

Town of Monmouth

Comprehensive Development Ordinance

(Adopted June 9th 2009, Amended June 12th, 2012)

(Amended June 12th, 2015)

Comprehensive Development Ordinance

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Comprehensive Development Ordinance

1: Legal Basis for this Ordinance

1.1 Legal Authority

This Ordinance has been prepared and enacted in accordance with the provisions of Title 30-A, Maine Revised Statutes Annotated, Sections 3001, Home Rule; 4321 et. seq. and subject to the authority and limitations of Title 30-A, MRSA, Section 4353, Regulation of Manufactured Housing; and Title 30-A, MRSA, Section 4401-4407, Subdivision Law.

1.2 Purpose

The purpose of this Ordinance is to promote and protect the health, welfare and safety of the Town and its residents through a system of land use regulation that achieves the following:

- (i) to ensure the adequate design, layout, construction and maintenance of land, improvements and structures;
- (ii) to provide a review of construction, subdivision, and commercial development proposals with the potential to impact the Town of Monmouth;
- (iii) to assure that new development meets the goals and conforms to the policies of the current Comprehensive Plan Update;
- (iv) to conserve the town's natural beauty and visual character by ensuring the adequate design, layout, construction and maintenance of land, structures, signs and other improvements;
- (v) to accommodate change and growth in a manner that will prevent disruptions in community life and in the provision of town services;
- (vi) to protect Monmouth's natural resources including but not limited to the town's lakes, ponds, streams, wetlands, ground water, soils, and wildlife habitat from damage and/or unnecessary negative impacts;
- (vii) to provide the applicant, town residents, and the Planning Board with clear procedures and requirements for the review of applications for development.

1.3 Superseding of Prior Ordinances

The adoption of this ordinance repeals the following ordinances in their entirety:

- (i) Building Permit and Minimum Lot Size Ordinance for the Town of Monmouth, enacted June 26, 1993, as amended;
- (ii) Manufactured Housing and Manufactured Housing Ordinance, enacted February 22, 1990, as amended;
- (iii) Town of Monmouth Ordinance for the Regulation of Multi-family Housing, enacted June 2, 1987, as amended;
- (iv) Town of Monmouth Non-Residential Site Plan Review Ordinance, enacted May 16, 1997, as amended; and
- (v) Town of Monmouth Subdivision Ordinance enacted May 29, 1992, as amended.

1.4 Legal Provisions

1.4.1 Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

1.4.2 Validity and Severability

Should any provision or section of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other provision or section of this Ordinance.

1.4.3 Effective Date

This ordinance shall become effective upon the date of enactment.

1.5 Amendments

1.5.1 This Ordinance may be amended by a majority vote of the Town at a Town Meeting in accordance with the statutory procedures specified for the enactment of ordinances.

1.5.2 Any proposed amendment shall be presented at a public hearing of the Planning Board.

1.5.2.1 The public hearing shall be advertised by a public notice posted in the Town Office at least thirteen (13) days prior to the date of the hearing, and by two notices in at least one newspaper of general circulation, the first to appear at least twelve (12) days prior to the date of the hearing; the second to appear at least seven (7) days prior.

1.5.3 A proposed amendment shall be placed on the warrant of the Town Meeting by a majority vote of the Board of Selectmen, upon the recommendation of the Planning Board or upon submission of a valid petition signed by a minimum of ten (10) percent of the number of Monmouth residents voting in the most recent gubernatorial election.

1.5.4 The text of a proposed amendment may not be further amended on the floor of a Town Meeting.

2: Administration and Operation of this Ordinance

2.1 Applicability

2.1.1 This Ordinance shall apply to land uses and development within the Town of Monmouth. All divisions of land, and buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved in the Town of Monmouth shall be in conformance with the provisions of this Ordinance.

2.1.2 This ordinance does not regulate routine maintenance and upkeep of residential or commercial property. This ordinance does not regulate the use of land for other than construction or development of structures or earth moving. This ordinance does not regulate the use of land for agriculture and forest management, unless such land use includes the development of structures.

2.2 Guide to Operation

This ordinance regulates the following forms of land use. The citation of specific sections is intended as a guide to the reader and does not limit the authority of the Town to enforce other sections of the ordinance.

- 2.2.1 The creation of new, individual lots and standards for the location of buildings within lots is generally subject to the provisions of Chapter 3.
- 2.2.2 The process for issuance of building permits for the construction or placement of buildings and structures is generally subject to the provisions of Chapter 4.
- 2.2.3 The process and standards for the issuance of Planning Board approval for residential and commercial development, including subdivision of land or buildings and the establishment or expansion of non-residential development, is generally subject to the provisions of Chapter 5. Chapter 5 is divided into two parts: Part One describes the process for the granting of development approval by the Planning Board; Sections 5.7 and 5.8 describe the criteria and standards which must be met in order for approval to be granted.
- 2.2.4 Definitions of terms used in this Ordinance are located in Chapter 6.
- 2.2.5 This ordinance is intended to work in coordination with the Town of Monmouth Shoreland Zoning Ordinance. This ordinance does not contain specific shoreland zoning provisions, but development subject to shoreland zoning may also be subject to the requirements of this ordinance.

