BUILDING AND LAND USE ORDINANCE
March 20, 2019

TOWN OF LAMOINE, MAINE

Replacing the Building and Land Use Ordinance adopted April 16, 1999 and amended numerous times the most recent being March 16, 2011
Amended by petitioned referendum vote, June 10, 2014
Amended at a Special Town Meeting – May 16, 2018
Amended at the Annual Town Meeting – March 20, 2019

GUIDE TO THE USER

Every person planning a building project of any kind or a project that changes the existing use of buildings or land must follow the instructions in this ordinance. See Section 1. Scope on page 5.

Who Is Responsible for Following the Ordinance? The landowner is responsible. If he or she employs others, both the landowner and her/his designee are responsible for following the requirements.

How Is the Ordinance Organized?

I. Sections 1 - 9 provide the basic requirements for all building and land use in Lamoine. They cover such important information as what kinds of structures and land uses are permitted, from whom the permit must be obtained (Table H&I, pages 10 & 11), lot standards, construction standards, and fees.

II. Sections 10 – 16 spell out specific requirements for each of the major types of development permitted in Lamoine: Single and Two- Family Dwellings/Accessory Units; Multi-Family Dwellings; Subdivisions; Cluster Housing; and Commercial and Industrial uses. Multi-family dwellings and cluster housing require site plan review. Commercial, Industrial and Accessory Dwelling structures including Residential Accessory Structures uses require site plan review if the proposed development or structure exceeds 2,000 square feet or impacts over 10,000 square feet of land over a 5-year period. (See Lamoine Site Plan Review Ordinance for requirements.) If an applicant proposes building or land use that is not encompassed by one of these sections, the general requirements in Sections 1 - 9 apply.

III. Definitions: Section 17 defines terms used in all sections of this ordinance.

Where Can the Applicant Obtain Assistance? The Code Enforcement Officer and the Administrative Assistant to the Board of Selectmen for the Town of Lamoine are available to answer questions about the application process. Call 667-2242.

Applications. All applicants must use the "Building & Land Use Permit Application" Form. Other information is required for subdivisions, cluster housing, and commercial/industrial permits. The Code Enforcement Officer and the Planning Board may require further information as well. Applications may be obtained at the Town Office, 606 Douglas Highway, Lamoine, ME 04605.

Building and Land Use Ordinance
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Building and Land Use Ordinance
Town of Lamoine, Maine

Part I. General Requirements for All Building and Land Use

SECTION 1. SCOPE

The provisions of this ordinance shall apply to the location of structures, including streets and driveways, on the land and to new construction, reconstruction, conversion to a different use, substantial additions, relocations, and replacement of any building or significant segment thereof, including all trailers, recreational vehicles, and/or manufactured homes when connected to any utility and/or used as a residence for a period of more than 30 days. This ordinance does not require that a permit be obtained for the construction or placement of a dog house, children's playhouse, tool shed, or similar small building having not more than 100 square feet providing such structures meet all other requirements of this ordinance. Such uses require a Shoreland permit if located in the Shoreland Zone.

SECTION 2. PURPOSE

The building and land use ordinance for the Town of Lamoine (hereinafter referred to as the Town) provides for the safety, health, and public welfare of the Town through the regulation of construction, expansion, conversion to a different use, relocation, or replacement of buildings, trailers, recreational vehicles and/or manufactured homes or significant segments thereof and their location on the lot.

SECTION 3. GENERAL REQUIREMENTS

All applications for construction permits shall be subject to the requirements of this ordinance. The Code Enforcement Officer and any municipal board described in this ordinance shall consider the following general requirements in reviewing applications for a building permit. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant and, in reaching a determination, the Code Enforcement Officer or municipal board may require the applicant to provide, at the applicant's expense, sufficient information to permit sound judgments regarding the applicant's compliance with these requirements.

A. Conformance with Other Laws and Regulations

The proposed development shall be in conformance with the Town's Comprehensive Plan and all pertinent local, state, and federal ordinances, statutes, laws, and regulations. The Maine Uniform Building and Energy Code (referred to as MUBEC), applies to construction in the Town of Lamoine but the Town does not perform inspections for compliance with it. Owners and builders are responsible for obtaining such inspections.

B. Impact on Community Services

1. The proposed structure or land use shall not have an unduly adverse impact on community services. Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing services and facilities. The Development Plan shall include a list of the construction items to be completed by the developer prior to the sale of lots, and an appraisal of construction and maintenance items that would be borne by the Town. This appraisal shall include, but not be limited to:

   a. Schools, including busing
   b. Road maintenance, snow removal, and traffic control
   c. Police and fire protection, including provision of water sources for fire control
   d. Solid Waste Disposal
   e. Recreation facilities
   f. Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps
   g. A water supply system.

2. The Board may further require the applicant to provide accurate cost estimates to the Town for the above services, and a projection of tax revenue from the structure or land use.

C. Maintenance of Prescribed Building Lot Sizes and Set Backs

All new buildings must conform to the standards contained in this and other applicable town ordinances.

D. Land Not Suitable for Development

The Code Enforcement Officer or the Planning Board shall not approve for the purpose of meeting lot size requirements portions of any proposed parcel or building lot that:

1. are situated below mean high water mark;
2. are part of a right-of-way or easement, including utility easements, except for service feeds to two or fewer dwelling units;
3. are located on land which must be filled or drained or on land created by diverting a watercourse. In no instance shall the Code Enforcement Officer approve any part of a lot located on wetlands or great ponds (natural bodies of water 10 acres or more in size);
4. employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types (and slopes) as specified in (Appendix F of) "State of Maine Subsurface Wastewater Disposal Rules" as amended.

E. Shoreland

Wherever situated, in whole or in part, within 250 feet of the high water mark of any pond, lake, river, or tidal waters, a building lot, and all building and land uses on it, shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine. A Shoreland Zone Permit must be obtained prior to any activity governed by the Building and Land Use Code on such a lot.

F. Flood Plain

The applicant will determine, and will provide sufficient evidence to the Board, that the proposed structure does not violate the Flood Plain Management Ordinance of the Town of Lamoine, Maine. Where required, a Flood Plain Permit must be obtained prior to any activities governed by the Building and Land Use Code.

G. Ground Water Protection

Groundwater, whether from the sand and gravel aquifer or from bedrock fractures, is a vital community resource and is currently the sole source of all drinking water in Lamoine. This ordinance endeavors to protect both the quality and quantity of this resource.

The applicant will provide sufficient evidence to the Board that the proposed use will not contaminate the quality of groundwater or threaten the quantity of uncontaminated groundwater available to other residents and land owners in the Town of Lamoine. Among uses subject to the requirements of this section are:

1. Tanks buried below the earth containing petroleum and other refined petroleum products.
2. All petroleum and hazardous chemical storage for commercial or industrial uses.
3. Engineered subsurface waste disposal systems as defined in Section 17 (definitions) unless the system is certified and approved by the State of Maine.
4. Septic systems serving three or more residential units unless the system is certified and approved by the State of Maine.
5. Commercial or Industrial uses not home occupations.
6. Salt/sand storage and loading areas.
7. Dumping of snow containing deicing chemicals.
8. Junkyards and automobile graveyards.
9. Sanitary landfills or demolition/stump dumps.
10. Commercial animal feed lots.
11. Metal plating.
12. Commercial motor vehicle repair or service.
13. Non-residential pipelines – oil, gas, hazardous materials.
14. Spray irrigation of sewerage.
15. Manufacture, storage, use, transportation or disposal of toxic or hazardous materials.
16. Mining operations
17. Sand and gravel extraction
18. Any use listed in Section 4, Table of Land Uses, of this Ordinance which, in the Planning Board's judgment, may create a threat similar to the threats posed in 1. through 17. above.

When a proposed plan lacks sufficient information to enable the Planning Board to determine its impact on the quantity and/or quality of groundwater, the Planning Board shall require the applicant *to* submit a study by a certified professional hydrogeologist or registered professional engineer which shall evaluate the following (1 through 10 below) with respect to the proposed operation or use for which a permit is sought. The study shall provide sufficient detail to allow the Planning Board to determine whether the proposal creates a risk to Lamoine drinking water and, if so, whether that risk can be adequately contained.

Furthermore, the Planning Board may require an independent evaluation in addition to that submitted by the applicant. This evaluation shall be done by a certified professional hydrogeologist or registered professional engineer of the Board's choosing. The hydrogeologist or engineer selected shall be required to estimate the cost of this evaluation and the applicant shall pay the Town of Lamoine the full estimated cost. At the completion of the review, any balance due shall be paid to the Town or any balance remaining shall be returned to the applicant.

The study must include:

1. A listing of all petroleum products, chemicals and agents to be used in the proposed operation..
2. The quantity of each such petroleum products, chemicals or agents to be used in a month.
3. Provisions for storage of the petroleum products, chemicals or agents before use.
4. The way in which the chemicals or agents will be used in the proposed operation.
5. The method of disposal of the chemicals or agents or any residue resulting from their use and provisions for storage prior to disposal.
6. Proposed containment structures or procedures for preventing escape of petroleum products, chemicals or agents.
7. The nature of any risk of escape from containment.
8. The potential damage to groundwater from an escape from containment.
9. Any set of regulations, standards or industry norms relating to the storage, use or disposal of the petroleum products, chemicals or agents which are directly applicable to the proposed use or represent industry or other "best use" standards. The required study shall contain citations to all regulations and standards of industry norms discussed.
10. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to drinking water from the proposed project.

SECTION 4. LAND USE DISTRICT REQUIREMENTS

A. Establishment of Land Use Districts

To implement the provisions of this Ordinance and the Comprehensive Plan, the Town of Lamoine is hereby divided into the following Districts:

1. Residential Zone (RZ)
2. Development Zone (DZ)
3. Rural and Agricultural Zone (RAZ)

B. Location of districts

Said Districts are located and bounded as shown on the Official Land Use Map, entitled "Official Land Use Map of Lamoine, Maine", dated March 5, 1996, and on file in the office of the town clerk. The Official Map shall be signed by the town clerk and the chairman of the planning board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. The Official Land Use Map is hereby made part of and incorporated into this Ordinance. A reduced copy of the Official Land Use Map is attached as an Exhibit to this Ordinance.

C. Uncertainty of boundary locations

Where uncertainty exists as to the boundary lines of Districts as shown on the Official Land Use Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets or highways, shall be construed to follow such center lines;

2. Boundaries indicated as approximately following established lot lines or town boundary lines shall be construed as following such lines;

3. Boundaries indicated as being parallel to or extensions of features listed above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the Map; and

4. Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the District boundaries and be the final local authority as to their location.

D. Division of lots by district boundaries

1. Where a District boundary line divides a lot or parcel of record, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot. Less restrictive district requirements may not be applied to land areas under the jurisdiction of the Lamoine's Shoreland Zoning Ordinance. When less restrictive requirements are extended into a neighboring district, the proposed use shall be subject to Planning Board Review.

E. Purpose of the districts

1. Residential Zone: To preserve an area of relatively low cost housing and encourage new residences of all kinds (single family dwellings, two-family dwellings, and multi-family dwellings, and mobile and manufactured homes.) and home occupations convenient to the job market in Ellsworth. To prohibit new commercial and new strip development.

2. Development Zone: To encourage an area of mixed residential commercial and industrial uses.

3. Rural and Agricultural Zone: To encourage a mixture of residential, agricultural and limited commercial uses.

F. Basic requirements

1. For each land use district, uses are designated as either permitted with a land use permit from the Code Enforcement Officer, or permitted subject to Planning Board approval, and the issuance of a land use permit by the planning board. All proposed land uses must comply with the standards and criteria of Sections 5 & ~~5~~ ***6*** of this Ordinance and all other sections pertinent to the specific proposed use.

2. For any type of land use not described in Table H, the Planning Board will determine the permissibility of that type of land use, and , if the use is found permissible, will make a determination to grant or not to grant a permit for the specific use proposed.

G. Table of land uses

Key to Table 1 (Section H):

N	=	Not Allowed
CEO	=	Use permitted with a land use permit from the code enforcement officer subject to all applicable standards, as found in the Lamoine ~~Building and~~ Land Use Ordinance and where applicable, the Lamoine Site Plan Review Ordinance.
PB	=	Use permitted with a permit from the planning board. Subject to all applicable standards, as found in the Lamoine Building and Land Use Ordinance and where applicable, the Lamoine Site Plan Review Ordinance.

Dimensional and setback requirements for lots, dwelling units, and other principal or accessory structures are provided in Section 4.I. Lot Standards and Structure Setback Table.

The listing of uses permitted shall be either as defined in the ordinance or shall have their ordinarily accepted meaning.

H. Table of Land Uses

Land Use Descriptions	Residential Zone(RZ)	Development Zone (DZ)	Rural & Ag Zone (RAZ)
1. Campgrounds & Travel Trailer Parks	N	PB	PB
2. Car Washing Establishments	N	PB	PB
3. Church, School, Library, or Public Buildings	N	PB	PB
4. Clinic or Office, Medical, Health, or Psychiatric	N	PB	PB
5. Cluster Housing	PB	PB	PB
6. Commercial - General	N	PB	PB
7. Commercial - Recreation	N	PB	PB
8. Dwelling - Single Family	CEO	CEO	CEO
9. Dwelling - Two Family	CEO	CEO	CEO
10. Dwelling - Multi Family	PB	PB	PB
11. Dwelling - Accessory Units	CEO	CEO	CEO
12. Home Occupations	CEO	CEO	CEO
13. Essential Services (non residential)	PB	PB	PB
14. Industries - Assembling & Manufacturing Goods & Products	N	PB	N
15. Industries & Business - Assembling & Manufacturing Products Related to the Secondary Processing of Wood/Marine Products	N	PB	PB
16. Mineral Exploration[2]	N	PB	N
17. Mobile Home Parks[1]	N	N	PB
18. Motels, Hotels	N	PB	PB
19. Nurseries & Garden Centers	N	PB	PB
20. Nursing Homes, Congregate Care	N	PB	PB
21. Other Uses Similar to Those Requiring Planning Board Review	PB	PB	PB
22. Petroleum Storage, and Distillation Facilities	N	N	N
23. Quarries	N	PB	N
24. Restaurants	N	PB	PB
25. Retail Business, Business & Professional Offices	N	PB	PB
26. Salvage Yards, Junkyards, Scrap Metal Processing	N	PB	N
27. Sand/Gravel Pits, Etc.[2]	N	PB	N[3]
28. Service Stations, Vehicle	N	PB	N
29. Shops: Automobile Repair	N	PB	PB
30. Shops: Plumbing; Electrical; Carpentry	N	PB	PB
31. Signs	CEO	CEO	CEO
32. Small Lodging & Tourist Bed & Breakfast (5 Rooms or Less for Rent)	PB	PB	PB
33. Stand, Produce, Fruit & Vegetables	CEO	CEO	CEO
34. Subdivisions	PB	PB	PB

[1.] See Mobile Home Park Ordinance. Not permitted over Sand and Gravel Aquifer areas.
[2.] See separate standards in the Lamoine Gravel Ordinance
[3] Land within the Rural and Agricultural Zone that had received a Site Plan Review permit for gravel operations before March 13, 2013, may continue to be eligible for gravel operations upon Planning Board approval of a gravel permit.

