | The ***Downtown Business District 1 (DB-1)*** shall include land along Portland Road, Campground Road, Log Cabin Road, Limerick Road, Old Post Road and River Road as delineated on the Official Zoning Map dated June 11, 2014. In general the DB-1 district follows back property lines or in larger parcels extends to a depth of 350+/- linear feet from the road right of way as depicted on the Official Zoning Map. |

### 13.2 DOWNTOWN BUSINESS DISTRICT 2 (DB-2) (Adopted June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 14, 15, 29, 30, 33, 34, 35, 36, and 43 | The ***Downtown Business District 2 (DB-2)*** shall include land behind the DB-1 district along Portland Road, Campground Road, Log Cabin Road, Limerick Road, Old Post Road and River Road as delineated on the Official Land Use Map dated June 10, 2015. In general the DB-2 district follows back property lines or in larger parcels extends to the depth as depicted on the Official Land Use Map. |

### 13.3 BUSINESS / OFFICE PARK / INDUSTRIAL DISTRICT (BI) (Amended June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 1, 2, 11, 12, 14, and 15 | The ***Business / Office Park / Industrial District (BI)*** shall include all properties within the BI district boundaries as illustrated on the Official Land Use Map. In general the BI district lies along Portland Road bounded by a line that begins at a point 1,000 feet east of the easterly right-of-way line of Portland Road (Route 1) and is bounded to the west by the Granite State Gas transmission corridor and the Eastern Trail. Lot 9 on Arundel Assessor's Map 15 shall be included in the BI district. |

### 13.4 ALFRED ROAD BUSINESS DISTRICT (AR) (Adopted June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 1, 2, 11, 12, 14, and 15 | The ***Alfred Road Business*** **District** (AR) shall begin at the Biddeford City line on the Alfred Road (Route 111) and proceed~~s~~ in a generally westerly direction parallel to along Alfred Road to the eastern boundary of the Central Maine Power transmission corridor, extending to the Biddeford City line to the north, and to the south along properties fronting Alfred Road, Old Alfred Road, and New Road, as depicted on the Official Land Use Map. |

### 13.5 TOWNHOUSE CORNER DISTRICT (TC) (Adopted June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Map 39 | The ***Townhouse Corner District (TC***) shall include land along Arundel Road beginning at a point 135 feet east of Millbrook Drive and extending to the intersection with Log Cabin Road, in addition to all lands along the western side of Log Cabin Road beginning at Sinnott Road and extending to John Cluff Road, as depicted on the Official Land Use Map. |

**13.6 GATEWAY DISTRICT (GW)** (Adopted June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 1 & 2 | The ***Gateway District (GW)*** shall include land along Portland Road (Route 1), Procter Road, and Old Post Road beginning to the north at the Biddeford City boundary and extending southward approximately 3,100 linear feet along Portland Road, as depicted on the Official Land Use Map. |

## *RESIDENTIAL DISTRICTS*

**13.7 RURAL RESIDENTIAL DISTRICT (R-3)** (Amended June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 1, 12-14, 30-33, 38, and 39 | The ***Rural Residential District (R-3)*** shall begin at a point on the Biddeford City line, 1,000 feet southeast of the easterly right of way of the Portland Road and proceeds southeasterly along the Biddeford City line to the Kennebunkport Town line; then proceeding southwesterly along the Kennebunkport Town Line to a point 1,500 feet southwest of the Proctor Road; then proceeding northwesterly parallel to and 1,500 feet southwest of Proctor Road to a point 1,500 feet east of Portland Road; then proceeding southwesterly parallel and 1,500 feet east of Portland Road to the Boston and Maine Railroad; then proceeding generally southerly along the Boston and Maine Railroad to Goff Mill Brook; then proceeding downstream along the thread of Goff Mill Brook to a point 1,200 feet upstream from Log Cabin Road as measured along the thread of the Brook; then east to the Kennebunkport Town line; then southerly along the Kennebunkport Town line to John Cluff Road; then southerly along the western boundary of the Townhouse Corner District Arundel Road; then southwesterly along Arundel Road to Goff Mill Brook; then upstream along the thread of Goff Mill Brook to Log Cabin Road; then northwesterly along Log Cabin Road to Lombard Road; then westerly along Lombard Road and Sinnott Road to the Boston and Maine Railroad; then northeasterly along the Boston and Maine Railroad to a point 300 feet southwest of Log Cabin Road; then northwesterly parallel to and 300 feet southwest of Log Cabin Road to Old Post Road; then northeasterly along Old Post Road to a point 3,000 feet northeast of Log Cabin Road; then northwesterly parallel to and 3,000 feet northeast of Log Cabin Road to a point 1,000 feet southeast of the easterly right of way line of Portland Road; then northeasterly parallel to and 1,000 feet southeast of the easterly right of way line of Portland Road to the point of beginning; as depicted on the Official Land Use Map. |