2.3 Companion Ordinances

The issuance of a permit or approval under the terms of this ordinance does not relieve the developer of the obligation to obtain permits under other federal, state, or local authority. Specifically, this ordinance does not cover:

- (i) permits for development within shoreland zones, as defined and regulated by the Town of Monmouth Shoreland Zoning Ordinance;
- (ii) permits for development within the flood zone, as defined and regulated by the Town of Monmouth Floodplain Management Ordinance;
- (iii) Annual permits for the operation of junkyards and automobile graveyards.
- (iv) Solid Waste as controlled by the Solid Waste Flow Control Ordinance
- (v) Permits for construction of streets and roads and road and driveway openings as defined and regulated by the Town of Monmouth Street and Road Ordinance.

2.4 Development Fees

- 2.4.1 The Board of Selectmen for the Town of Monmouth is hereby authorized to determine the amount of fees to be assessed for permits, applications and related activities. A fee schedule shall be published and attached to all applications for development under this ordinance, and contained in appendix A.
- 2.4.2 The Board of Selectmen may amend the fee schedule from time to time as deemed necessary and with the concurrence of the Planning Board. A public hearing shall be held prior to the Board vote

to amend the fee schedule. Notice of the public hearing shall be posted in the town office a minimum of fourteen (14) prior to the date of the hearing.

- 2.4.3 The initial fee schedule shall become effective on the day it is enacted. Amended fee schedules shall become effective thirty (30) days after the date of enactment.
- 2.4.4 The purpose of the fees to be collected is so that the applicant will bear the cost of development review. The amount of fees shall be set to reasonably relate to the actual cost of review. Fees shall be set on a sliding scale to reflect the complexity of the review, and such administrative, professional, inspection, and engineering services expected to be incurred. The fee schedule shall include a component to be collected for specialized review, said component to be refunded to the applicant in part or in whole if not expended.
- 2.4.5 The fee schedule may also include impact fees, if developed and adopted in compliance with 30-A MRSA, section 4354.

2.5 Violations and Enforcement

- 2.5.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance.
- 2.5.2 The Code Enforcement Officer in the discharge of official duties, and upon proper identification, shall have authority to enter any building, structure or premises at reasonable hours to inspect for compliance with building permits issued under this Ordinance. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- 2.5.3 If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she 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 an order to stop work, discontinue the illegal use of land, buildings or structures, remove illegal buildings or structures, or abate nuisance conditions. The notice shall state the rights of appeal. A copy of such notices shall be submitted to the Town Manager and Board of Selectmen and shall be maintained as a permanent record.
- 2.5.4 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, upon notice from the Code Enforcement Officer, are hereby 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 this Ordinance in the name of the Town of Monmouth.
- 2.5.5 Consent Agreements: The Board of Selectmen may pursue a consent agreement procedure as a means of resolving a violation. The agreement shall include but not be limited to the following provisions:
 - 1. Restoration, removal or proper permitting and a compliance schedule of violating alterations;
 - 2. An appropriate monetary penalty, but not less than \$100;
 - 3. A waiver of appeal; and

4. Payment of attorney fees and costs.

- 2.5.6 Any person, firm or corporation being the owner, agent, or having control or use of any structure or premises, who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with the provisions of Title 30-A, MRSA, Section 4452. Each day such violation is permitted to exist after notification shall constitute a separate offense. All fines shall be paid to the Town of Monmouth. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the Town.
- 2.5.7 Any person, firm or corporation being the owner, agent, or having control or use of any structure or premises, who fails to obtain a building permit prior to the start of construction, repairs or alterations for which a building permit is required will be assessed a fine equal to the cost of the building permit up to a maximum of \$500 plus the cost of the permit.

2.6 Code Enforcement Officer Powers and Duties

- 2.6.1 The Code Enforcement Officer is the enforcement authority for this ordinance. He/she shall be appointed by the Board of Selectmen. During temporary absence or disability of the CEO, the Board of Selectmen shall designate an acting CEO.
- 2.6.2 Powers and Duties: The Code Enforcement Officer shall have the following duties:
- (i) Confer with citizens upon request
 - (ii) Issue building permits;
 - (iii) Advise the planning board regarding technical aspects of applications for which it has review responsibility;
 - (iv) Inspect sites where buildings/use permits have been issued to insure compliance with this Ordinance;
 - (v) Investigate complaints and reported violations;
 - (vi) Enforce the provisions of this Ordinance;
 - (vii.) Keep written inspections reports and thorough records;
 - (viii.) Participate in appeals procedures;
 - (ix.) Appear in court when necessary;
 - (x.) Attend meetings of the Planning Board and;
 - (xi.) Advise the Planning Board on matters relating to applications before it.