NOTE: If the applicant's lot lies within the Shoreland Zone or the Flood Management Zone, additional permits to those described above are required.

I. Lot Standards and Structure Setback Table

1. GENERAL

All land use activities within the Town of Lamoine shall conform with the following provisions if applicable. Additional specifications apply to specific uses and are detailed in Sections 10 - 15. Further, the Mobile Home Park Ordinance details standards and setbacks for mobile home parks. In shoreland areas, as defined, the Shoreland Zoning Ordinance shall apply. The standards of the Flood Plain Management Ordinance apply to all flood hazard areas identified in that ordinance.

2. LOT STANDARDS & STRUCTURE SETBACK TABLE

Lot Standards & Structure Setback Table	Residential Zone (RZ)	Development Zone (DZ)	Rural & Agricultural Zone (RAZ)
Minimum Lot Size (square feet)			
(per dwelling unit or principal structure[2])	40,000[1]	40,000[1]	40,000[1]
Minimum Lot Public Road Frontage (ft)[3]	200[4]	200[4]	200[4]
Minimum Front Yard Setback from the Centerline of a Public Road[4,5]	75	75	75
Minimum Side & Rear Yard Setback from a Lot Line (ft)			
Residential	25	25	25
Commercial -2000 sq ft or less	N/A	25[4]	25[4]
Large Commercial & Industrial	N/A	See Note 5	See Note 5
Maximum Lot Coverage including Driveways & Parking Lots			
Residential	25%	25%	25%
Commercial/Industrial	N/A	30%	30%
Subdivision (See BLUO Section 12.H)			
Maximum Building Height (ft)[6]	35	35	35

[1] Lot sizes can be reduced to 22,000 square feet if the lot is connected to a public water and sewer system.

[2] Commercial and industrial usage (where allowed) requires 40,000 square feet of land for every 5,000 square feet of floor space or portion thereof in the building.

[3] A dwelling unit or principal structure located within 200 feet of a Public Road and accessed from that road must have a minimum of 200 feet of frontage on that road.

[4] Additional standards apply for subdivisions [see Sections 12(G) & 12(H)] and cluster housing [see Section 13 (B)].

[5] For large commercial structures (over 2000 square feet of floor space) and industrial structures (where allowed) the set-back will be at least 225 feet from the centerline of a Public Road, except that retail or service structures need only be set back at least 125 feet from the centerline of a Public Road. The setback from the side and rear adjoining lot lines will be at least 100 feet.

[6] Auxiliary features of building and structures, such as chimneys, towers, ventilators, and spires may exceed the permitted maximum height of the structure, unless prohibited by other provisions of this ordinance.

SECTION 5. OTHER LOT REQUIREMENTS

A. Streets and Roads

Standards for the construction of streets and roads are found in Section 12-(F).

B. Locating street rights-of-way:

To locate the edge of a street right-of-way when no survey exists, find the apparent center of the traveled portion of the road and measure 25 feet to the assumed edge of the right-of-way.

C. Entrances to Roads & Streets:

A Lamoine Entry Permit is required from the Lamoine CEO or Road Commissioner prior to establishing access onto a public roadway in the Town of Lamoine except in cases where a State Entry Permit is required for a state road. Any access shall conform to Chapter 299 of the Maine Department of Transportation Highway, Driveway and Entrance Rules Part A Sections 1 & 2 and Part B Sections 1 & 2 and any subsequent revisions. Each lot shall be accessed by no more than one curb cut unless a waiver is granted by the Planning Board.

The following are the minimum standards for new or replacement driveway entrance culverts.

1. The culvert must be new, not used, and shall be supplied and installed by the permittee.
2. Culvert Diameter: minimum of 15" (12" if there is ledge, although with the smaller size, freezing is a strong concern). Final size is determined by the amount of runoff in a given location.
3. Length: minimum of 24' with a preference for 30' (30' helps prevent collapsing of the ends). A maximum length of 50' is allowed.
4. Materials: Aluminum Clad Corrugated Metal Pipe or plastic corrugated pipe are permitted. Plastic (HDPE) corrugated pipe must meet or exceed AASHTO specification M294. For 24" and larger diameters, 14 gauge material is required and below 24", 16 gauge is required. The use of bituminous coated corrugated metal pipe is prohibited.
5. Design Standards: Where the driveway is pitched upward from the road, the shoulder grade should be maintained as far as practical. The object is to help prevent water flowing down the driveway and onto the road where icing is a problem in winter. Where maintaining shoulder grade is not practical, some other means of diverting water flow should be provided.

D. Driveways: Widths and Setbacks

Each lot shall be provided with a driveway at least ten (10) feet in width. The edge of all driveways must be set back 15 feet from side and rear lot lines. Driveway setbacks may be less than 15 feet with the written agreement of all landowners abutting the proposed driveway.

E. Private Ways: Construction Standards

All private ways shall meet the requirements in Section 5.D above and the following:

a. Within every 500-foot section of a private way, an area twenty (20) feet in width and fifty (50)feet in length shall be constructed for the purpose of allowing two vehicles to pass.

b. Prior to final approval the private way shall receive written approval from the Lamoine Fire Chief or his designee.
c. Any proposal to increase the number of lots to be served by a private way to three (3) or more must include a plan to upgrade the private way to the Minimum Standards for Street Design and Construction as found in Section 12. F. of the Lamoine Building and Land Use Code, provided the proposed construction creates a subdivision as defined in the ordinance.

F. Off-Street Parking:

Off-street parking shall be provided with a minimum of 300 square feet per dwelling unit in the case of all residential structures; in the case of commercial and industrial structures, 600 square feet per each 5,000 square feet of floor space or portion thereof. This may be accomplished by driveway space, garage space, parking lot space, or any combination of the three.

G. Adequacy of Soils for Sewage Disposal:

All lots suitable for building purposes requiring sewage disposal must be served by septic systems which meet the standards prescribed in the Maine State Subsurface Wastewater Disposal (SSWD) Rules, Part II (most recent edition).

1. The Plumbing Inspector shall issue all septic system permits for all lots in the Lamoine Shorelands Zone.

H. Non-Conforming Lots of Record:

Any non-conforming lot of record existing before March 1976 and not adjoined by other land of the same ownership may be used if it is in accordance with all other provisions of this ordinance and state law. Any non-conforming lot of record established between March 1976 and May 1999, not adjoined by other land of the same ownership but conforming to prior law at its date of purchase, may be used if in accordance with all other provisions of this ordinance and state law and if the applicant demonstrates that steps will be taken to prevent water pollution.

I. Non-Conforming Structure:

If any portion of a structure does not meet the dimensional requirements of the Building and Land Use Ordinance, that portion of the structure shall not be expanded by more than 30% in floor area or volume.

SECTION 6. CONSTRUCTION STANDARDS

A. Height:

No principal or accessory conventional structure shall exceed two stories in height nor shall any structure exceed 35 vertical feet (See definition of building height), except for municipal buildings, steeples, silos, detached barns, water towers or other accessory structures not designed for human habitation.

B. Electrical Installation:

All buildings shall have a safe and adequate electrical service. All wiring shall meet the standards of the National Electrical Code.

C. Plumbing and Heating:

All plumbing and sewage disposal shall be in strict conformance with State of Maine legal requirements and the State of Maine Plumbing Code. No overboard discharges into surface waters are allowed. All heating shall be installed in conformance with applicable State of Maine laws and plumbing codes.

D. Signs

Signs and Billboard shall not exceed 16 square feet in area, 8 feet in height from grade and two signs per premise. A permit must be obtained from the Code Enforcement Officer and placement of signs on a premise***s*** must be approved by the Lamoine Road Commissioner or the Maine Department of Transportation.

SECTION 7. APPLICATIONS, REVIEW CRITERIA AND ADMINISTRATION

The Planning Board shall administer these provisions. The Planning Board shall retain oversight responsibilities for any construction or reconstruction while it is being proposed, during the construction work, and following its completion. The Planning Board shall call on the services of the Code Enforcement Officer for its administrative purposes.

A. *Code Enforcement Officer*

The Code Enforcement Officer shall be appointed by the Board of Selectmen and shall have the powers and responsibilities described in this ordinance and specifically designated by the Board of Selectmen under Maine statute.

B. Application Procedure

1. Before the construction, reconstruction, conversion to a different use, substantial addition, relocation, or replacement of any structure or significant segment thereof shall be commenced, the owner or lessee, or the architect, contractor, or builder employed by such owner or lessee shall obtain from the Code Enforcement Officer or Planning Board, as appropriate, a permit covering such proposed work.

2. Application in General:

    a. All applications for the permits shall be in writing and in such form as the Board may prescribe. (Consult the Town Office or Code Enforcement Officer to obtain the correct forms). All applications shall contain, at a minimum, a description of the proposed activity including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas and utilities associated with the building. The application shall also contain a statement of the uses to which any buildings or other structures will be put and shall be dated on the day of submission to the Code Enforcement Officer or Board.

    b. Specific application instructions are found in Sections 10 – 16 to cover the following uses:

        Section 10 - Single-Family and Two-Family Dwellings and Accessory Dwelling Units

Section 11 - Multi-Family Dwellings
Section 12 - Subdivisions
Section 13 - Cluster Housing
Section 14 – Home Occupations
Section 15 - Commercial and Industrial Uses
Section 16 – Junkyards & Automobile Graveyards

3. Plumbing permit: A plumbing permit, when required, must be issued by the Lamoine Plumbing Inspector before a construction permit is issued. An internal plumbing permit is required for all new or relocated plumbing fixtures

4. Review Criteria

The Planning Board and/or Code Enforcement Officer**,** as appropriate**,** shall consider the following criteria and before granting approval shall determine that the proposed building and land use will:

a. meet all lot size, density, and open space requirements;
b. meet all setback, side and rear yard width, and buffer requirements;
c. provide easements, road access, and utility installation as prescribed in this and other Town ordinances;
d. not result in undue water, soil, or air pollution. In making this determination the Board shall at least consider: The elevation of land above sea level and its relation to the floodplains; the nature of soils and subsoils and their ability to adequately support waste water disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of adverse effluents; the applicable state and local health and water resources regulations; and the applicant's submission of required assessments by certified professionals;
e. not whenever situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water or the uses to which it is customarily put;
f. not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater or cause an unreasonable burden on any existing water supply;
g. have sufficient water available for the foreseeable needs of the subdivision;
h. not cause unreasonable soil erosion or reduction in the capacity of the land to hold water or support vegetation so that a dangerous or unhealthy condition may result;
i. meet street design standards as specified in Town ordinances;
j. not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
k. provide for adequate sewage, solid waste, and waste water disposal in a manner which does not cause an unreasonable burden on municipal services;
l. not have an unduly adverse effect on the scenic or natural beauty of the area, geographic or historic sites, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline;
m. not significantly alter the demand for any municipal service or facility without providing a means acceptable to the Board for supporting the Town's ability to provide the service or facility;
n. provide for an adequate supply of water for fire protection as specified herein;
o. not violate the Town's Floodplain Management or Shorelands Ordinances;

p. be in conformance with this ordinance and the Town's Comprehensive Plan.

5. Permit Approval: The Code Enforcement Officer or Planning Board, as appropriate, after proper examination of the application, shall either issue the requested permit or transmit notice of refusal within 30 days of the date of submission of a complete application and other information the Board or Code Enforcement Officer deems necessary to make a decision as to compliance. Notice of refusal shall be in writing and shall state the reasons therefore. Copies of the notice of refusal or of the permit shall be forwarded to the Board, the Board of Assessors, and the Board of Appeals.

6. Life of the Permit: All building permits shall be void unless work thereunder is commenced within one year from the date of issuance and completed sufficiently within two years, unless an extension is granted by the Planning Board.

7. Display of Permit: Every construction permit shall be displayed in a conspicuous place on the premises, clearly visible from the principal traveled street, and shall not be removed until all work covered by the permit has been approved.

C. Inspection

1. Inspection: The Code Enforcement Officer (or other municipal or licensed official as appropriate) shall inspect all projects for the purpose of administering and enforcing the provisions of this ordinance and all other applicable local and state laws affecting such activities. This shall include, but not be limited to, the inspection of placement of structures on the property to permit a determination that the building in fact conforms to the plans proposed in the application. Specifically, all construction shall be inspected at least at the following points by the appropriate town official:

   a. after the foundation forms or footings are placed, but prior to pouring concrete (contact the Code Enforcement Office to check for lot lines and road setbacks);
   b. after sewage disposal system is laid out but prior to covering (contact the Plumbing Inspector);
   c. After septic system is covered to assure site stabilization and seeding (contact the Plumbing Inspector for final inspection)
   d. after plumbing has been installed but prior to covering (contact the Plumbing Inspector to check waste and water line pressure).
   e. after completion for a certificate of completion if, upon inspection, the development is found to comply with this ordinance and other applicable ordinances of the Town of Lamoine. Certification or compliance with MUBEC is the responsibility of the developer, contractor, and/or owner.

2. Right of Entry: The Code Enforcement Officer, Plumbing Inspector, Addressing Officer, members of the Board of Assessors**,** members of the Planning Board, and other qualified officials in performance of their duties may enter any lot or building, with permission, for the purpose of making the inspection required by this ordinance.

D. Fees

A. An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application

until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

2. Impact Fee: In the event that the Planning Board's findings indicate that the proposed development will create a significant burden on existing or future municipal services, the Board may levy a fee to offset the burden of capital improvement. The fee shall be calculated to apply against significant capital improvement costs required of the Town to service the development and its residents (see Section 3 above). The Board may require the applicant to provide accurate estimates of costs required to service the proposed development, and the expected revenue from the development.

3. In addition to the fees set out above, the applicant shall be required to pay the costs of independent evaluations of a proposed development, either as required in this ordinance or as the Planning Board may find such evaluations necessary or desirable in its deliberations. The Planning Board may require such evaluation in all appropriate situations, including those where the applicant has submitted a professional evaluation covering the subject matter. In any case in which a fee for independent evaluation is required the Planning Board will request from the applicant a reasonable additional sum, to be paid at a time determined by the Planning Board; and funds not expended for the specified uses will be returned to the applicant.