**13.8 RURAL CONSERVATION DISTRICT (R-4)** (Amended June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 4-9, 18-28, and 35<br>Maps 1, 13, 14, and 31<br>Maps 32, 36-43 | As depicted on the Official Land Use Map, the ***Rural Conservation District (R-4)*** shall include three separate districts. Land in the western portion of the town more specifically bounded by a line beginning at a point on the Biddeford City line at the intersection with the eastern boundary of the Central Maine Power right-of-way then proceeding southwesterly along the western and southern boundary of the *Alfred Road Business District* to the southeastern corner of Lot 25B (n/f) on Tax Map 4; then southwesterly parallel to and 1,400 feet west of New Road crossing Limerick Road and proceeding in the same course to the Central Maine Power right of way, then southwesterly along the Central Maine Power right right of way, then southwesterly along the Central Maine Power right of way a distance of 1,000 feet to a point; then proceeding southeasterly to a point that is 1,500 feet northwest of Limerick Road; then southerly parallel to and 1,500 feet west of Limerick Road to Duck Brook; then downstream along the thread of Duck Brook to the Maine Turnpike; then proceeding northeasterly along the Maine Turnpike to a point 1,000 feet west of Limerick Road; then southerly parallel to and 1,000 west of Limerick Road to a point 1,000 feet north of the westerly right of way of Portland Road; then southwesterly parallel to and 1,000 feet north of the westerly right of way of Portland Road to a point 300 feet northeast of the Kennebunk River; then in an upstream direction parallel to and 300 feet northeast of the |

thread of the Kennebunk River to the Lyman Town Line; then northeasterly along the Lyman town Line to the Dayton Town Line; then southeasterly along the Dayton Town Line and Biddeford City Line to the point of beginning; excepting from the above the area described as being in the Natural Resource Conservation District around Brimstone Pond and neighboring wetlands.

Land in the southerly portion of the town beginning at a point on the Boston & Maine Railroad right-of-way 300 feet northeast of the Kennebunk River and proceeding in a northeasterly direction following the B & M Railroad to Sinnott Road; then easterly along Sinnott Road to Lombard Road; then easterly along Lombard Road to Log Cabin Road; then proceeding southeasterly along Log Cabin Road to Goff Mill Brook; then along Goff Mill Brook to a point 300 feet upstream of the Kennebunk River; then proceeding generally northwesterly parallel to and 300 feet from the river to the point of beginning.

Land in the easterly portion of the town beginning on the Kennebunkport Town line at a point 1,500 feet southwest of Proctor Road and proceeding southwesterly and southerly along the Kennebunkport Town line to a point due east of a point on the thread of Goff Mill Brook that is 1,200 feet upstream from the Log Cabin Road as measured along the thread of the Brook; then westerly to a point on the thread of Goff Mill Brook that is 1,200 feet upstream from the Log Cabin Road as measured along the thread of the Brook; then upstream along Goff Mill Brook to the Boston and Maine Railroad; then northerly along the Boston and Maine Railroad to a point 1,500 feet east of Portland Road; then northeasterly parallel and 1,500 feet east of Portland Road to a point 1,500 feet southwest of Proctor Road; then southeasterly parallel to and 1,500 feet southwest of Proctor Road to the point of beginning.