2.7 Planning Board Powers and Duties

- 2.7.1 The Planning Board is authorized to review and decide upon applications for approval of subdivision, non-residential developments, and multifamily residential projects as provided in chapter 5, and earth moving permits, as provided for in chapter 4. At the request of the Code Enforcement Officer, the Planning Board may advise the Code Enforcement Officer as to the interpretation or applicability of the ordinance.
- 2.7.2 The Planning Board shall from time to time review and make recommendations to the Board of Selectmen concerning the operation of this ordinance, proposed amendments or fees to be collected.

2.7.3 The Planning Board is authorized to adopt such rules and procedures as will contribute to the efficient administration of their duties under this ordinance.

2.8 Board of Appeals Powers and Duties

2.8.1 The Board of Appeals, created in accordance with the provisions of State law, shall hear and decide administrative and variance appeals.

2.8.2 Administrative Appeals:

2.8.2.1 The Board of Appeals may hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the enforcement or administration of this Ordinance.

2.8.2.2 When errors of administrative procedure or interpretation are found by the Board of Appeals, the case shall be remanded to the Code Enforcement Officer for reconsideration consistent with the Board of Appeals decision.

2.8.3 Variance Appeals

2.8.3.1 The Board of Appeals may permit variances only under the following conditions:

- (i) Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (ii) Except as provided in subsections below, the Board may grant a variance only when it finds that the strict application of the terms of this Ordinance would result in undue hardship, the board must find that the applicant has met all 4 of the following conditions:
 - a. The land in question cannot yield a reasonable return unless a variance is granted,
 - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood,
 - c. The granting of a variance will not alter the essential character of the locality; and
 - d. The hardship is not the result of action taken by the applicant or a prior owner.

2.8.3.2 The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this paragraph solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this paragraph, a disability has the same meaning as a physical or mental handicap under Title 5, M.R.S.A, Section 4553.

2.8.3.3 The Board may grant a setback variance for a single-family dwelling that is the primary year-round residence of the petitioner only when it finds that the strict application of the terms of this Ordinance would result in undue hardship, as stated below:

- a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- b. The granting of a variance will not alter the essential character of the locality,

- c. The hardship is not the result of action taken by the applicant or a prior owner,
- d. The granting of a variance will not substantially reduce or impair the use of abutting property, and
- e. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance under this subsection may not exceed 20% of a setback requirement nor cause the dwelling to exceed the maximum lot coverage.

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

2.8.4 Appeals Procedure

2.8.4.1 An administrative or variance appeal may be taken to the Board of Appeals by an applicant, owner, or aggrieved party or the Town of Monmouth through the Selectmen from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

2.8.4.2 Any applicant, owner, or aggrieved party who participated as a party during the proceedings before the Board of Appeals or the Town of Monmouth through the Selectmen may take an appeal to Superior Court in accordance with State laws within thirty (30) days from the date of any decision of the Board of Appeals or as otherwise allowed by the Superior Court.

2.8.5 Appeals from decisions of the Planning Board

The Board of Appeals shall not have the authority to review actions of the Planning Board to approve or deny an application for development approval. Appeals from decisions of the Planning Board shall be made directly to the Superior Court in accordance with section 5.2.3 of this ordinance.

3: Non-Conforming

3.1 Non-conformance

It is the intent of this Ordinance to promote the fair and equal application of land use regulations. However, nonconforming conditions, buildings or structures existing or permitted prior to the effective date of this ordinance shall be allowed to continue or be completed, subject to the requirements set forth in this section.

3.2 General Requirements

3.2.1 Transfer of Ownership: Nonconforming buildings, structures and lots may be transferred, and the new owner may continue to use the nonconforming building, structure or lot, subject to the provisions of this Ordinance.

3.2.1.1 Repair and Maintenance: This Ordinance allows the normal upkeep and maintenance of nonconforming buildings or structures, including repairs or renovations which do not involve expansion of the nonconforming building or structure, and such other changes as federal, state, or local building and safety codes may require.

3.2.2 Nonconforming Buildings and Structures

3.2.2.1 Expansions: A nonconforming building or structure may be added to or expanded, if such addition or expansion does not increase the nonconformity of the building or structure.

3.2.2.2 Relocation: A nonconforming building or structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine *Subsurface Wastewater Disposal Rules* (“Rules”), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building or structure be relocated in a manner that causes the building or structure to be more nonconforming.

3.2.2.2.1 In determining whether the building or structure relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the vegetation to be removed to accomplish the relocation.

3.2.2.3 Reconstruction or Replacement: Any nonconforming building or structure which is located less than the required setback and which is removed, damaged, or destroyed may be reconstructed or replaced provided that a permit is obtained within one (1) year of the date of said removal, damage, or destruction and provided that such reconstruction or replacement is in compliance with setback requirements to the greatest practical extent as determined by the Code Enforcement Officer. In no case shall a building or structure be reconstructed or replaced so as to increase its nonconformity.