E. Certificate of Completion

No structure shall be occupied after its construction, conversion to another use, relocation, or replacement until a certificate of completion is issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said certificate after proper examination establishes that internal plumbing, septic disposal system, and placement of the structure on the property is in compliance with the provisions of this ordinance and consistent with the plans submitted by the applicant.

SECTION 8. APPEALS AND VARIANCES

A. Variance Appeals:

The Board of Appeals may grant a variance from the strict application of this ordinance provided that the applicant applies for such a variance within 30 days of a building permit decision and that the applicant can demonstrate that the strict application of the ordinance would result in undue hardship. No variance shall be granted which circumvents a prior subdivision ruling by the Planning Board. The fee for such application shall be $50.00.

B. Administrative Appeals:

The Board of Appeals, upon written application of an aggrieved party within 30 days of a Code Enforcement Officer or Planning Board determination, and after public notice, may hear appeals of such determinations on administrative grounds. Such hearing shall be held in accordance with state laws. Following such hearings, the Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision is clearly

contrary to specific provisions of this ordinance. Appeals hearings will be conducted as an appellate hearing and review of the decision under appeal, except for variance appeals, or appeals made as a result of a tie vote of the Planning Board, which shall be heard and acted on de novo. The fee for such application shall be $50.

C. Appeal to Superior Court:

An appeal may be taken within 45 days after any decision is rendered by the Board of Appeals, by an aggrieved party, to Superior Court in accordance with state law.

SECTION 9. ENFORCEMENT

This code shall be administered by the Planning Board and enforced by the Code Enforcement Officer and Board of Selectmen. Any action needed to enforce the provisions of this ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer.

A. Code Enforcement Officer.

1. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall be appointed by the Board of Selectmen for the purposes of ensuring compliance with, and assisting the Planning Board in the administration of, all town ordinances and regulations. The Code Enforcement Officer shall perform administrative and enforcement activities as directed by the Board of Selectmen under the authority of town ordinances and regulations

2. The Planning Board shall call on the services of the Code Enforcement Officer for its administrative purposes, and the Code Enforcement Officer shall be responsible to the Planning Board in the performance of Board-related duties. The Officer shall review all applications required to be submitted under this section and shall make findings and recommendations to the Planning Board. The Officer shall conduct such inspections and research as the Planning Board may request, and shall notify the Planning Board of any apparent violation of this section or any orders or conditions of the Planning Board. In addition, the Officer shall keep complete records of all applications submitted, applications approved or denied, appeals, court actions, and investigations of violations.

B. Violations.

Any building constructed or work performed in violation of the provisions of this Ordinance or of any permit issued by the Code Enforcement Officer or Planning Board, or any occupancy of any building constructed as a dwelling or of any commercial or industrial structure without the required certificate of completion, shall be considered a nuisance.

See Section 12 (N) for specific conditions covering violations in subdivisions, cluster housing, and commercial or industrial uses.

C. Fines.

1. Dwellings and Uses Other than Subdivisions, Cluster Housing, and Commercial/Industrial Uses: Any person found guilty of violating any provisions of the Ordinance, except those

governing subdivisions, cluster housing, and commercial/industrial uses, shall be subject to a fine of not more than $250 for each offense. Each day in which a violation is proved to exist shall constitute a separate offense under this section.

2. **See Section 12(N) for specific conditions covering fines for Subdivisions, Cluster Housing, and Commercial/Industrial Uses**:

PART II: APPLICATION PROCEDURES AND STANDARDS FOR SPECIFIC USES

SECTION 10. SINGLE FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, AND ACCESSORY DWELLING UNITS

A. Single Family Dwellings

Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family must conform to the requirements described in Sections 1-9. Permits are issued by the Code Enforcement Officer and must follow procedures described in ~~D.~~ ***E***. below.

B. Recreational Vehicles Used As Dwelling Units

Recreational Vehicles used as dwelling units on a lot for more than 30-days must obtain a construction permit

C. Two-Family Dwellings

Any structure containing only two (2) dwelling units for occupation by not more than two (2) families must conform to the requirements described in Sections 1-9. Permits are issued by the Code Enforcement Officer and must follow procedures described in D. below.

D. Accessory Dwelling Units

1. **Creation of an Accessory Dwelling Unit** - The purpose of this provision is to permit creation of a single, accessory dwelling unit within and incidental to an existing single-family dwelling. The creation of an accessory dwelling unit (see definition) within a new single-family dwelling shall also be permitted. Accessory dwelling units shall only be created where the single family character of the main building is maintained.

2. **Requirements** - The following requirements shall be in addition to other requirements of the Building and Land Use Ordinance**.** No accessory dwelling unit is permitted where a variance to the Building and Land Use Ordinance is required. The Planning Board may permit creation of an accessory dwelling unit, subject to the applicant's compliance with the provisions of sections 6 and 7 of the Building and Land Use Ordinance**.** Accessory dwelling units shall be considered a single-family dwelling for purposes of compliance with sections 6 and 7. Additionally, accessory dwelling units shall meet the following provisions:

   a. A lot must have a minimum of 40,000 sq. ft. to be eligible for the addition of an accessory dwelling unit to an existing single-family home. The applicant shall have the burden to establish the lot area by a survey signed and sealed by a registered Maine surveyor. The applicant shall also demonstrate that the subsurface waste water disposal system complies with the State of Maine Plumbing Code.

b. An accessory dwelling unit may only be created in a single-family detached dwelling which has a total existing floor area of the structure, excluding garages, of 1,600 sq. ft. or more prior to the addition of the accessory dwelling unit.

c. The accessory dwelling unit shall occupy no more than twenty-five percent (25%) of the resulting floor area of the structure, as defined herein, excluding garages. In no event, however, shall the floor area of the accessory unit be less than a minimum of 400 sq. ft. An interior connecting doorway between the single-family dwelling and the accessory dwelling unit shall be provided that promotes commingling of the residents of the accessory unit. The doorway shall not permit the informal extension or expansion of the allowable dimensions of the accessory dwelling unit.

d. Any addition to the floor area of the single-family detached dwelling to create the accessory dwelling unit shall not exceed 15% of the floor area of the structure of the single-family dwelling prior to conversion.

e. One parking space shall be provided for the accessory dwelling unit in addition to parking for the single-family dwelling. The parking space must be located a minimum of fifteen feet (15') from the side and rear property lines. The parking areas for the lot shall be arranged and landscaped to be compatible with adjacent structures.

f. Any exterior alteration shall preserve the single-family appearance, architectural style, and character of the original structure and shall be in harmony with the design of the original structure and the general appearance of the neighborhood. Any exterior alteration shall preserve the formal, front entrance of the original structure in order to maintain the single-family appearance and architectural style of the structure, although a secondary entrance which serves the accessory dwelling unit may be permitted. Any secondary entrance shall not detract from the main entrance and shall not be located on the face of the building where the main entrance is located. A secondary entrance shall not negate the requirement for the interior connecting doorway described above D2c.

g. The single-family dwelling and the accessory dwelling unit installed therein shall be held in the same ownership. No rights shall accrue to the recipient of the accessory dwelling unit building permit unless the recipient records and attests copy of the building permit in the Hancock County Registry of Deeds within 90 days of final approval of the building permit for accessory dwelling unit. No rent may be charged by the owner of the single-family dwelling to the occupant of the accessory dwelling unit, but co-mingling of incomes for common household expenses is allowed. Upon vacancy of the accessory dwelling unit by ***a*** close, personal relative***(s)***, the accessory dwelling unit may not be rented to the general public, and it may only be occupied by another close, personal relative as defined in (Section 17).

E. Application Procedures

1. All applications for permits shall be in writing and on such forms as the Board may prescribe.

2. Permit ***application***s shall contain a description of the proposed activity including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas and utilities associated with the building. The application shall also contain a statement of the uses to which any buildings or other structures will be put and shall be dated on the day of submission to the Code Enforcement Officer or Planning Board.

3. **See Section 7B for requirements regarding plumbing and other permits.**

SECTION 11. MULTI-FAMILY DWELLINGS

New multi-family structures, including apartment houses, cluster housing, motels, campgrounds, and condominiums, shall conform to the permits, procedures and standards described in Section 12, Subdivisions and shall, where required, meet all standards described in Lamoine's Site Plan Review Ordinance.

SECTION 12 SUBDIVISIONS

A. Scope

A subdivision shall be the division of a tract or parcel of land, as defined in the State Statutes, MRSA, Title 30, Section 4956, into 3 or more lots for the purpose of sale, development, or building. The terms, development and building, shall refer broadly to the establishment of buildings or developments for purposes including, but not limited to, cluster housing, mobile home parks, campgrounds, motels, and apartment or cooperative housing with multiple building or dwelling units. The establishment of 3 or more dwelling units, lodging units, and/or commercial, industrial, institutional, or retail establishments on any one tract or parcel of land shall constitute a subdivision. A subdivision shall, where required, meet all conditions described in the Lamoine Site Plan Review Ordinance. (See Section G of the Site Plan Review Ordinance)

Any residential subdivision which proposes for any purpose, including subdivision roads, to pave, strip, grade or remove earth materials from vegetated areas of more than ten thousand (10,000) square feet within a five (5) year period shall meet all applicable conditions described in the Lamoine Site Plan Review Ordinance.

B. Purpose.

The purpose of this section is to provide the town with a review procedure for all subdivisions to assure the comfort, health, safety, and general welfare of the people. The section is designed to protect the environment, provide for the orderly development of a sound and stable community as described by its Comprehensive Plan, and control the density of its growth,

guarding it, for example, from overtaxing its municipal services, overburdening its soil with waste, or depleting or adversely affecting its groundwater, and assuring that water supplies and human and other waste disposal systems are adequate.

C. General Requirements.

In reviewing applications for the subdivision of land, the Planning Board (hereinafter called the Board) shall consider the following general requirements. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant for subdivision permit. In reaching a determination, the Board may require the applicant to provide sufficient information at the applicant's expense to ensure the application's compliance with these requirements.

1. Impact on Community Services (see section 3-B)

2. Maintenance of Prescribed Building Densities and Setbacks. To preserve the primarily residential character of the community as specified in the Town's Comprehensive Plan, no subdivision shall create a concentration of dwelling units exceeding one unit per 40,000 square feet within the subdivision parcel. For parcels of 12 units or more, an additional 20,000 square feet per unit must be provided for common recreational and open space uses. Further, all structures shall be located according to setbacks and side and rear yard widths prescribed in this and other Town ordinances.

3. Preservation and Protection of Natural Resources. The proposed subdivision shall not pose a threat to existing or future quality or quantity of water, air, soil, or geographic features. The Board may require the applicant to submit environmental impact studies by qualified experts acceptable to the Board. The applicant shall bear the costs of such studies.

4. Retention of Open Space and Geographic or Historic Features. The proposed subdivision shall provide sufficient open space for the use of residents of the subdivision and, if agreed upon by the subdivider and the Board, the use of the general public. In cases of the latter use, the Board may require the subdivider to provide public access to geographic or historic features which it deems to be significant public resources and shall require the subdivider to protect those features from damage and depreciation.

5. Easements

    a. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way that shall be not less than 30 feet in width and shall conform substantially with the lines of such water course.

    b. The Board may require easements for sewage, drainage, or other utilities.

6. Utilities. The size, type, and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be acceptable to the appropriate utility and/or Town department.

7. Land Not Suitable for Development.

   a. In addition to those lands described in Section 3(D), the Board shall not approve for the purpose of meeting lot size requirements such portions of any proposed subdivision that:

      i. Are situated below mean high water;
      ii. Are part of a right-of-way or easement, including utility easements, except for service feeds to two or fewer dwelling units;
      iii. Are located on land which must be filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a subdivision located on wetlands or great ponds (natural bodies of water 10 acres or more in size);
      iv. Employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types and slopes as specified in Appendix 1 of "State of Maine Subsurface Waste Water Disposal Rules," as amended.

   b. Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river, or tidal waters, a proposed subdivision shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine.

8. Floodplain Management Requirements. The subdivider shall determine, and provide sufficient evidence to the Board that the proposed subdivision does not violate the Floodplain Management Ordinance for the Town of Lamoine.

D. Administration and Application Procedures

1. The Planning Board shall administer the provisions of this Section. That is, all application procedures, consideration of plans and evidence to support them, collection of fees, and issuance of subdivision permits shall be conducted by the Board. Further, the Board shall retain oversight responsibilities for any parcel which is under consideration for subdivision development, undergoing such development, or in which such development has been completed. The purpose of Part D is to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions. See also Sections 7, 8, and 9 of this ordinance.

2. Any and all proposed amendments to an already approved subdivision shall follow in full the application procedures outlined in this section.

3. Pre-application Procedure

   a. Applicants shall submit to the Chair of the Planning Board a completed pre-application and request to be placed on the Board's agenda at least 15 days before a regularly scheduled meeting. The pre-application shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; identification of any subdivision abutting the proposed subdivision; a description of the

proposed activity, a statement of the uses to which any buildings will be put, and a preliminary map of the site showing the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas; a preliminary description of utilities, water, and sewage; and a description of any environmental, natural, or historic features on the site.

b. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

c. The Board shall provide the applicant with an opportunity to describe the proposed subdivision and shall have an opportunity to question the applicant concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.

d. Within 30 days of consideration of the completed pre-application form, the Board shall conduct the on-site inspection, and inform the applicant of any specific points to be covered in the Plan not required by Part E below.

4. Application and Development Plan

a. The Application for Subdivision with Development Plan (hereinafter called the Plan) is to be submitted by the applicant after the on-site inspection has taken place, subject to the power of the Board to require additional information as set out in Section 12C above.

b. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application is one which contains all the elements required by Part E of Section 12 and is accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance.

c. The Board shall hold a public hearing on the application within 30 days of the date on which it receives the completed application. The Board shall notify by certified mail, return receipt requested, all owners of abutting properties listed in the application or Plan as to the date, time, and place of such review. Applicants are strongly encouraged to contact resident abutting landowners personally before this review. The notice required by this paragraph is in addition to all other notices required by law, and failure to give such notice shall not affect the validity of any Board action.

d. Within 30 days of the public hearing on the Plan, within 60 days of the receipt of the completed application, or within any other time limit agreed to by the Board and the

applicant, the Board shall notify the applicant, in writing, of its decision. The Board may approve, approve with conditions, or deny the Plan. The Board shall specify to the applicant its reasons for any conditions or for denial.

5. Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.
6. Evidence of Financial and Technical Capacity. Before granting approval of a permit, the Board shall determine that the subdivider has provided written evidence of adequate financial and technical capacity to meet the standards stated in Section 12 and has paid the required fees and planning costs in a timely fashion.
7. Expiration Date of Plan Approval. Plan approval shall be void unless work thereunder is commenced within one year from the date of permit issuance and completed within two years from the date of issuance, unless an extension is granted by the Planning Board**..**

E. Development Plan

The Plan submitted by the applicant shall contain nine (9) copies of the Application for Subdivision and all other pertinent information (one each for the permanent file, the CEO and 7 Planning Board Members and Alternates). The proposal can best be presented using prints having a scale of 100 feet to the inch. There shall be an inked cloth or Mylar film tracing of 24” x 32” maximum. The Plan shall contain:

1. Title and purpose of the subdivision;
2. Scale, date, North Point, and geographical location;
3. Boundaries of the parcel to include remaining portions of owner's land;
4. Names of owner(s), engineer(s), and surveyor(s);
5. A statement specifying the land use proposed for the subdivision in general and each functional unit in particular, specifying any covenants imposed, with a description of the character of the structures and their location on the parcel, and drawings of elevations and floor plans for each proposed structure;
6. Names and addresses of owners of abutting properties and location of their abutting properties, including those located across roads and streets including entire subdivisions, indicating structures within 200 feet of the common boundary;
7. Existing and final proposed lines and dimensions of lots, streets, ways, fire zone parking areas, easements, and public or common areas within the subdivision. When indicating lot sizes for each lot on the Plan, the applicant shall specify total square footage and square footage of land suitable for building purposes (see Section 3D).;
8. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground;
9. Name, location, width, profile and cross-section, radius of curves of all existing and proposed streets, and the design for traffic control. This shall include profiles of the center lines of proposed streets separate from the plan diagram, at a horizontal scale of 1 inch

equals 5 feet, or adjusted to the standard-sized mylar, with all elevations referred to U.S.G.S., DATUM or other permanently established benchmark;

10. Kind, location, profile and cross-section of all existing and proposed drainage;
11. Location, with dimensions, of natural and man-made features, affecting the subdivision, such as water bodies, streams, swamps, wooded areas, ditches, highways, buildings, community recreational resources, historic sites, landscaping, wooden screens, vegetated buffers, amount of deforestation required, etc.;
12. Location, with dimensions, of utilities, electrical lines, existing right of ways, etc.;
13. Plans for water supply adequate to meet the needs of the proposed subdivision and the requirements of this ordinance;
14. Plans for fire protection (see Section 12-I);
15. Plans for needed waste water and sewage disposal along with all backup information to support the validity of the waste water and sewage disposal concepts. A statement from a certified geologist, registered civil engineer, or licensed soil evaluator is required for this purpose;
16. A topographical map of the site showing 10’ (ten foot) elevation contours;
17. A list of construction items (e.g. streets, streetlights, culverts, fire hydrants, fire zone parking areas, etc.) to be completed before the sale of any lot OR within the two year life of the permit.;
18. Suitable space to record, on the Plan, final approval by the Board, with conditions, if any, and also the date of approval;
19. Certification by a licensed surveyor or equivalent authority;
20. The following conditions, in writing, where appropriate:
    a. Water supply system proposals contained in the Plan shall be approved in writing by a) the servicing Water Department if existing water service is to be used, b) the State of Maine Department of Human Services if the applicant proposes to provide a central water supply system, or c) a civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed by the Department of Human Services.
    b. Sewage disposal system proposals contained in the Plan shall be properly endorsed and approved in writing by a) the State of Maine Department of Human Services if a central sewage collection system is to be used or if individual septic tanks are to be installed by the applicant or lot owners, or b) the Maine Department of Environmental Protection if the Town system to be used is inadequate by State standards and the waste generated is of a significant nature.
    c. If the proposed subdivision in any way falls within the jurisdiction of and is subject to review by the State of Maine Department of Environmental Protection, then approval of that agency shall be secured in writing before submission of the Plan.
    d. Approved fire protection plan;
21. Sufficient evidence that the proposed subdivision does not violate:
    a. The Town's Floodplain Management Ordinance;
    b. The DEP Storm Water Management Plan
22. Required fees;
23. Other information required by the Board.

The foregoing approvals may be listed as conditions to the approved Plan if the applicant demonstrates to the Board that it is impractical to obtain them before submission of the Plan. In no case shall work commence on the subdivision or any further permit or certificate be issued until all such conditions have been fulfilled.

F. Minimum Standards for Street Design and Construction

1. Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters to the maximum extent possible, as defined by the Maine Department of Transportation's Standards of Practice. The design of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas, and proper projection of streets into adjacent un-subdivided and open land.
2. Where a proposed development involves the division of a tract or parcel of land into 3 or more lots within any five (5) year period, whether accomplished by sale, lease, development, buildings or otherwise, as defined by the Subdivision Law, Title 30-A MRSA sections 4401-4407 the following provisions shall apply. Direct lot-by-lot access to the existing public road is prohibited. Direct access to any individual lot, or to a single place of business, shall be prohibited unless the Planning Board determines that physical conditions particular to the parcel justify the granting of a waiver from this requirement.

   Waiver – A waiver may be granted only if there will be no further subdivision of the parcel and the shape or physical condition of the parcel does not permit access to a street other than the public road, or the creation of a service/frontage road to allow that access.

3. All roads constructed shall conform to the following standards:

   a. Ditching shall be sufficient to prevent flooding of roadways, and bottoms of culverts shall be installed at streambed elevation;
   b. All cut and filled banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible;
   c. The arrangement, character, extent, width, grade, and location of all roads shall provide for safe access and egress based on their relation to existing or planned roads, to topographical conditions, to public convenience and to safety, and their relation to the proposed use of the land to be served by such roads. Grades of roads shall conform as closely as possible to the original topography;
   d. Road intersections and curves shall be so designed as to permit safe access and egress for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25-foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level of 3 feet higher than the center line of the road . When necessary to achieve visibility, ground shall be excavated;
   e. Local streets shall be designed to discourage through traffic;
   f. Width of right-of-ways shall be a minimum of 50 feet;
   g. Width of streets shall be two (2) ten (10) foot traffic lanes and two (2) two (2) foot parking and delivery lanes abutted on the outer edges by a tapered, compacted soil with a 3 to 1 slope.;
   h. The edge of all streets shall be set back at least 15 feet from abutting property lines.

i. The radius of center line curve shall be 100 feet minimum;
j. Angle of street at intersection shall be not less than 60 degrees;
k. Street grades shall be a minimum of 0.5% and a maximum grade of 3% within 50 feet;
l. Cul-de-sac and dead-end streets shall have adequate provisions for turning at the closed end, with a minimum radius of 50 feet;
m. Property lines at intersections shall be rounded with a minimum radius of 20 feet;
n. All streets shall be properly excavated and have a base course of at least 18 inches of gravel and a wearing course in addition. On streets and ways which the developer intends to petition the Town for acceptance as a Town road, the wearing course shall be of a material equal to two coats of bituminous products as applied on State Aid roads. The wearing course on streets in a development which will remain private ways may have a wearing course of any material which insures safe travel and passing at all times. All streets shall be in accordance with good engineering practices and be provided with adequate drainage**.**
o. Sidewalks, guardrails or other safety measures may be required at the discretion of the Board.

G. Setbacks, Side and Rear Yard Widths, and Buffers

All subdivisions, except those created by division of land into lots for single-family dwellings, shall meet the following requirements. A subdivision with lots for single-family dwellings will conform to the requirements in Section 4(I).

1. All buildings and parking spaces must be set back at least 200 feet from any road right of way and at least 100 feet from any adjacent property boundaries.

2. The subdivision design shall minimize glare and noise pollution either from within or outside the development by providing and maintaining a vegetated buffer zone at least 20 feet wide along abutting property lines. Vegetation shall consist of non-deciduous trees at least 6 feet in height at the time of planting, and of sufficient density to fulfill the purpose of this requirement. Buffer zones shall be so constructed and maintained as not to obstruct visual access to areas of scenic value to the public or adjacent landowners, or as agreed to by the developer and all abutting landowners.

3. Screening shall buffer off-street parking areas from the public right of way and shall enhance the physical design of the buildings and site.

4. <u>Residential Zone</u> .
    a. All subdivisions established after April 16, 1999 having 12 or more units shall provide single entrances and screening of at least 50 feet in length along the road to which the entrance provides access.

5. <u>Rural and Agricultural Zone.</u> – To preserve the rural and agricultural nature of this area, all new subdivisions:

    a. shall have single entrances from the main road, and;

b. shall provide 50 foot depth of screening along such main road and wherever such development abuts existing main roads and;
c. may submit a cluster design for consideration
d. Subdivisions having 16 or more units shall:
    i. Present a cluster design (see section 13)
    ii. have single entrances from the main road, and
    iii. provide 50 foot depth of screening along such main road and wherever such development abuts existing main roads,
    iv. present a cluster design, and,
    v. provide 80,000 square feet of permanent commons for each 16 units or additional fraction thereof planned. Commons shall be held by the developer, a development association, or conveyed to the town and, however held, taxed appropriately proportionate to the degree of public access or public purpose served.

6. Where any of the foregoing is required, it shall be incorporated in the Plan and executed by the subdivider as construction of the subdivision proceeds. Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years, unless an extension is granted by the board.

H. Lot Size and Density Standards

1. For subdivisions, the size and dimensions of lots and the location of structures shall meet the following requirements which may be in addition to those set forth in Section 4I (see Section 4I):

    a. Each lot in the subdivision shall be required to provide a minimum of 40,000 square feet of land suitable for development within the subdivision parcel;
    b. Any subdivision of 12 or more lots must provide an additional 20,000 square feet for each lot in the subdivision for common recreational and open space uses (see Section 12-K-1);
    c. Any subdivision having 16 or more units or portion thereof in the Rural and Agricultural Zone shall provide 80,000 square feet of permanent commons for each 16 units. (see page 48 Comprehensive Plan, 2d)
    d. Any lot within or partially within land classified as shorelands shall have a minimum frontage of 200 feet on the body of water.

2. Where a subdivision is created by division of land into lots for single- family dwellings, each lot shall have a minimum frontage on any road, street, or highway of 200 feet. Exceptions to this requirement may be made:
    a. only in the instance of lots situated on the curve of a cul-de-sac design, in which case the minimum frontage shall be 75 feet.
    b. in the instance that the subdivision is:
        i. in the Residential Zone;
        ii. is provided with public water and sewer connections and is connected to same;
        iii. and is provided with its own entrance road. In this instance the frontage requirement may be reduced to 100 feet per unit within the development

3. The Board may require greater minimum lot sizes when it deems such sizes necessary to protect natural resources or geographic and historic features, including the quantity and quality of soil, air and water in the town.

4. Certain lands designated as land not suitable for development in this and other town ordinances shall not be approved for the purpose of meeting lot size and density requirements (See Section 12,c,7).

I. Fire Protection

A fire protection plan indicating compliance with the appropriate parts of this sub-section shall be included in the Development Plan that is presented to the Planning Board for permit approval. The applicant shall develop a fire protection plan that meets the following requirements in consultation with the Chief of the Lamoine Fire Department and shall attach the Chief's or his designee's written approval of the plan.

1. Access roads, fire zone parking areas and any required water supply serving any subdivision, multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet, shall be in place prior to the issuance of any building permit.

2. Access roads to multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet must also have fire zone parking areas. Such parking areas shall be not less than 50 feet nor more than 150 feet from any such building(s). Each parking area shall be parallel to and abutting the access road, preferably on the right side approaching the building, and shall be not less than 15 feet wide and 50 feet long. The owner of the building(s) shall be responsible for keeping the area clear of snow or other obstruction so that the area is available at all times exclusively for emergency parking of fire equipment. The area shall be posted "No Parking, Fire Zone."

3. Each subdivision shall supply a minimum of 10,000 gallons of water for fire suppression and related activities. The water supply shall:

   a. be held in tanks buried in the ground or in other properly engineered containment facility approved by the chief of the Lamoine Volunteer Fire Department or his/her designee;
   b. be located so that no lot is more than 2,000 feet from a tank or containment facility;
   c. meet all Fire Department and National Fire Protection Association (NFPA) construction requirements. (Current requirements are available from the NFPA.);
   d. be maintained by the Town.

There must be a fire zone parking area around the hydrant head. This area shall be set back no less than twelve feet from the edge of the road. The fire zone parking area shall extend five feet beyond the hydrant head, away from the road, and twenty-five feet in both directions along the road. The fire zone parking area around the hydrant head shall be built to the same standard as the subdivision access road.

A deeded right of way or easement shall be given to the Town granting the town the right, to be exercised at its sole discretion, to maintain and use the water supply system, including the hydrant head, access road and fire zone parking area. Acceptance of this right of way or easement shall not constitute acceptance of any part of the subdivision or its road system as town property, a town road, or a town facility. The Board of Selectmen is authorized to accept, on behalf of the Town, such deed(s) as are required to implement the purpose of this paragraph.

4. Each multi-family dwelling of three or more units or commercial/industrial building exceeding 5,000 square feet shall make a minimum of 10,000 gallons of water accessible for fire suppression and related activities. The water supply shall be held in a buried storage tank meeting all fire department and NFPA construction requirements (current requirements available from the Chief of the Lamoine Fire Department).

   There must be a fire zone parking area around the hydrant head. This area shall measure no less than fifteen feet wide and fifty feet long and shall be built to the same standard as the access road.

   The water supply shall be maintained by the property owner and shall pass inspection semi-annually by the Chief of the Lamoine Fire Department. The property owner shall be responsible for keeping the area around the hydrant head clear of snow or other obstruction so that the area is available at all times exclusively for emergency use. The area shall be posted "No Parking, Fire Zone."

J. Groundwater Standards

No subdivision shall be permitted which either alone or in conjunction with existing activities would adversely affect the quality or quantity of groundwater in Lamoine, as stated below.

1. Where a proposed subdivision development is located in whole or in part on the Aquifer Map, Town of Lamoine, December 2002 and on file at the Town Office, the applicant shall provide documented assurance (deed covenants or other) barring the underground storage of fuel oil or activities involving the use and/or storage of hazardous materials as defined by the Resource Conservation and Recovery Act of 1976, 40 C F R, Part 261, as amended.

2. Applications for subdivisions proposing lots for individual dwellings shall conform to Part E (15) and (20) of this Section.