## 13.9 SUBURBAN RESIDENTIAL DISTRICT (R-2) (Amended June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 14, 15, 30, 33, 36, and 43;<br>Maps 2, 3, 10, 11, 16, 17, 25, and 27 | As depicted on the Official Land Use Map, the ***Suburban Residential District (R-2)*** district shall include two separate districts. Land that is bounded by a line beginning at a point on the Granite State Gas Transmission Company right of way at the Biddeford City Line and proceeding southwesterly along the Granite State Gas Transmission Company right of way to the northeasterly boundary of Lot 15A of Arundel Assessors Map 2; then southeasterly along the northeasterly boundary of Lots 15A and 15B of Arundel Assessors Map 2 to the easterly corner of Lot 15B on Arundel Assessors Map 2; then southwesterly along the southeasterly lot lines of Lots 15B, 14, 14-05, 14-04, and 14-03, on Arundel Assessors Map 2 to the southerly corner of Lot 14-03 on Arundel Assessors Map 2; then northwesterly along the southwestern boundary of Lots 14 and 14-03 on Arundel Assessors Map 2 to the intersection of the Granite State Gas Transmission Line right of way; then southwesterly along the Granite State Gas Transmission Company right of way to a point 1,000 feet northeast of Limerick Road; then generally northerly parallel to and 1,000 feet west of Limerick Road to the Maine Turnpike; then southwesterly along the Maine Turnpike to Duck Brook; then upstream along Duck Brook to Downing Road; then northerly parallel to and 1,500 feet west of Limerick Road to a point 2,275 feet from the Central Maine Power right of way; then northeasterly in a course that is the extension of a line that is parallel to and 1,500 feet east of New Road, crossing Limerick Road and continuing parallel to and 1,500 feet east of New Road to the southern boundary of Lot 11A on Arundel Assessor's Map 3, thence in an easterly and northerly direction around the southern and eastern boundary of said Lot 11A, Map 3 to the intersection with Old Alfred Road, then proceeding in a northwesterly direction to the junction of the northwest corner of Lot 15A on Arundel Assessor's Map 3 with the Biddeford City line; then southeasterly along the Biddeford City Line to the point of beginning<br><br>As depicted on the Official Land Use Map, the Suburban Residential District R-2 district shall also include land that is bounded beginning at the intersection of the Kennebunk River and the eastern boundary of the Downtown Business 1 District , proceeding northeasterly along lot lines to the intersection of River Road and Old Post Road, thence easterly and northeasterly along the eastern boundary of the Downtown Business 2 District, thence westward along the northern |

boundary of Lots 24C and 25 on Assessor's Map 30 to the southeast corner of Lot 31A-04, then proceeding northeasterly along the eastern boundaries of Lots 31A-04, 31A-03, and 31 on Map 30, thence northeasterly across Log Cabin Road, thence along the eastern boundary of the Downtown Business 1 District (DB-1) to the southeast corner of the Business/Office Park/Industrial District (BI) thence northeasterly along the eastern boundary of the BI District for a distance of 353 linear feet; then southeasterly parallel to and 3,000 feet northeast of Log Cabin Road to the Old Post Road; then southwesterly along the Old Post Road to a point 300 feet southwest of Log Cabin Road; then southeasterly parallel to and 300 feet southwest of Log Cabin Road to the Boston and Maine Railroad; then southwesterly along the B & M Railroad to the Kennebunk River; then upstream to the point of beginning.

## 13.10 URBAN RESIDENTIAL DISTRICT (R-1) (Amended June 10, 2015)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 15-16, 27-29, 34, and 35;<br>Maps 14, 30, 33, 36, and 43 | The Urban Residential District (R-1) shall include three separate districts.<br>As depicted on the Official Land Use Map, the first district consists of land served by Walker's Lane and is comprised of Lots 2, 2B, 2D, 5, 5A, 5B, 5C, 5D, 6, 6B, 7, and portions of Lot 1 on Arundel Assessor's Map 35.<br>Urban Residential District (R-1) shall also include land that is bounded beginning at a point at the southern corner of Lot 22-04 on Arundel Assessor's Map 35 and 1,000 feet west of Limerick Road and proceeding in a northerly direction parallel to and 1,000 feet west of Limerick Road to the Maine Turnpike; then northeasterly along the Maine Turnpike to a point 1,000 feet northeast of Limerick Road; then southerly parallel and 1,000 feet northeast of Limerick Road to the Granite State Gas Transmission right of way; then northeasterly along the Granite State Gas Transmission right of way to a point 3,200 feet north of Campground Road; then parallel to and 3,200 feet north of Campground Road to the western boundary of the Business/Office Park/Industrial (BI) district at Lot 9 on Arundel Assessor's Map 15; then southerly and easterly around the perimeter of Lot 9, Tax Map 15 to the western boundary of the Downtown Business 2 (DB-2) district; then southwesterly along the western boundary of the DB-1 and DB-2 districts to the point of beginning. Lots 12B and 12C on Arundel Assessor's Map 15 shall also be included in the Urban Residential (R-1) district.<br>As delineated on the Official Land Use Map, the Urban Residential District (R-1) shall also include land that is bounded beginning at the northwest corner of Lot 15A on Arundel Assessor's Map 3 and proceeding westward along the Biddeford City line to the northeast corner of the Alfred Road Business District (AR); then proceeding along the eastern and then southern boundary of the AR district to a point 1,400+/- feet west of New Road at the Rural Conservation district boundary, then proceeding southwesterly parallel to and 1,400 +/- feet west of New Road to Limerick Road; then in the same southerly course across Limerick and Brimstone Road to the Central Maine Power right of way; then southeasterly along the Central Maine Power right of way a distance of 1,000 feet; then northeasterly in a course that is the extension of a line that is parallel to and 1,500 feet east of New Road, crossing Limerick Road and continuing parallel to and 1,500 feet east of New Road and along the Urban Residential 1 boundary to the point of beginning. |