3.2.2.4 Manufactured Housing (Mobile Homes): Older Manufactured Housing not constructed according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC, Chapter '70 or Section 4.4 of this ordinance, shall be considered nonconforming and may continue to be maintained, repaired, and improved in accordance with this Ordinance. A non-conforming Manufactured Housing may not be replaced by another Manufactured Housing that does not meet the standards of section 4.4. If a Manufactured Housing is non-conforming with respect to setbacks, its replacement shall be sited to meet the setbacks to the greatest practical extent.

3.2.3 Nonconforming Lots

- 3.2.3.1 Individual Nonconforming Lots: A nonconforming lot of record existing on or before the effective date of this ordinance, may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
- 3.2.3.2 Contiguous Built Lots: If two or more contiguous lots or parcels were in the same single or joint ownership of record as of the effective date of this ordinance, if all or part of the lots do not meet the dimensional requirements of this ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that each lot separately shall meet the requirements of the *Subsurface Wastewater Disposal Rules*.
- 3.2.3.3 Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels were in the same single or joint ownership of record as of the effective date of this ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance, and if one or more of the lots are vacant or contain no principal structure the lots are hereby combined to the extent necessary to meet the dimensional requirements, unless the lots are part of an approved subdivision plan.
- 3.2.3.4 Multiple Principal Structures or Uses on Single Lots of Record: If two or more principal buildings, structures or uses exist on a single lot of record, the lot shall not be divided in a manner that creates a nonconforming lot or causes a nonconforming lot to become more nonconforming.
- 3.2.3.5 Non-conforming Lots within a Manufactured Housing Park: Nonconforming lots in an existing Manufactured Housing park may continue to be used provided that existing nonconforming setbacks are not further reduced. When a Manufactured Housing on a non-conforming park lot is replaced, setbacks shall be met to the greatest practical extent.

3.3 Non-conforming Manufactured Housing

- 3.3.1 A manufactured home not constructed according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC, Chapter 70, or Section 4.4 of this ordinance, which was legally sited within the Town of Monmouth as of August 4, 1988, may be moved to another location within the Town provided that all other applicable requirements of this and other ordinances of the Town are met.
- 3.3.2 A manufactured home not constructed according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC, Chapter 70, or Section 4.4 of this ordinance may be used as temporary housing during the permitted construction period for a new single family dwelling under the following conditions:
- (i) The Manufactured Housing is located on the same lot as the dwelling under construction;
 - (ii) The approved water supply and sewage disposal systems (or hook-ups) for the lot shall be capable of serving first the temporary Manufactured Housing and finally the permanent

- dwelling and shall be installed prior to the placement of the Manufactured Housing on the lot;
- (iii) The Manufactured Housing shall be placed so as to meet yard setback requirements to the maximum extent possible while allowing space for construction;
 - (vi) The Manufactured Housing shall be occupied only by the owner of the permanent building under construction; and
 - (vii) The Manufactured Housing shall be removed from the lot within ninety (90) days of the date of issuance of an occupancy permit for the permanent dwelling.

4: General Site Requirements for Construction

4.1 Dimensional Requirements

All new residential buildings and commercial structures shall be placed on lots in conformance with the standards of this Chapter.

4.1.1 Minimum Lot Area:

- 4.1.1.1 Minimum required size for a new lot:
 - 15,000 square feet if using the public sewer system
 - 40,000 square feet if using private waste disposal
- 4.1.1.2 The planning board is authorized to modify minimum lot size requirements for the purpose of approving specified residential subdivisions in accordance with the provisions of section 5.8.
 - 4.1.1.2.1 Minimum required size for a new lot within a Manufactured Housing park:
 - 6,500 square feet if the park will be served by public sewer,
 - 12,000 square feet for additions of lots to a park served by a central subsurface waste disposal system.
 - 4.1.1.2.2 Additional lot area shall be required if a building will contain three (3) or more dwelling units, as specified in sections 6.8.3.2 and 6.8.4.1 of this ordinance. In addition, if a lot will accommodate two or more principal buildings, it shall be designed and structures placed so as to allow future division into conforming lots. Lots shall be configured to provide adequate minimum lot size and frontage for each building, and buildings separated so as to provide adequate side setbacks should a new boundary be created, unless established as a condominium form of ownership.

4.1.2 Required Street Frontage

- 4.1.2.1 For new lots that will front on an existing road:
 - 75 feet minimum street frontage if the lot is served by the public sewer,
 - 200 feet minimum street frontage if the lot is served by private waste disposal.

4.1.2.2 For new lots that will front on a road proposed to be built to the standards of the Town of Monmouth Streets and Ways Ordinance:
75 feet minimum frontage if the lot is served by public sewer.
150 feet minimum frontage if the lot is served by private waste disposal.

4.1.2.3 Lots that do not have frontage meeting the requirements of sections 4.1.2.1 or 4.1.2.2 may be built on only if they have a minimum of two hundred (200) feet of frontage on a right-of-way that has been surveyed, a legal description prepared, and appurtenant easement granted to the lot. If the right-of-way is deeded in fee, it shall not have the effect of reducing the parent lot to a nonconforming size or frontage. This section shall not apply to new lots requiring review as a subdivision.