3. Applications for subdivisions proposing multi-family dwellings or commercial/industrial establishments shall contain a hydrological assessment by a certified geologist or registered professional engineer of the impact of the development on the quality and quantity of groundwater.

   a. That assessment shall be based upon and provide the following:

      i. Soil data for entire site including soil test pits and percolation test results

ii. The depth to the water table at representative points throughout the subdivision
iii. Drainage conditions throughout the subdivision
iv. Proposed water source and the method of waste water treatment disposal for the subdivision with reference to distance from roads, boundaries, and wells
v. Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties
vi. Projections of resultant nitrate-nitrogen concentrations, possible salt water intrusions and, within the watershed of a pond, phosphate impacts.

b. Projections of groundwater quality shall be made at any wells within the subdivision, and at the subdivision boundaries or at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.

c. Projections of groundwater quantity shall be based on the assumption of drought conditions (assuming 60% of annual average recharge from precipitation).

4. No subdivision shall increase any contaminant concentration in the groundwater, within or outside the subdivision, to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.

a. If existing groundwater quality does not meet Primary Drinking Water Standards and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved in order to meet the standards.

b. If existing groundwater quality does not meet the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

5. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the Plan 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 and as restrictions in the deeds to the affected lots.

6. Subdivisions for multi-family dwelling units shall provide a minimum of either 400 gallons per day or 4 gallons of water per minute per lot. A certified geologist or registered professional engineer shall certify that this minimum and that amount required by Section 12 I above, Fire Protection, can be provided without exceeding the recharge capacity of the aquifer or unduly diminishing the quantity of groundwater available to adjacent properties.

K. Open Space and Geographic or Historic Features Standards

In any subdivision, the Board may require the subdivider to designate up to 10 per cent of the total area as open space. In subdivisions of 12 or more lots, at least 1/3 of the parcel shall be reserved for open space for common use. Where common use dedicated to the general public is indicated, the subdivider, with the approval of the Board, may make a commensurate payment in to a municipal land acquisition fund in lieu of such designation.

1. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one o r more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have suitable private access and no less than 25 feet of road frontage. To be acceptable, the configuration of such sites shall be deemed adequate by the Board with regard to scenic, geographic, and historic attributes to be preserved (including sufficient space and conditions for trails, lookouts, parking, storage, and maintenance where necessary).

2. The Board may request that reserved land in the parcel acceptable to the Board and subdivider be dedicated to the Town for open space for public use.

3. The Board may require the preservation of scenic or natural beauty, geographic or historic sites, rare and irreplaceable natural areas, and physic al or visual access to the shoreline.

4. Where the proposed subdivision is located on a lake, pond, river, stream, or shoreline, a portion of the waterfront area, when feasible, shall be included in the reserved land.

L. Review Criteria

No subdivision permit shall be issued until the Board has approved or approved with conditions the complete application. Approval signifies that:

1. the application has met all the requirements of Section 12; and
2. the application and applicant have met the Review Criteria spelled out in Section 7B4 of this code.

M. Separability

If any provision of this ordinance is held to be invalid for any reason, such invalidity shall not affect the remaining provisions of this ordinance, which remain in full force and effect.

N. Enforcement

1. Any action needed to enforce the provisions of this ordinance shall be taken by the Selectmen of the Town of Lamoine on their own motion or on the recommendation of the Planning Board or the Code Enforcement Officer (see Section 7 of this code).

2. No person, firm, corporation or other legal entity may convey, offer or agree to convey, lease, develop, or build upon any land in a subdivision in Lamoine which has not been approved by the Board and recorded in the Hancock County Registry of Deeds. Approval for the purposes of recording must appear in writing on the plat or plan. No public utility company of any kind shall serve any lot in a subdivision unless written authorization

attesting to the validity and currency of all local permits required by this ordinance has been issued by the appropriate municipal officials.

3. Any violation of this ordinance shall be deemed to be a nuisance. 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 violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

4. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the ordinance in the name of the Town.

5. Any person, firm or corporation or other entity who conveys, offers or agrees to convey, leases, develops, or builds upon any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than $2,500.00 for each violation. Any person, firm, corporation, or other entity who continues to violate any provision of this ordinance after receiving notice of such violation shall be guilty of a civil violation subject to a minimum fine of $100.00 and up to a maximum fine of $2,500.00 for each violation, as provided in 30-A MRSA §4452. Each day such a violation is continued is a separate offense.

SECTION 13. CLUSTER DEVELOPMENT STANDARDS

A. **Purpose**. The purpose of the cluster development standards is to encourage new concepts of housing development with variations of design that will result in:
   1. permanently protected open space and recreation areas;
   2. the preservation of trees, outstanding natural topography and rare natural features, and the prevention of soil erosion;
   3. a development in harmony with surrounding topography and development; and
   4. a development more creatively designed than would be possible through strict application of other sections of the ordinance

B. Basic Requirements
   1. The uses of the land shall not differ from uses permitted in the district in which the land is located.
   2. Unless otherwise provided for in this Section 13, all application procedures, review standards, and issuances of permits for Cluster Housing shall meet all requirements of Section 12. Subdivisions.

3. The minimum area of land in a cluster development shall be ten (10) acres.
4. Any lot in the development abutting a public road shall have a minimum frontage and minimum area no less than normally required in the district. For lots abutting other than public roads, lot road frontage and lot area may be reduced by not more than 50% of the requirements of the district in which the development is located. A minimum road frontage of 75 feet is allowed on lots fronting on a cul-de-sac.
5. The Planning Board, at its discretion, may reduce minimum front, side and rear setback requirements.
6. The total area of common open space within the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the district in which the development is located.
7. Further subdivision of common open space or its use for purposes other than those noted in C (8) below, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to permitted open space uses may be erected on the common land, subject to Planning Board approval.
8. Each building shall be an element of an overall site development plan. The plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space reserved to individual dwelling units. Only developments having such a plan will be considered for a permit. In presenting such a plan, the developer shall take into consideration all requirements of this Section 13 and of other relevant sections of this ordinance.
9. The Planning Board may approve or deny the cluster development plan. Approval of the development plan does not eliminate the necessity for Planning Board approval based on Subdivision standards prior to the issuance of a permit. Any development contrary to the approved development plan shall constitute a violation of this ordinance.

C. Site Considerations

The Cluster Development plan shall comply with the following site considerations:

1. Orientation
   Buildings and other improvements shall be oriented on the site so as to preserve scenic vistas and significant natural features of the parcel.
2. Roads
   Access from public ways, internal circulation, and parking areas shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, road maintenance, delivery and collection services.
3. Drainage
   Adequate provision shall be made for management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means
4. Sewage Disposal

All structures in the development with required plumbing shall be connected to a private central collection and treatment system or individual septic systems in accordance with standards set forth in the State of Maine Plumbing Code. The developer shall demonstrate clearly to the Planning Board that:

a. adequate soils and land area are available at all locations proposed for the central system and/or to the individual septic systems;
b. the proposed system(s) shall not adversely affect ground water supplies which are currently used as a water source for any existing development.

5. Water Supply
   a. All dwelling units shall be connected to a common water supply and distribution system unless the developer demonstrates to the Planning Board that:
      (1) adequate ground water is available at all locations proposed for individual water supplies; and
      (2) groundwater source(s) proposed for individual water systems is safe from both on-site and off-site contamination;
   b. The development shall provide for any special needs for fire protection as required in Section 12. I
6. Utilities
   a. All utilities shall be installed underground unless specifically exempted by the Planning Board.
   b. Transformer boxes, pumping stations and meters shall be located so as to be neither unsightly nor hazardous to the public.
7. Buffering
   Planting, landscaping, disposition and form of buildings, fencing, and screening shall be used to integrate the proposed development with the landscape and the character of any surrounding development.
8. Common Open Space

The following provisions shall apply:

a. The required minimum acreage of land dedicated as common space shall not include land described in Section 3.D of this ordinance as not suitable for development, excepting wetlands, which may comprise as much as 50% of the designated common space.
b. Common open space usage may include, but is not limited to, recreation (playing fields, hiking or skiing trails, playgrounds, etc.), ornamentation (garden, park areas, etc.), protection of natural resources (deer yards, wetlands, eagle nest sites, timber stands, etc.), or scenic views, or common access to the coast, or common protection, such as a fire pond. The use of open space may be further limited or controlled at the time of final subdivision approval where necessary to protect adjacent properties.
c. The common open space shall be accessible to all residents of the development.

d. Where a planned unit development or cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common open space.

e. Whenever possible, at least a portion of the open space shall be located adjacent to the existing public road(s) serving the development so as to preserve a rural appearance from such roads.

f. Common open space shall be protected by legal arrangements, satisfactory to the Planning Board, sufficient to assure its maintenance and preservation for whatever purpose(s) it is intended. Covenants and other legal arrangements shall specify ownership of the common open space, responsibility for maintenance and liability for payment of property taxes. The developer shall submit to the Planning Board proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection and maintenance of common open space. Such language shall be subject to the approval of the Town Attorney to ensure that it will accomplish its intended purposes.

SECTION 14. HOME OCCUPATIONS

A. Purpose:
The purpose of this section is to ensure that business uses in Lamoine are conducted safely and in a manner compatible with the residential nature of the surrounding neighborhood. More intensive commercial uses than those described in this section require a Commercial or Industrial permit. (See Section 15.)

B. Definition:
A Home Occupation is a business, profession, occupation or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes: b) is wholly carried on within a dwelling unit or other structure accessory to a dwelling unit: and c) utilizes no more than fifty (50) percent of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) up to a limit of 1,500 square feet.

C. General Requirements:
1. Home Occupations conducted only by family members do not require a permit
2. Home Occupations employing no more than one full time equivalent employee at any one time, other than residents of the home, are required to complete an application and secure a permit from the Code Enforcement Officer.
3. All Home Occupations, whether requiring a permit or not, are subject to the review criteria (see D below).
4. If more than one full time equivalent employee other than residents of the home are employed at any one time, a Commercial or Industrial use permit must be obtained
5. All licensed Day Care Centers must apply for a permit.
6. Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any

application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

D. Review Criteria:

1. Exterior effects. Any exterior display, exterior storage of equipment or materials and other exterior indication of a Home Occupation must be in keeping with the residential nature of the neighborhood. A sign is permitted if in conformance with Section 15 F 16 of this ordinance. However, outdoor activity areas are allowed for home child day care providers and home adult day service programs.

2. Nuisances. A home occupation must not generate any noise, vibration, smoke, fumes, dust, odors, heat, light, glare, electrical interference or other effects such that levels common to a residential are exceeded beyond the property lines or beyond the walls of the dwelling unit if the unit is part of a multifamily dwelling.

3. Traffic. The level of vehicular traffic generated by a home occupation must not significantly exceed that generated by a residence, except for home child day care providers or home adult day service programs.

4. Parking. Adequate off-street parking must be provided for vehicles of employees and other visitors of the home occupation during peak operating hours.

5. Hazardous wastes. A home occupation must not generate or store quantities of hazardous wastes that exceed the amounts set for "Small Quantity Generators" by the Maine Department of Environmental Protection (DEP) and must meet the requirements of DEP rules, Chapter 850 DEP rules, Section 3(A)(5)(d)(vii) if applicable.

SECTION 15. COMMERCIAL AND INDUSTRIAL USES

A. Scope

This section governs the establishment of buildings, developments, or other structures for commercial/industrial uses and the use of lands, building, or structures, for purposes of producing income from the buying and selling of goods and/or services. This section does not apply to home occupations and the rental of residential buildings and/or dwelling units.

B. Purpose.

The purpose of this section is to provide the town with a review procedure for all commercial/industrial uses to assure the comfort, health, safety, and general welfare of the people. The section is designed to protect the environment, provide for the orderly development of a sound and stable community as described by its Comprehensive Plan, and control the density of its growth, guarding it, for example, from overtaxing its municipal services, overburdening its soil with waste, or depleting or adversely affecting its groundwater, and assuring that water supplies and human and industrial waste disposal

systems are adequate. Large commercial (greater than 2000 sq. ft.) and all industrial uses must meet all conditions mandated by the Lamoine Site Plan Review Ordinance.

C. General Requirements

In reviewing applications for the commercial/industrial use of land, the Planning Board (hereinafter called the Board) shall consider the following general requirements. In all instances, the burden of proof in assuring compliance with these requirements shall be upon the applicant for commercial/industrial permit. In reaching a determination, the Board may require the applicant to provide sufficient information at the applicant's expense to ensure the application's compliance with these requirements.

1. Impact on Community Services (see section 3-B)

2. Preservation and Protection of Natural Resources. The proposed development shall not pose a threat to existing or future quality or quantity of water, air, soil, or geographic features. The Board may require the applicant to submit environmental impact studies by qualified experts acceptable to the Board. The applicant shall bear the costs of such studies.

3. Retention of Open Space and Geographic or Historic Features. The proposed development shall provide sufficient open space for the use of residents of the development and, if agreed upon by the developer and the Board, the use of the general public. In cases of the latter use, the Board may require the developer to provide public access to geographic or historic features which it deems to be significant public resources and shall require the developer to protect those features from damage and depreciation.

4. Easements

    a. Where a development is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way that shall be not less than 30 feet in width and shall conform substantially with the lines of such water course.

    b. The Board may require easements for sewage, drainage, or other utilities.

5. Utilities. The size, type, and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be acceptable to the appropriate utility and/or Town department.

6. Land Not Suitable for Development.

    a. In addition to those lands described in Section 3(D), the Board shall not approve for the purpose of meeting lot size requirements such portions of any proposed development that:

        i. Are situated below mean high water;
        ii. Are part of a right-of-way or easement, including utility easements;

iii. Are located on land which must be filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a development located on wetlands or great ponds (natural bodies of water 10 acres or more in size);

iv. Employ septic sewage disposal and do not meet or exceed the lot size guidelines for soil types and slopes as specified in Appendix 1 of "State of Maine Plumbing Code, Part II, Private Sewerage Disposal Regulations," as amended.

b. Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river, or tidal waters, a proposed development shall conform to the Shoreland Zoning Ordinance for the Town of Lamoine, Maine.

7. Floodplain Management Requirements. The developer will determine, and will provide sufficient evidence to the Board that the proposed development does not violate the Floodplain Management Ordinance for the Town of Lamoine.

D. Commercial Structures Administration and Application Procedures.

Structures designed principally for any business, excluding home occupations, housed in a permanent structure, engaged primarily in the sale of goods or services and/or use and/or resale shall be subject to all provisions of this Building and Land Use Ordinance and to the following standards. Where the standards of this section conflict with those in the previous sections, those in this section shall apply.