## 13.11 NATURAL RESOURCE CONSERVATION DISTRICT (NRC)

| TAX MAP | DESCRIPTION |
|---|---|
| Maps 8, 19, 20, and 23;<br>Maps 22-26, 28, 35, 41-43 | Natural Resource Conservation District (NRC) shall include two separate districts. Excepting that land that is within 1,000 feet of the Portland Road right of way, all land that is within 100 feet, horizontal distance, of the normal high-water line of the Kennebunk River. (Amended June 10, 2009)<br>Also, land that is within 250 feet horizontal distance of Brimstone Pond and freshwater wetlands associated with Brimstone Pond. |

### 13.12 MOBILE HOME PARK OVERLAY DISTRICT (MH)

| TAX MAP | DESCRIPTION |
|---|---|
| Map 1;<br>Map 29 | The Mobile Home Park Overlay District (MH) shall include land that is bounded beginning at a point on the Biddeford City line 1,000 feet southeast Portland Road and proceeding in a southeasterly direction along the Biddeford City line to the Kennebunkport Town line; then proceeding southwesterly along the Kennebunkport Town line a distance of 4,000 feet; then proceeding northwesterly parallel to the Biddeford City line to the Boston & Maine Railroad right of way; then proceeding northeasterly along the Boston & Maine Railroad right of way to a point that is 1,000 feet south of Portland Road; then proceeding northeasterly parallel to and 1,000 feet southeast of Portland Road to the point of beginning.<br><br>The District also includes land that is bounded by a line beginning at a point on the Campground Road, 1,000 feet northwest of Portland Road and proceeding in a southwesterly direction a distance of 1,500 feet parallel to and 1,000 feet northwest of Portland Road; then proceeding in a northwesterly direction parallel to and 1,500 feet southwest of Campground Road for a distance of 2,500 feet; then proceeding northeasterly across the Campground Road to a point 1,500 feet northeast of Campground Road, which point is 3,500 feet northwest of Portland Road; then proceeding southeasterly 2,500 feet to a point 1,000 feet northwest of Portland Road; then proceeding southwesterly parallel to and 1,000 feet northwest of Portland Road to the point of beginning. |

### 13.13 TELECOMMUNICATION FACILITY OVERLAY ZONES

## ZONE I:

All area within the Town of Arundel not within Zone II or Zone III as described below.

## ZONE II:

Beginning at a point on the easterly right of way of the Maine Turnpike, opposite survey base line station 1365+50, thence in a northerly direction along the easterly right of way to a point opposite station 1425+50; Thence S61º 40' E to a point one thousand (1000) feet westerly of the Mountain Road at approximately the end of Dawn Hill Road. Then running southwest and parallel to Mountain Road (measured at a right angle to the right of way); Thence southerly parallel to, and one thousand (1000') feet westerly of, the Mountain Road, to a point bearing S 61º 40' E from the point of beginning; Thence N61º 40' W to the point of beginning (All bearings related to True North. See Maine Turnpike Plan sheets 2 & 3, recorded in York County Registry of Deeds Plan Book 13, Pages 38 & 39).

## ZONE III:

A strip of land fourteen hundred feet (1400') wide, beginning at the Arundel/Biddeford Town Line and extending southerly to a point six hundred (600') feet northerly of the Campground Road and located six hundred (600') westerly of the Route One right of way (measurements are at right angles to said rights of way).
Also a second strip of land four hundred feet (400') wide located six hundred (600') feet southerly of the Campground Road right of way, six hundred (600') northerly of the Limerick Road right of way and six hundred feet (600') westerly of the Route One right of way (measurements are at right angles to said rights of way).

NOTE: All references to streets, roads, interstates, Boston and Maine Railroad tracks, Central Maine Power transmission lines, and Granite State Gas Transmission Company right of way, shall mean the centerline of the street right of way or utility right way or easements, unless otherwise noted. All references to Arundel Assessor's maps shall mean the April 1, 2015 version of those maps.