4.1.2.4 Lots within a manufactured home park, the minimum frontage shall be fifty (50) feet on streets and under the management of the park owner.

4.1.3 Required Building Setbacks

4.1.3.1 All setbacks and separation distances shall be measured from the nearest corner of the building to the property line.

4.1.3.2 Minimum front setback from the edge of a right-of-way:
35 feet if the lot is served by public sewer,
50 feet if the lot is served by private waste disposal, except as provided below.

4.1.3.2.1 Section Deleted

4.1.3.2.2 Within a Manufactured Housing park, the minimum setback from an internal street shall be twenty (20) feet.

4.1.3.2.3 On lots served by public sewer, where adjoining, pre-existing buildings do not meet the required setback from the right-of-way, a new building may be set back a distance equal to the larger of the setbacks of the two adjoining buildings.

4.1.3.2.4 On a lot fronting on two or more streets or rights-of-way, the front setback shall be enforced only from the street used for assigning street numbering.

4.1.3.3 Where the edge of the right-of-way of a town road cannot be definitely established, the required setback distance shall be measured from the center line of the road, with twenty five (25) feet added to the required setback to accommodate the presumed width of the right-of-way.

4.1.3.4 Minimum side and rear setback
10 feet if the lot is served by public sewer,
20 feet if the lot is served by private waste disposal,

Except as provided below.

4.1.3.4.1 Minimum side and rear setback for structures less than or equal to two hundred square feet shall be six (6) feet.

4.1.3.4.2 All new multi-family buildings shall be set back from side and rear lot lines a distance equal to the height of the building.

4.1.4 Lot Coverage

4.1.4.1 On residential and mixed use lots served by sub surface waste disposal, no more than thirty (30) percent of the lot area may be covered by buildings and other impervious surface.

4.1.4.2 All other lots shall not exceed fifty (50) percent of the lot area covered by buildings and other impervious surface.

4.1.5 Building Height

4.1.5.1 The maximum height of a new single-family or two-family residential building shall be twenty (20) feet, as measured from the average ground elevation where it abuts the foundation to the eave line of the uppermost roof.

4.1.5.2 The maximum height of all other buildings is thirty five (35) feet, except that the maximum height shall not apply to buildings which are used solely for agricultural purposes or the storage or distribution of liquids.

4.1.6 Flag Lots

4.1.6.1 Dimensional Standards

Minimum corridor width shall be 30 feet and not included in frontage if owned by flag lot. Corridor frontage on a public road shall be 30 feet minimum.

Lot width shall be 200 feet minimum excluding access without public sewer.

Lot area shall be 40,000 square feet without public sewer not including any portion of the access corridor.

Remainder of lot shall meet minimum lot size standards of section 4.1

Second or subsequent divisions must meet the standards for Town of Monmouth Road Ordinance for access and utilities. (See Current Street and Road Ordinance.)

The Access Corridor shall be either fee ownership of a portion of the back lot or an appurtenant easement for the benefit of the back lot.

4.1.6.2 Construction Standards for ingress and egress.

Minimum travel way width is 20 feet

Must be cleared and grubbed to mineral earth

Provide a base of 18" gravel with a 6 inch gravel wearing surface

Provide adequate drainage

Provide a "T" type turn at the end of the access corridor for emergency vehicles.

4.1.7 Unbuilt Lots of Record

A lot of record shown on a recorded subdivision plan or described in a record instrument with a date prior to June 30, 1974 not situated within the portion of the Town of Monmouth served by the Monmouth Sanitary District or the Monmouth Water Association, and being undeveloped shall have the following minimum dimensional standards apply.

4.1.7.1 Dimensional Standards

Minimum road setback – 15 Feet

Minimum side yard setback – 10 Feet

Minimum rear yard setback – 10 Feet

5: Building Permit Requirements

5.1 Permits Required

5.1.1 Building Permits

No person firm, corporation or other legal entity shall begin any new construction; make structural changes to an existing building or structure; or place a new building or structure in Monmouth without first obtaining a building permit, except where work is limited to ordinary maintenance or repair of buildings or structures or construction of an accessory structure not exceeding two hundred (200) square feet in floor area. Failure to obtain required permits before start of construction shall incur a double fee.

5.1.2 Earth Moving

Any Earth moving may be subject to Maine erosion and sedimentation control law 38MRS Sect 420-C. No person firm, corporation or other legal entity shall engage in any earth moving activity without first obtaining a permit, except (1) earth moving of less than 50 cubic yards not within shoreland districts, (2) earth moving within state permitted or grand-fathered pits, (3) earthmoving in conjunction with routine driveway and road maintenance, ditching and/or culvert replacement and (4) earthmoving in conjunction with agricultural and gardening tillage. Permits shall be issued as follows:

- i. By the Code Enforcement Officer
 - a. Within shoreland zoning areas, the Code Enforcement Officer may issue permits to move less than 10 cubic yards in Resource Protection and between 10 and 25 yards in other areas.
 - b. Outside shoreland zoning areas, the Code Enforcement Officer may issue permits to move 50 cubic yards or more within a 12 month period.
- ii. By the Planning Board
 - a. In Resource Protection areas the Planning Board may issue a conditional use permit to move 10 cubic yards or more.
 - b. In other shoreland zoning areas the Planning Board may issue a conditional use permit to move more than 25 cubic yards.
- iii Applicable standards of review for permits within areas covered by Shoreland Zoning and Resource Protection may be found in the Monmouth Shoreland Zoning Ordinance. Permit

requests for areas outside Shoreland Zoning and Resource Protection shall meet the applicable General Development Standards in 6.7.