1. Application and Permits:

a. Before the construction, reconstruction, conversion to a different use, substantial addition, relocation, or replacement of any structure or significant segment thereof that is designed for commercial or industrial use, the owner or lessee, or the architect, contractor, or builder employed by such owner or lessee, shall obtain from the Board a permit covering such proposed work. In considering an application for such use, the Board shall investigate the potential impacts of the proposed structure and use on the residential character of the town and customary uses of the land and neighborhood. (see 14c)

b. Before any permit is approved, applicants must submit a preapplication form for the structure followed by a complete application as required. A complete application is one that includes all the information required by this ordinance.

c. Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

d. Application procedures for commercial groundwater extraction

i. Applicants seeking a permit for a commercial use which will require the extraction of groundwater may be required, at the discretion of the Planning Board, to install a water meter and to record on a monthly basis the amount of

water extracted and provide a written record of the same annually to the Code Enforcement Officer.

ii. Applicants seeking a permit for a commercial use which will require the extraction of groundwater in excess of 122,000 gallons in any month of a year must provide a written hydrogeological study conducted by a certified professional hydrogeologist or registered professional engineer. Such a hydrogeological study shall include the following information:

1. A map of the aquifer contributing to the spring(s), well(s) or excavations(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought of three consecutive months with a probability of occurrence of once in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
2. The aquifer characteristics, the rates of drawdown and recovery, the sustainable yearly and monthly (by month) extraction rates and the cone of depression which may develop about the proposed facility.
3. Any other impacts on the water table in the contributing aquifer and any other private or public wells within 1,000 feet of the proposed extraction facilities.
4. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to the quality and quantity of potable water available in the affected aquifer and any aquifer adjacent to the proposed project.

See Section F 10 for Review Criteria for Water Extraction.

2. Pre-application Procedure.

a. Applicants shall submit to the Chair of the Board a completed preapplication form and request to be placed on the Board's agenda at least 30 days before a regularly scheduled meeting.

The preapplication shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; a description of the proposed activity, a statement of the uses for all buildings and structures, and a preliminary sketch of the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking areas; a preliminary description of utilities, water, and sewage; and a description of any environmental, natural, or historic features on the site.

c. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

d. The Board shall provide the applicant with an opportunity to describe the proposed commercial structure and the Board shall have an opportunity to question the applicant

concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.

e. Within 30 days of consideration of the completed preapplication form, the Board's representatives shall conduct the on-site inspection. The Board at its next meeting shall inform the applicant of any additional specific points to be covered in the application.

3. Application procedures for commercial building structures 2000 square feet of floor space and under: the application ~~form~~ shall be the same as required by Section 7 of this code (single family residence) with any additional information requested by the Board.

4. Application procedures for large commercial building structures (over 2000 square feet of floor space): this application will be the same as that required for industrial structures under Section 14E and be subject to the Lamoine Site Plan Review Ordinance.

5. Application timetable.

   a. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application must be accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance.

   b. The Board shall hold a public hearing on the application within 30 days of the date on which it receives the complete application. The Board shall notify at applicant expense by certified mail, return receipt requested all owners of abutting properties listed in the application as to the date, time, and place of such review. Applicants are strongly encouraged to contact resident abutting landowners personally before this review. The notice required by this paragraph is in addition to all other notices required by law, and failure to give such notice shall not affect the validity of any Board action.

   c. Within 30 days of the public hearing on the application, within 60 days of the receipt of the completed application, or within any other time limit agreed to by the Board and the applicant, the Board shall notify the applicant in writing of its decision. The Board may approve, approve with conditions, or deny the application. The Board shall specify to the applicant its reasons for any condition or for denial.

6. Expiration of Permit - Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years from the date of issuance, unless an extension is granted by the Board.

E. Industrial Structures Administration and Application Procedures.

Those structures designed principally for any use connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals shall be

subject to all provisions of this ordinance (see Section 4), The Lamoine Site Plan Review Ordinance and to the following standards. Where the standards of this section conflict with those in the other sections, those in this section shall apply.

1. Environmental Impact Study: The complete application for a permit to build a large commercial (over 2000 square feet) or industrial structure shall include a plat and building plan and an environmental impact study by a licensed professional satisfactory to the Board. Such plan and study must support a positive finding that the proposed use:

    a. will not result in unsafe or unhealthful conditions;
    b. will not result in erosion or sedimentation;
    c. will not result in water pollution;
    d. will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
    e. will conserve vegetation;
    f. will conserve visual points of access to waters and other scenic views as viewed from public facilities;
    g. will conserve actual points of public access to waters and public lands:
    h. will conserve natural beauty and natural and historic sites;
    i. will avoid problems associated with flood plain development and use;
    j. is in conformance with the provisions of the Town's Shoreland Zoning Ordinance, Section 13, Land Use Standards., and section 3B of this ordinance.

2. <u>Application and permits</u>:
    a. Building permits issued for industrial structures shall be issued by the Board. Before any permit is approved, applicants must submit a preapplication form for the structure, followed by a complete application. The Board shall issue a permit upon finding that the proposed structure and use as described in a complete pre-application and application, submitted according to the regulations of this ordinance, will meet the Review Criteria in Sections 15E and 15F.
    b. <u>Fees</u> - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.\
    c. Applicants seeking a permit for an industrial use which will require the extraction of groundwater may be required, at the discretion of the Planning Board, to install a water meter and to record on a monthly basis the amount of water extracted and provide a written record of the same annually to the Code Enforcement Officer.
        i. Applicants seeking a permit for an industrial use which will require the extraction of groundwater in excess of 122,000 gallons in any month of a year must provide a written hydrogeological study conducted by a certified professional hydrogeologist or registered professional engineer. Such a hydrogeological study shall include the following information:
        ii. A map of the aquifer contributing to the spring(s), well(s) or excavations(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought of three consecutive months with a probability

of occurrence of once in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

iii. The aquifer characteristics, the rates of drawdown and recovery, the sustainable yearly and monthly (by month) extraction rates and the cone of depression which may develop about the proposed facility.

iv. Any other impacts on the water table in the contributing aquifer and any other private or public wells within 1,000 feet of the proposed extraction facilities.

d. A monitoring plan appropriate to the proposed project in sufficient detail to permit establishment of existing groundwater quality conditions (baseline) and continued assessment of threats to the quality and quantity of potable water available in the affected aquifer and any aquifer adjacent to the proposed project.

See Section F 10 for Review Criteria for Water Extraction.

3. Pre-application procedure:

a. Applicants shall submit to the Chair of the Planning Board a complete preapplication form and request to be placed on the Board's agenda at least 15 days before a regularly scheduled meeting.

b. The pre-application shall contain, at a minimum, the name, address, phone number and company name of the applicant; location of the lot; a description of the proposed activity, a statement of the uses for all buildings and structures and a preliminary sketch of the proposed uses including size, location, setbacks and side and rear yard widths of all structures, roadways and parking area; a preliminary description of utilities, water and sewage; and a description of any environmental, natural or historic features on the site.

c. Applicants who attend a meeting but who are not on the Board's agenda may be heard, but only after all agenda items have been completed and a majority of the Board votes to hear the applicant.

d. The Board shall provide the applicant with an opportunity to describe the proposed industrial structure(s) and the Board shall have an opportunity to question the applicant concerning the proposal. The Board shall also schedule an on-site inspection and designate who shall inspect the site on behalf of the Board.

e. Within 30 days of consideration of the completed preapplication, the Board's representatives shall conduct the on-site inspection. The Board at its next meeting shall inform the applicant of any additional specific points to be covered in the application and Development Plan not required by Section 14E5 below.

4. Application and Development Plan

a. The Application with Development Plan (hereinafter called the Plan) is to be submitted by the applicant after the on-site inspection has taken place, and subject to the power of the Board to require additional information as set out in Section 14E3d above.

b. Application timetable. The Board shall notify the applicant as to whether or not the application is a completed application, and shall note the date and give the applicant a receipt showing the date on which the application is complete. A completed application is one which contains all the elements required by Sections 14E3d and 14E5 of this ordinance and is accompanied by the required application fee. Notice to the applicant that the application is complete shall not bar the Board from requesting further information from the applicant if such further information is required to determine whether the proposal meets the criteria for approval set out in Maine law or this ordinance. Sections 14D5b and 14D5c also apply.

5. Development Plan

The Plan submitted by the applicant shall contain nine (9) each of the application form and any and all prints, etc. The proposal must include: 1) a plat with the appropriate size and scale to allow convenient review of the proposal 2) a written description of proposed plans for (a) to (r) of this subsection as appropriate. The final plan shall be a Mylar film tracing of 24" x 32" maximum. The plan shall contain:

a. Title and purpose of the building.
b. Scale, date, north point, and geographical location.
c. Boundaries of the parcel and a plat including information on lot standards (see Section 3D & 4I).
d. Names of owner(s), engineer(s), and surveyor(s).
e. A statement specifying the character of the structures and their location on the parcel, and drawings of elevations and floor plans for each proposed structure, with front and side views.
f. Names and addresses of owners of abutting properties, including those across public or private roads and rights of way and location of their abutting properties, indicating structures within 200 feet of the common boundary.
g. Location, with dimensions, of natural and man-made features, affecting the industrial building, such as water bodies, streams, swamps, wooded areas, ditches, highways, buildings, community recreational resources, historic sites, landscaping, wooden screens, vegetated buffers, amount of deforestation required, etc.
h. Location, with dimensions, of utilities, electrical lines, existing right of ways, etc.
i. Plans for water supply adequate to meet the needs of the proposed industrial building and the requirements of this ordinance.
j. Plans to meet all groundwater standards as set forth in Section 12, J.
k. Plans for needed waste water and sewage disposal along with all backup information to support the validity of the waste water and sewage disposal concepts. A statement from a certified geologist, registered civil engineer, or licensed soil evaluator is required for this purpose.
l. A topographical map.
m. Suitable space to record, on the Plan, final approval by the Board, with conditions, if any, and also the date of approval.
n. Certification by a licensed surveyor or equivalent authority.
o. The following conditions, in writing, where appropriate:

(1) Water supply system proposals contained in the Plan shall be approved in writing by the servicing Water Department if existing water service is to be used, the State of Maine Department of Human Services if the applicant proposes to provide a central water supply system, or c) a civil engineer registered in the State of Maine if individual well(s) serving each building site are to be used. The Board may also require the applicant to submit the results of water quality tests as performed by the Department of Human Services.

(2) Sewage disposal systems proposals contained in the Plan shall be properly endorsed and approved in writing by the State of Maine Department of Human Services if a central sewage collection system is to be used or if individual septic tank systems are to be installed by the applicant, or the Maine Department of Environmental Protection if the Town system to be used is inadequate by State standards and the waste generated is of a significant nature.

(3) Approval in writing by the State of Maine Department of Environmental Protection if the proposed industrial structure falls in any way within its jurisdiction.

(4) Approved fire protection plan (see Section 14E6).

p. Sufficient evidence that the proposed industrial structure does not violate the Town's Floodplain Management Ordinance.
q. The required fee.
r. Other information required by the Board.

The foregoing approvals may be listed as conditions to the approved Plan if the applicant demonstrates to the Board that it is impractical to obtain them before submission of the Plan. In no case shall work commence on the industrial structure or any further permit or certificate be issued until all such conditions have been fulfilled.

6. Fire Protection

A fire protection plan indicating compliance with the appropriate parts of this sub-section shall be included in the Development Plan that is presented to the Planning Board for permit approval. The applicant shall develop a fire protection plan that meets the following requirements in consultation with the Chief of the Lamoine Fire Department and shall attach the Chief's or his designee's written approval of the plan.

a. Access roads, fire zone parking areas and any required water supply serving any subdivision, multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet, shall be in place prior to the issuance of any building permit.

b. Access roads to multi-family dwellings with 3 or more units or commercial/industrial buildings exceeding 5,000 square feet must also have fire zone parking areas. Such parking areas shall be not less than 50 feet nor more than 150 feet from any such building(s). Each parking area shall be parallel to and abutting the access road, preferably

on the right side approaching the building, and shall be not less than 15 feet wide and 50 feet long. The owner of the building(s) shall be responsible for keeping the area clear of snow or other obstruction so that the area is available at all times exclusively for emergency parking of fire equipment. The area shall be posted "No Parking, Fire Zone."

c. Each subdivision shall supply a minimum of 10,000 gallons of water for fire suppression and related activities. The water supply shall:

   a. be held in tanks buried in the ground or in other properly engineered containment facility approved by the chief of the Lamoine Volunteer Fire Department or his/her designee;
   b. be located so that no lot is more than 2,000 feet from a tank or containment facility;
   c. meet all Fire Department and National Fire Protection Association (NFPA) construction requirements. (Current requirements are available from the NFPA.);
   d. be maintained by the Town.

   There must be a fire zone parking area around the hydrant head. This area shall be set back no less than twelve feet from the edge of the road. The fire zone parking area shall extend five feet beyond the hydrant head, away from the road, and twenty-five feet in both directions along the road. The fire zone parking area around the hydrant head shall be built to the same standard as the subdivision access road.

   A deeded right of way or easement shall be given to the Town granting the town the right, to be exercised at its sole discretion, to maintain and use the water supply system, including the hydrant head, access road and fire zone parking area. Acceptance of this right of way or easement shall not constitute acceptance of any part of the subdivision or its road system as town property, a town road, or a town facility. The Board of Selectmen is authorized to accept, on behalf of the Town, such deed(s) as are required to implement the purpose of this paragraph.

d. Each multi-family dwelling of three or more units or commercial/industrial building exceeding 5,000 square feet shall make a minimum of 10,000 gallons of water accessible for fire suppression and related activities. The water supply shall be held in a buried storage tank meeting all fire department and NFPA construction requirements (current requirements available from the Chief of the Lamoine Fire Department).

   There must be a fire zone parking area around the hydrant head. This area shall measure no less than fifteen feet wide and fifty feet long and shall be built to the same standard as the access road.

   The water supply shall be maintained by the property owner and shall pass inspection semi-annually by the Chief of the Lamoine Fire Department. The property owner shall be responsible for keeping the area around the hydrant head clear of snow or other obstruction so that the area is available at all times exclusively for emergency use. The area shall be posted "No Parking, Fire Zone."

7. Expiration of Permit – Plan approval shall be void unless work thereunder is commenced within one year from the date of issuance and completed within two years from the date of issuance, unless an extension is granted by the board.

F. Review Criteria

No building permit for a commercial or industrial structure shall be issued until the Board has approved or approved with conditions the complete application taking into consideration, in addition to the requirements of other sections of this ordinance, the following:

1. Traffic. The proposed development shall provide for safe access to and from public and 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. The proposed development plan shall not have an unreasonably adverse impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

2. Noise. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of four (4) feet above the ground surface.

	Sound Pressure Level Limit (500 to 10,000 Hz range)	
	7 a.m. - 8 p.m.	8 p.m. - 7 a.m.
Commercial and Institutional Establishments	65dB	55dB
Industrial Establishments	70dB	65dB

On a site abutting any residential use, construction activities occurring between 8:00 p.m. and 7:00 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

3. Dust, Fumes, Vapors, and Gases. Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. All such activities shall comply with applicable Federal and State regulations.