5.1.3 Driveway and Road Opening Permits

No person firm, corporation or other legal entity shall create or establish a new driveway or road entrance without first obtaining a permit from the Public Works Director under the Town of Monmouth Street and Road Ordinance. The Public Works Director shall inspect the work and shall refer violations of the conditions of the permit or the failure to obtain a permit to the Code Enforcement officer for enforcement action.

5.2 Permit Application and Review

5.2.1 Where the code enforcement officer cannot determine the setback for proposed construction, a survey may be required.

5.2.2 Application Forms: An applicant for a building permit shall submit to the Code Enforcement Officer (CEO) a written application on a form specified by the Town, accompanied by the appropriate fee and construction drawings and plans in sufficient detail that the CEO may evaluate the work being proposed. Site plans are required where new or expanded buildings are proposed. The site plan shall show the actual shape and dimensions of the lot, the location and size of existing and proposed structures and their setbacks from lot lines, and such other information as may be necessary to provide for the administration and enforcement of this Ordinance.

5.2.3 CEO Review Procedures: The CEO shall note upon each application the date of its receipt. The CEO shall review the application, determine whether it is in conformance with the criteria in this Ordinance, and issue or deny the building permit within 10 days of receipt. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

5.2.4 Review Criteria: The CEO shall issue a building permit upon finding that the following criteria have been met:

- i. The building will be sited on the lot in conformance with the standards of Chapter 4 of this ordinance.
- ii. The building will be constructed in compliance with the Maine Uniform Building and Energy Code, as enacted at 10 M.R.S.A. 9721 et seq. and incorporated by reference in this Ordinance. *NOTE: Enforcement of the Maine Uniform Building and Energy Code is a state mandate. If the mandate is repealed at any time following the effective date of this ordinance, this criteria shall not be applied.*
- iii. Manufactured housing shall be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC, Chapter 70, except as provided in section 5.4 of this ordinance.
- iv. The applicant has obtained all necessary approvals, permits, and licenses required by state or local laws and ordinances, including but not limited to subdivision or commercial development approval, shoreland zoning permits, and plumbing or subsurface wastewater disposal permit or sewer permit as applicable.
- v. If the building is a Manufactured Housing, evidence of payment of state sales tax, in accordance with Title 30-A MRSA, Section 4358, Subsection 4.

5.2.5 Permit Status:

- 5.2.5.1 Expiration: A building permit shall lapse and become void if work is not substantially started within one year of the date of the permit and substantially completed within one year of the start of construction. A substantial start must include installation of a subsurface disposal system or the foundation for new construction.
- 5.2.5.2 Renewal: A permit which has been substantially started may be extended and renewed annually by the CEO, upon submission of a request for extension and an additional \$25 fee.
- 5.2.5.3 Suspension: A permit upon which no work has been done may be suspended by the CEO upon the request of the permit holder, provided that the request is made before expiration of the permit. No refund shall be made of permit fees, and the permit may be reinstated at any time at the discretion of the CEO.
- 5.2.5.4 Vacation: A permit upon which no work has been done may be vacated upon the request of the permit holder, provided the request is made before the expiration of the permit. A refund of permit fees may be requested; however, the CEO shall withhold a portion of the refund to cover administrative expenses, not to exceed \$100 (one hundred dollars). Permits which have been vacated do not have any standing, and a new permit must be applied for prior to construction.
- 5.2.5.5 Completion of Work: The building permit card must be returned to the Town Office at the completion of work. That will start the Certificate of Occupancy procedure if needed. If the building permit card is lost, contact the CEO for a completion of work form.

5.2.6 Inspections

- 5.2.6.1 The CEO shall be authorized to schedule and conduct inspections of the construction of the building, in coordination with the builder. It is the responsibility of the builder to notify the CEO of availability of the site for inspection. If an inspection cannot be conducted within two (2) business days of the completion of a pre-determined phase of construction, the builder shall not proceed except at his own risk. [Ed. Note: Section R109.4 of the IRC states: "Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official." The section has no reference to a time period in any context.]
- 5.2.6.2 If the CEO finds during inspection that provisions of this ordinance or the related construction code have apparently been violated, he shall issue an order to stop work until and except for work to rectify the violation. If the CEO becomes aware of work that has been completed without a required inspection, he shall issue an order to stop work until the inspection can be completed. If a stop work order has been in effect for sixty (60) days, the CEO may at his discretion revoke the building permit.