4. Odor. No non-farming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

5. Glare. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

6. Storm Water Run-Off. Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways, or right-of-ways shall be maintained as nearly as possible.

7. Erosion Control. Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best management" practices:

    a. Stripping of vegetation, soil removal, and regarding or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.

    b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

    c. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

    d. Permanent (final) vegetation and mechanical erosion control measures shall be in accordance with the most stringent of the standards set by the County Soil and Water Conservation District, the Maine Soil and Water Conservation Commission and the Maine Department of Environmental Protection (DEP) and shall be installed as soon as practicable after construction starts.

    e. Until disturbed areas are stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Board.

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

8. Setbacks and Screening. Exposed storage areas, exposed machinery installation, 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 to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties (such as dense evergreen hedge, 6 feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

9. Explosive Materials. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least 100 feet from any lot line and 200 feet from any town way or interior roadway. For underground storage of the above materials, the minimum set back distances shall be 50 feet and shall meet all state and federal regulations for such storage.

10. Ground Water Protection. The plan shall meet all groundwater standards set forth in Section 12J. All outdoor storage facilities for liquid fuel (containing 500 gallons or more) shall be

located on impervious pavement, and shall be completely enclosed by an approved safety fence at least 6 feet in height. Such fence shall be set on top of 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 area. All storage facilities for liquid fuel must meet state regulations and statutes pertaining to underground and above ground storage.

Performance Standards for the Extraction of Water for Commercial and Industrial Purposes.

No permit for extraction of water for commercial or industrial purposes shall be issued until the Planning Board has made a positive finding that, with respect to the proposed use:

1. The quantity of water to be taken from groundwater sources will not substantially lower the groundwater table, advance saltwater intrusion, cause unreasonable changes in groundwater flow patterns or cause unreasonable ground subsidence based on the conditions of a drought of three (3) consecutive months with a probability of occurrence of once in ten years.
2. The proposed use will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions will be maintained at all times within and about the proposed use.
4. The proposed use will not cause sedimentation or erosion.
5. The proposed use is not within the defined aquifer recharge area of a public water supply unless notice is given to the operator thereof and the Board has considered any information supplied by the operator of the public water supply and finds that no adverse effect on a public water supply will result.
6. The extractor will make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee.

11. Flood Protection. No structure shall be permitted until satisfactory evidence has been presented of conformity to all applicable provisions of the Flood Plain Management Ordinance of the Town.

12. Soil Suitability for Construction. In any instance where the Planning Board doubts the capability of the soil to adequately accommodate proposed construction, they may require that a soil test be made, at the owner's expense, in order to identify the soil type(s), by a soil scientist registered in the state of Maine. If the soil type which is identified is classified as having "poor" or "very poor" suitability for the proposed use, according to the "Soil Suitability Guide for Land Use Planning in Maine," the Planning Board may require the developer to submit written evidence from a professional engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures, and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence, or other failures will not result.

13. Subsurface Waste/Water Disposal. No plumbing permit shall be issued for a subsurface wastewater disposal system unless the soil conditions meet the criteria contained in the State Subsurface Wastewater Disposal Rules, latest edition. Further, the disposal of waste water by means other than a public system must comply with the laws of the state of Maine and the Town concerning water pollution.

14. Other On-Site Waste Water Disposal Systems. No overboard discharges into surface waters are allowed.

15. Land Use. Commercial or industrial operations designed for retail trade requiring access to the public may be permitted by authorization of the Board within 200 feet but not closer than 100 feet of any Town road. Such operations shall provide the same frontage required of residences, a septic system sufficient for their public use, and adequate storage facilities. The character of the buildings and their landscaping shall not be unduly out of keeping with the neighborhood in which they are located. Except as permitted by existing ordinances, commercial or industrial uses not designed for retail trade nor requiring access to the public for commercial purposes shall be restricted to Open Space as designated by the Town's Comprehensive Plan (i.e., not within 200 feet of a Town road nor within the Shoreland Zone). Such operations shall be appropriately located and adequately landscaped or screened from the public view so as not to affect adversely the existing quality of life or property values of adjoining land owners.

16. Signs and Billboards: Signs and billboards relating to commercial or industrial use of the premises, including home occupations, shall not exceed 16 square feet in area, 8 feet in height from grade, and two signs per premise. A permit must be obtained from the Code Enforcement Officer and placement of signs on a premise must be approved by the Lamoine Road Commissioner or the Maine Department of Transportation. Signs and billboards related to commercial or industrial uses not on the premises shall be prohibited except as permitted under state law.

SECTION 16. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

A. GENERAL

No automobile graveyard or junkyard as defined in this ordinance shall be established or operated without first obtaining site plan approval from the Planning Board and a non-transferable permit issued by the Selectmen in accordance with State licensing and local requirements complying with provisions in Section 16B and 16C.

Fees - An application for any permit required by this ordinance shall be accompanied by fee(s) as established by the Lamoine Board of Selectmen. No action shall be taken on any application until the fee(s) have been received by the Town. The application fee(s) shall not be refundable. The fee(s) shall be paid to the Town of Lamoine and shall accrue to the Code Enforcement Fund to be used for the administration and enforcement of town ordinances. A Schedule of Fees is located at the Town Office.

B. SITE REQUIREMENTS OF AUTOMOBILE GRAVEYARDS AND JUNKYARDS

1. Automobile graveyards and junkyards shall be located a minimum of two hundred feet (200') from the edge of the rights-of-ways; and shall be set back one hundred feet (100') from all side and rear lot lines.
2. Automobile graveyards and junkyards shall be located a minimum of three hundred feet (300') from any public park, facility or grounds.
3. Automobile graveyards and junkyards shall be entirely screened from view by earth berms, plantings or fences which shall be well constructed and properly maintained at a minimum height of twelve feet (12') and sufficient to accomplish the complete screening from ordinary view.

C. OPERATING REQUIREMENTS FOR AUTOMOBILE GRAVEYARDS AND JUNKYARDS

1. Upon arrival at the automobile graveyard, all fuel, engine oil, radiator, battery, transmission fluids etc. shall be drained from all vehicles, disposed of in accordance with applicable state and federal laws and appropriate safety precautions such as the removal of door and trunk locks shall be taken to avoid injury and accidents. The fluid removal must take place on an impermeable pad of sufficient size to handle 25% of the vehicles permitted on the lot.
2. No vehicles may remain intact in the yard for more than thirty (30) days and complete processing of vehicles into salvage materials shall be accomplished within four (4) months.
3. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.

4. No open burning of salvage material or junk shall be permitted on the premises.
5. Waste fluids and unusable solid waste materials shall be disposed of in compliance with Maine's solid waste laws.

PART III DEFINITIONS COVERING ALL SECTIONS

Section 17. Definitions

A. Construction of language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

The word "person" includes a 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 words "shall" and "will" are mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "building" includes the word "structure".

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" mean the Town of Lamoine, Maine.

B. Definitions of key terms

Abutter: The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

Access: The ability to enter or leave a public street or highway from an adjacent driveway or another public street.

Accessory Structure or use: a use or structure which is incidental and subordinate to the principal use or structure on the same lot. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Administer: to execute the review and approval process stipulated by an ordinance and serve as consultant in any action by the Selectmen and/or Code Enforcement Officer necessary to ensure compliance with its provisions.

Aggrieved party: shall include the following: a person whose land is directly or indirectly affected by the grant or denial of a permit or variance under an ordinance, a person whose land abuts land for which a permit or variance has been granted, or a group of 5 or more citizens of the Town who represent an interest adverse to the grant or denial of such permit or variance.

Agriculture: The commercial cultivation of soil, producing or raising crops or livestock. The term shall also include greenhouses, nurseries and versions thereof, but these two terms, when used alone, shall refer specifically to a place where flowers, plants, shrubs, and/or trees are grown for sale.

Alteration: Any change or modification in construction, or change in the structural members of a building or structure such as walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, expansion, or addition of a deck, dormer, staircase, or roof of the building.

Amusement Facility: Any privately, commercially/owned premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Breeding or Care: The keeping or raising of six or more animals, including domestic animals, birds, and pets, for any commercial use. This definition also includes kennels.

Applicant: The person applying for a permit under this ordinance who demonstrates legal standing or interest to apply by means of ownership, authorized agent, or option or purchase and sale agreement or the like.

Aquifer: A geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as identified by the Bureau of Geology and Natural Areas, Maine Geological Survey with the Department of Conservation.

Aquifer Recharge Area: A primary or secondary recharge area composed of porous material or rock sufficiently fractured to allow infiltration and percolation of surface water and transmission of it to aquifers.

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

Authorized Agent: A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Automobile Recycling Business: The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles.

Automobile Repair Shop: A business establishment engaged in general repair, engine rebuilding, or parts replacement. Automobile repair shall not mean body, frame, or fender straightening and repair or painting and undercoating, nor the sale of gasoline, other motor fuels or motor oil.

Automobile Graveyard, Junkyard: A yard, field, or other area used to store three or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in 29A MRSA §101, subsection 42**,** or parts of such vehicles; includes an area for dismantling of motor vehicles for the purpose of reselling the component parts of the vehicles, for rebuilding or repairing salvage vehicles for the purpose of resale, or for selling the basic materials in salvage vehicles. Auto graveyard does not include any area used for temporary storage by an establishment or place of business which is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than 30 days. This dwelling shall also be the full-time, permanent residence of its owner; otherwise, it shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

Boarding/Lodging Facility: Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

Buffer zone: trees, hedges, fencing, or other vegetative barrier in keeping with the character of the natural surroundings which provides a visual and auditory screen between a structure or lot and another structure, lot, or street.

Building: Any 3 dimensional structure or enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including but not limited to swimming pools, foundations or pilings in the ground and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

Building Height: The vertical distance between the highest point of the structure and the average final grade around the foundation, or the average grade of the original ground adjoining the building, whichever is greater.

Business and Professional Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks on site as part of the business operation.

Campground: Land upon which one or more tents are erected or trailers or other shelter are parked for temporary use for a fee or two or more sites on the same property arranged specifically for that purpose.

Cemetery: Property used for the interring of the dead.

Church, Synagogue and Mosque: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services.

Club: Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes,; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a

business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Cluster Development: A development consisting of residential dwelling units, or commercial businesses, or mixed residential and commercial uses planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 10 or more lots, or one tract with 10 or more principal uses or dwelling units, which contemplates an innovative, more compact grouping of uses. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Coastal Wetlands: See wetland.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce the Lamoine Building and Land Use Ordinance**.**

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

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

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance or by the Planning Board.

Condominium: As defined in the "Maine Condominium Act of 1983," the term means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, duly recorded pursuant to this Act. A condominium is a legal form of ownership, not a land development type. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Condominium Conversion: A building that at any time before creation of the condominium was occupied wholly or partially by one or more persons other than purchasers and persons who occupy with the consent of purchasers.

Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

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

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

Construction: creation, alteration, relocation, replacement of a structure, including excavation, fill, drainage, roads, services and other physical operations on the parcel.

Conversion to a different use: any change of dominant purpose to which a structure is put (e.g., from residential to commercial or from retail to industrial).

Cul-de-sac: A local street, one end of which is closed and consists of a circular turn-around.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care: A building in which day care is provided for three or more children under the age of 16, a nursery school, or an adult day care program registered by the Maine Department of Human Services in accordance with M.R.S.A. Title 22, §7701 et. seq. , as amended.

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

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

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roads or driveways.

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

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicants cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

District: A specified portion of Lamoine, delineated on the official land use map, within which certain

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

Driveway Width: The narrowest width of the driveway, measured parallel to the highway of right-of-way.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. Dwelling Unit - A room or group of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, containing independent living, cooking, sleeping, bathing and sanitary facilities.

2. Single-Family Dwelling - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

3. Two-Family Dwelling - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

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

5. Accessory Dwelling Unit - A dwelling unit within and incidental to an existing single-family dwelling.

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.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Erosion: The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but not buildings.

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

Extractive Industries: The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;

2. The excavation of material incidental to and at the site of construction or repair of streets; and

3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one year period.

Family: two (2) or more persons related by blood, marriage, adoption or guardianship, or not more than five (5) persons not so related, occupying a dwelling unit and living as a single housekeeping unit;

such a group to be distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

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

Filling Station: (see Service Station)

Final Plan: The final drawings on which the applicant's plan of development is presented to the Planning Board for approval and which, if approved, must be recorded at the Registry of Deeds.

Floodplain Management: The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations: Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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.

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

Foundations: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Freshwater Wetland: See 'Wetland'

Frontage, Road: The distance between the intersections of the side lot lines with the road right-of-way or the existing tarred or gravel road.

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, finfish and shellfish processing, fish storage and retail and wholesale fish marketing 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.

Gasoline Service Station: Any place of business at which gasoline, other motor fuels or motor oil are sold, and put into a motor vehicle on the premises, regardless of any other business on the premises.

Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Groundwater: All water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving subsurface water present in the aquifers and recharge areas.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

Home occupation: is a business, profession, occupation or trade undertaken for gain or profit which: a) is clearly incidental and secondary to the use of the dwelling unit for residential purposes: b) is wholly carried on within a dwelling unit or other structure(s) accessory to a dwelling unit: and: d) utilizes no more than fifty (50) percent of the dwelling unit or of the total combined floor area of the dwelling unit and accessory structure(s) up to a limit of 1,500 square feet.

Hotel/Motel: A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Hydric Soils: Those soils characterized by the presence of wetland vegetation, hydrology, and to wet soils as defined within the current effective edition of the Federal Manual for identifying and delineating jurisdictional wetlands and as shown as being part of or adjacent to the hydric soils delineated within the Soil Conservation Services Medium Intensity Soil Survey.

Impervious Surface: Any material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas as well as compacted sand and most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no utility modifications are required, the operation has no more than three employees, and no more than 2000 square feet. Proposed uses beneath the above thresholds may be reviewed as commercial uses.

Industrial Park: An area of land developed exclusively to industrial and associated uses.

Infrastructure: The basic facilities and utilities needed for the functioning of a community (in this ordinance, a subdivision) such as roads, common use sewage systems, common usage water supplies & lines, fire protection systems, communication and power lines and poles, street lighting, and other services and facilities used in common.

Institutional structure: a structure devoted to public, governmental, educational, charitable, medical, or similar purpose.

Junkyard: A yard, field or other area used to store discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap or junked lumber, scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, scrap iron, steel, other scrap ferrous or nonferrous materials and garbage dumps, waste dumps and sanitary fills.