5.3 Occupancy Permit

No home or business subject to this ordinance shall be occupied except upon the issuance of an occupancy permit issued by the Code Enforcement Officer. The CEO shall issue an occupancy permit upon request following a final inspection that demonstrates that the building is safe and sanitary, and does not present a nuisance to neighboring properties. Finished flooring, trim and exterior siding are not necessary for an occupancy permit.

5.4 Design and Safety Standards for Older Manufactured Housing

These standards shall apply to all manufactured housing built before June 15, 1976, or not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC, Chapter 70.

5.4.1 All manufactured housing shall have a pitched, shingled roof and siding that is in conformance with the residential buildings in the vicinity.

5.4.2 All manufactured housing shall be placed upon a permanent foundation, or a concrete (or equivalent material) pad and continuous skirting around the base of the home.

5.4.3 Means of Egress

4.4.3.1 Homes shall have a minimum of two exterior doors not less than 12 feet from each other as measured in any straight line direction regardless of the length of the travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.

5.4.3.2 Required egress doors shall not be located where a lockable interior door must be used in order to exit.

5.4.4 Fire Detection Equipment

5.4.4.1 At least one smoke detector (which may be a single station alarm device) shall be installed in the home in each of the following locations:

- (i) A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical.
- (ii) Homes having bedroom areas separated by any one or combination of common areas such as kitchen, dining room, living room or family room (but not a bathroom or utility room) shall have at least one detector protecting each bedroom area.

5.4.4.2 When located in hallways the detector shall be between the return air intake and the living area.

5.4.4.3 The smoke detector shall not be placed in a location which impairs its effectiveness.

5.4.4.4 Smoke, Carbon Monoxide, and Heat detectors shall be labeled as conforming to the current requirements of Underwriters Laboratory Standards.

5.4.4.5 Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall 4 inches to 12 inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located 4 inches to 12 inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector between the overcurrent protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter

5.4.5 The requirements of this subsection shall not apply to manufactured housing, house trailers and Manufactured Housings owned by dealers as stock in trade, said units remaining unoccupied.

6: Development Review

6.1 Approval Required Prior to Development

This chapter sets out the procedures and requirements for approval by the Town of Monmouth of the following types of development:

6.1.1 Subdivisions

The Planning Board shall review and decide upon all applications for subdivision plan approval.

6.1.1.1 A subdivision shall be as defined in 30-A M.R.S.A sec. 4401.

6.1.1.2 No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land or unit in a subdivision which has not been approved in accordance with this ordinance and recorded in the Kennebec County Registry of Deeds.

6.1.2 Non-residential and Multi-family Development

The Planning Board or Code Enforcement Officer shall review and decide upon all applications for approval of non-residential and multi-family development.

6.1.2.1 A development subject to Code Enforcement Officer Review is defined as follows:

- | |
|---|
| <ul style="list-style-type: none">A. The construction of any new commercial, multi-family, industrial, institutional, fraternal, municipal, recreational or utility building or structure consisting of less than (5,000) square feet of gross floor area with up to (2,000) square feet of parking area associated therewith;B. the establishment or expansion of parking areas by (1,000) to (2,000) square feet in area;C. The conversion of an existing building from a residential to non-residential use, where the converted area will not exceed (2,000) square feet of gross floor area, including establishment of home-based businesses; |
|---|

- D. Business to single family residential.
- E. The addition of a single dwelling unit to an existing residential use;
- F. The expansion of an existing non-residential building, structure or use which expands the gross floor area, seating capacity, or outdoor storage area by less than (1,000) square feet or 25 percent (whichever is lesser).
- G. The resumption of conforming non-residential uses which have been discontinued for a period of two or more years.

6.1.2.1.1 A development review by the Code Enforcement Officer is intended to be an expedited version of Planning Board review. The procedures for Planning Board review, as specified in section 6.2.2, shall be followed, except as follows:

- i. The CEO is authorized to waive submission requirements prior to finding of a complete application. Only two (2) copies of application materials shall be required;
- ii. No public hearing shall be held;
- iii. A decision on the application shall be made within ten (10) working days of the receipt of all requested materials from the applicant.
- iv. An applicant who is aggrieved by the decision of the CEO may request that the application be reviewed *de novo* by the Planning Board.
- v. where factors such as traffic, site conditions or proposed use requires more intensive review the CEO may refer the permit request to the planning board

6.1.2.2 A development subject to Planning Board review is defined as follows:

- A. The construction of any new commercial, multi-family, industrial, institutional, fraternal, municipal, recreational or utility building or structure which exceeds five thousand (5,000) square feet of gross floor area or fifty (50) feet in height;
- B. The conversion of an existing building from a residential to multi-family or non-residential use, where the converted area would exceed two thousand (2,000) square feet of gross floor area or result in the addition of more than one dwelling unit;
- C. The change of an existing non-residential building from one type of use to another type of non-residential use when the activities would alter existing traffic patterns, would involve the sale of goods not normally associated with the previous use, or would employ new materials and/or processes;
- D. The expansion of an existing non-residential building, structure, or use which increases the gross floor area, seating capacity, or outdoor storage area by more than one thousand (1,000) square feet or 25% (whichever is lesser);
- E. Any use which involves the establishment of a new parking area exceeding (2,000) square feet or the expansion of a parking area of more than one thousand (1,000) square feet in area; and

6.1.2.3 No person, firm, corporation or other legal entity may sell, lease, develop, occupy, or convey for consideration, any building or structure which is subject to review under this section and which has not been approved in accordance with this ordinance

6.1.3 Procedures for reviewing, recording and hearing development applications shall be in accordance with the provisions of this Ordinance and, if the development is a subdivision, with 30-A, MRSA, Section 4403, as amended.