Kennel: An establishment in which more than six (6) dogs or six (6) cats are sold, bred, boarded, or trained for a fee.

Landscaping: The addition or retention of lawns, fields, trees, plants, and other natural and decorative features to the land. The preservation, care and maintenance of existing native vegetation of a size and character.

Cultivated Landscaping shall mean manmade planted areas that require pruning, fertilizing and tending on a more frequent basis.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Lodging unit: a room or group of rooms in which sleeping accommodations are furnished for compensation and meals or other services may be furnished by the owner or operator to any individual not a family member. Lodging units shall include bed and breakfasts, inns, boarding houses, rooming houses, hotels, or motels.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

"New" Lot: A lot created after the effective date of this ordinance.

Lot Area: The total horizontal area within the lot lines, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads or driveways serving more than two lots.

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

Lot, Coverage: The percentage of a lot covered by all buildings or structures including impervious non-vegetated surfaces.

Lot Line: A line bounding a lot which divides one lot from another or from a street or any other public or private space, as defined below:

Lot Line, front: In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of a lot with no road frontage the front lot line shall be considered to be the line parallel to the front of the building.

Lot Line, Rear: That lot line which is parallel to and most distant from the font lot line of a lot. In the case of an irregular, triangular, or gore-shaped lot, a line twenty feet (20') in length, entirely within the lot, parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to the street.

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

Lot, Minimum Area: The required lot area within a district for a single use. The lot area shall be determined on the basis of the "Net Residential Acreage Calculation," contained in the Performance Standards section of this Ordinance.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Manufactured Housing: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

Mobile Homes

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and the Maine State Manufactured Housing Board.

Modular Homes

2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Marina: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide

accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Mineral Exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction: Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of like material from its natural location and to transport the product removed, away from the extraction site.

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of 3 or more mobile homes.

Mobile Home Subdivision: A parcel of land approved by the town for the placement of three or more mobile homes on individually owned lots.

Multi-Unit or Multi-Family Residential: See Dwelling, Multi-Family.

Municipal facilities: provisions established and maintained by the town to serve the well-being of the public including but not limited to schools, town roads, solid waste disposal, fire protection, parks, water supplies, and sewage disposal systems.

Net Acreage: The area of a lot or lots that is usable for determining allowable densities after land not suitable for development (as defined in this ordinance) has been subtracted from the total acreage.

Net Maximum Density: The ratio of principal structures allowed in relation to available acreage.

Non-Conforming: A lot, building, structure, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Non-Conforming Structure: A structure which does not meet any one or more of the following dimensional requirements: setback, height or lot coverage, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Use: The use of buildings, structures, premises, land or parts thereof which is not permitted in the zoning district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Nuisance: Any property or use existing in violation of a municipal land use ordinance or regulation.

Nursery: Land or greenhouses used to raise flowers, shrubs, and plants for sale.

Nursing Home: A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

Open space: land unencumbered with structures.

Open space for common use: open space applicable to the development but not restricted to individual occupants. Such space may be dedicated for public use, whether for general or a specified use.

Permanent Foundation: Shall mean all of the following:

1. A full, poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
3. A reinforced, floating concrete pad for which the municipality may require an engineer's certification if it is to be placed on soil with high frost susceptibility; and
4. Concrete, masonry, or stone piling.
5. Any foundation which, pursuant to the building code of the municipality, is permitted for other types of single-family dwellings.

Permitted Use: Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

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.

Phased Development: A development of land that is under unified control and is planned and developed as a whole in a single development operation of programmed series of development stages. The development often includes a mixture of uses and may include streets, buildings, open space, and other site features.

Plat: a plan, map, or chart drawn to scale describing a parcel of land indicating actual or proposed structures and uses.

Planned Unit Development: Land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land. Development may be a single operation or a programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

Planning Board: The Planning Board of the Town of Lamoine.

Preliminary Plan: The preliminary drawings indicating the proposed layout of a development to be submitted to the Planning Board for its consideration.

Principal Structure or Use: The primary use and chief purpose of a lot or structure.

Professional Engineer: A professional engineer, licensed and registered in the State of Maine.

Public Facility: Any facility, including, but not limited to, buildings, property, recreation areas, ads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

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

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

Quarry: a place where rock is excavated.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Vehicle: A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.

Replacement System: A subsurface wastewater disposal 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.

Retail Business: A business establishment engaged in the on-site sale, rental, or lease of goods to the ultimate consumer for direct use or consumption and not for resale.

Right-of-Way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

Road: An existing State, county, or town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds or a road dedicated for public use and shown on a plan duly recorded in the 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 "road" shall not include those ways which have been discontinued or abandoned.

Road frontage: that portion of a parcel or lot contiguous to any road, street, or right of way.

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar government agency, but not including commercially operated schools of beauty, culture, business, dancing, driving, music, or recreation which shall be deemed retail businesses.

Septic System: See 'Subsurface Waste Water Disposal System'

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body that conforms to the standards of the National Fire Protection Association “Number 70” and:

1. in the case of electric service

    a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
    b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

    a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
    b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Service Station: An establishment where motor fuels are stored and dispensed into the fuel tanks of motor vehicles. This use may include facilities for the retail sale of other products.

Setback: The minimum required horizontal distance from a lot line or other feature to the nearest part of a building, including porches, steps, and railings.

Shoreland Zone or Shoreland Area: All land areas under the jurisdiction of the Shoreland Zoning Ordinance.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

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

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for planning board or code enforcement officer approval. May be used by the applicant as the basis for preparing the development plans and as part of the application for development approval.

Slope: See 'Sustained Slope'

Start of Construction: For the purposes of this Ordinance, the date the construction permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of 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 home on a foundation. Permanent construction includes: land preparation, such as clearing, grading and filling; the installation of streets and/or walkways; the excavation for basement, footings, piers, or foundations or the erection of temporary forms; and the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways. The center of all streets shall be set back at least 25 feet from abutting property lines.

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Subdivision: The division of a tract or parcel of land into three (3) or more lots within a five (5) year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in the Lamoine Subdivision Ordinance and the Maine State Statutes, Title 30-A, MRSA, Section 4401, as amended.

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

Substantial addition: an increase of 20% of the area and/or of the assessed value.

Subsurface Waste Water Disposal System: A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

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

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

Two stories: 2 full floors, one at or above grade.

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

Vegetation: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

Water Extraction for Commercial Purposes: Substantial (up to or over 122,000 gallons per month) extraction of water from the aquifer or bedrock fractures for use in the production of income from the buying and selling of goods and/or services, exclusive of rental or residential buildings and/or dwelling units.

Water Extraction for Industrial Purposes: Substantial (up to or over 122,000 gallons per month) extraction of water from the aquifer or bedrock fractures for use in the assembling, fabrication, finishing, manufacturing, packaging or processing of goods or the extraction of minerals except when conducted as part of a home occupation or conducted wholly within an existing structure where no

utility modifications are required, the operation has no more than three employees and utilizes no more than 2000 square feet of area.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

Wetlands: any swamp, marsh, bog, beach, flat, or other land above extreme low water which is subject to tidal action; also, areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes, and bogs as defined by the Maine State Statutes.

Wetland Coastal & Freshwater: "Coastal Wetlands" are all tidal and sub-tidal 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 or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service and as defined by the Maine State Statutes.

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

1. of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Freshwater wetlands are areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

SECTION 18. EFFECTIVE DATE

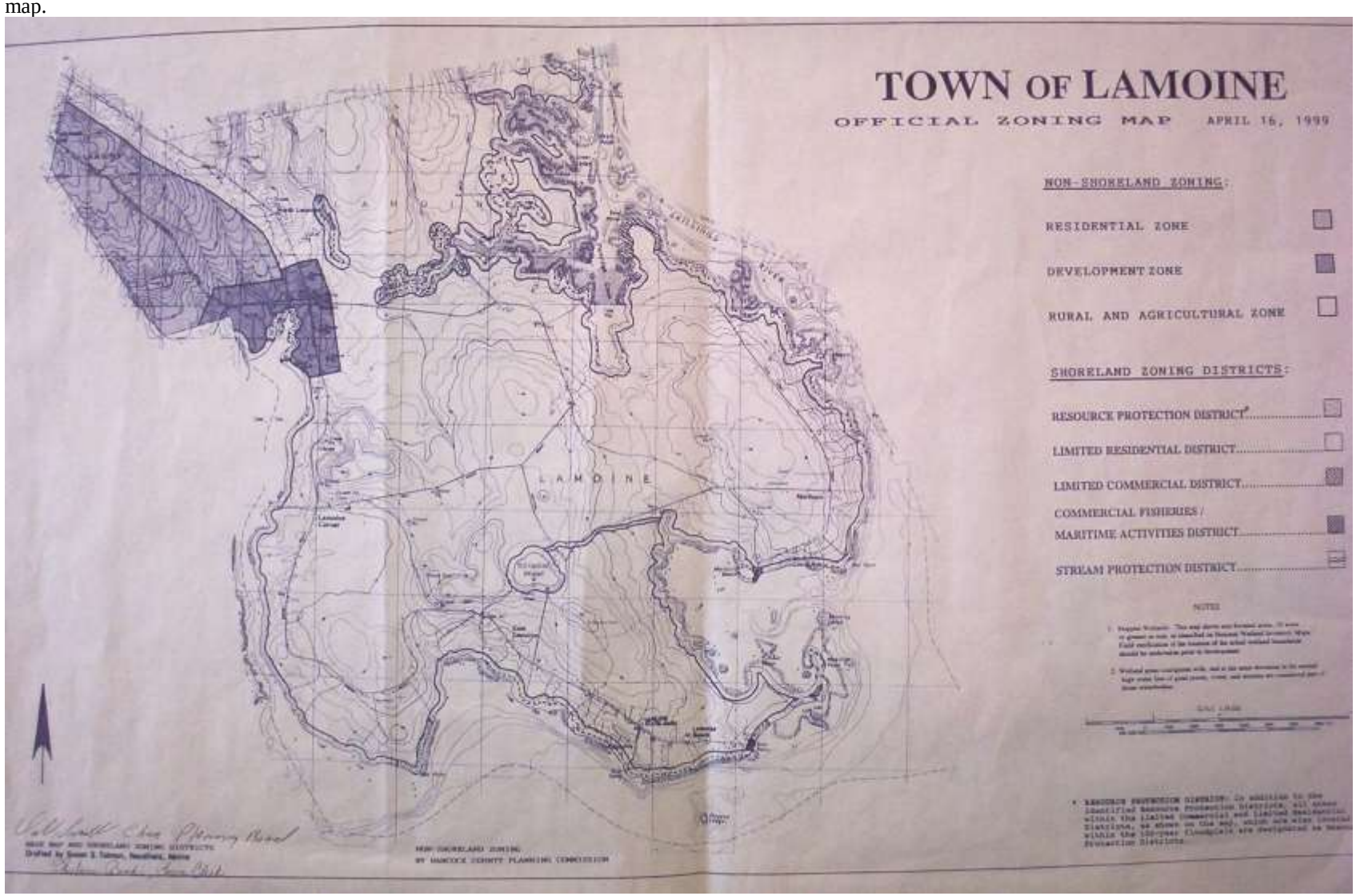
This Building Code shall become effective immediately after it has been accepted by a legally called Town Meeting and shall supersede any and all previous building codes.

Original Building Code enacted March, 1976
Adopted in town meeting March, 1988
Revised in special town meeting, September, 1988
Revised in special town meeting, May 8, 1993
Revised by special town meeting, November 5, 1996
Current version originally adopted April 16, 1999

Amended by special town meeting May 25, 1999
Amended by special town meeting June 27, 2002
Amended at regular town meeting March 9, 2005
Amended at special town meeting April 28, 2005
Amended at annual town meeting April 8, 2009
Amended at annual town meeting April 7, 2010
Repealing and replacing all previous versions at town meeting April 10, 2014.

Section 19. Map

This map is a photograph of the official zoning map on file at the Lamoine Town Office. Because of the resolution and size, we urge you to consult the official map.



Signature Page

This ordinance was amended on May 25, 1999 in open Town Meeting after initial adoption on April 16, 1999 by a properly held annual meeting of the Town of Lamoine in a referendum vote.

/s/Glenn Crawford, Chair
/s/Arthur Alley
/s/Richard A. Davis, Sr.

Selectmen, Town of Lamoine

This ordinance was amended on June 27, 2002 in open town meeting

/s/ Thomas Spruce
/s/ S. Josephine Cooper, Chair
/s/ Glenn Crawford

Selectmen, Town of Lamoine

This ordinance was amended on March 9, 2005 in open town meeting

/s/Perry Fowler
/s/S. Josephine Cooper
/s/Cynthia Donaldson
/s/Richard Fennelly Jr.
/s/Brett Jones

Selectmen Town of Lamoine

This ordinance was amended on April 28, 2005 at a special town meeting
/s/ S. Josephine Cooper /s/ Perry Fowler /s/ Cynthia Donaldson
/s/ Richard Fennelly, Jr. /s/ Brett Jones
The Lamoine Board of Selectmen

This ordinance was amended on April 8, 2009 at the annual town meeting

/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Kermit Theall
/s/ Gary McFarland
/s/ Cynthia Donaldson

The Lamoine Board of Selectmen

This ordinance was amended at the annual town meeting on April 7, 2010

/s/ Cynthia Donaldson
/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Gary McFarland
/s/ William Brann

The Lamoine Board of Selectmen (signed April 15, 2010)

This ordinance was amended at the annual town meeting on March 16, 2011

/s/ Cynthia Donaldson
/s/ S. Josephine Cooper
/s/ Richard E. Fennelly, Jr.
/s/ Gary McFarland
/s/ William Brann

The Lamoine Board of Selectmen (signed April 7, 2011)

This document adopted at the Annual Town Meeting on April 10, 2014
/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Bernard Johnson
/s/ Nathan Mason
/s/ Heather Fowler

The Lamoine Board of Selectmen

This document was amended by referendum vote at a special town meeting on June 10, 2014

/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Bernard Johnson
/s/ Nathan Mason
/s/ Heather Fowler

This document was amended at a Special Town Meeting on May 16, 2018

/s/ Nathan Mason, Chair
/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Robert Christie
/s/ Kathleen Rybarz

The Lamoine Board of Selectmen

This document was amended at the Annual Town Meeting on March 20, 2019

/s/ Robert Christie, Chair Nathan Mason
/s/ Gary McFarland
/s/ S. Josephine Cooper
/s/ Nathan Mason
/s/ Kathleen Rybarz

Attest: A True Copy _____
Stuart Marckoon, Deputy Town Clerk