6.2 Procedure for Review and Approval

These procedures shall apply to all applications for Development approval:

6.2.1 Voluntary Pre-Application Meeting

- 6.2.1.1 Applicants are encouraged to submit to the Board a sketch plan of the proposed development for informal discussion. The pre-application meeting shall not cause the plan to be a pending application or result in the applicant acquiring vested rights.
- 6.2.1.2 The purpose of the pre-application meeting is to allow the applicant to discuss the application process and requirements with the Board. Topics which should be addressed during this meeting include, but shall not be limited to:
 - a) The proposed use(s) of the land or buildings to be developed, including whether the property is subject to review as a subdivision under 30-A, M.R.S.A., sec. 4401 et seq.
 - b) Whether the application is for a non-conventional subdivision or specialized commercial use subject to additional requirements under section 6.8;
 - c) Any required submission items for which the applicant will be requesting waivers;
 - d) Additional submission items which may be required, such as high intensity soil survey, traffic study, or other specialized studies; and
 - e) Requirements for additional state, federal, or local permits.
- 6.2.1.3 Should the applicant be in apparent violation of the provisions of a previously approved development plan within the Town of Monmouth, the board shall inform him/her that no additional applications shall be considered for approval until the violation is resolved.

6.2.2 Application and Review Procedure

- 6.2.2.1 In order for an application and plan to be considered by the Planning Board at its regular monthly meeting, nine (9) copies of the application, including all elements required under section 6.4, below, must be submitted to the Town Office not less than five (5) working days prior to such Planning Board meeting, together with the required application and technical review fees. The Planning Board may choose to accept an electronic submission in lieu of some of the required copies.
- 6.2.2.2 Upon receipt of the application materials, the town office shall issue the applicant a dated receipt, and shall inform the Chairman of the Planning Board and the Code Enforcement Officer that an application has been received.
- 6.2.2.3 The application shall be placed on the next Planning Board agenda for a review for completeness.
- 6.2.2.4 After consideration of the application submitted for review, the Planning Board shall notify the applicant in writing either that the application is complete, or if it is incomplete, the specific additional material needed to make a complete plan and application.
- 6.2.2.5 Upon making a determination that an application is complete, the Planning Board shall . . .

- a) schedule an on-site inspection of the property, which will be jointly attended by the applicant or a duly authorized representative and by at least two members of the Planning Board;
- b) determine whether to hold a public hearing on the application;
- c) within seven (7) days of its determination, notify by certified mail all owners of property located within five hundred (500) feet of the subject property, and provide notice to the Superintendent of Schools, Director of Public Works, Fire Chief and Police Chief; if the development will be using the public water system, the Monmouth Water Association; if the development will be using the public sewerage facilities, the Monmouth Sanitary District. The notice will include a brief description of the property and proposed activity, and the time and place of any public hearing to be held;
- d) if the subject property is located within five hundred (500) feet of the boundary of a neighboring town, notify the respective town clerk. If the subject property crosses the town boundary, the Board shall offer joint consideration of the application with the neighboring town.

6.2.2.6 If the Board decides to hold a public hearing, it shall hold the hearing within forty (40) days of its determination of the complete application. The Town shall publish notice of the date, time, and place of the hearing at least two (2) times in a newspaper of general circulation within Monmouth, the date of the first publication to be at least seven (7) days prior to the hearing.

6.2.2.8 The Board shall make written findings of fact and conclusions on whether the application complies with the criteria for approval, as expressed in section 6.3, below. Based on its findings with regard to meeting the criteria, the Board will approve, approve with conditions, or deny the application,

The Board shall act on the application within forty (40) days of the public hearing, or within sixty (60) days of determination of a complete application if no hearing is held, or within such other time limit as may be mutually agreed to by the Board and the applicant.

6.2.2.9 Conditions of approval may include a requirement that the applicant provide specific additional information for review and consideration by the Board, including but not limited to: required state and federal permits, final plans, cost estimates and performance guarantees for public improvements, and offers of conveyance for any land, easements, or improvements.

If the Board requires additional information, final approval shall be considered pending until the Board is satisfied that the information is provided. Information required must be submitted within twelve (12) months of the date of conditional approval. The Board shall not sign the plan, and the applicant shall not commence works or offer to convey lots within a subdivision until final approval is granted.

6.2.2.10 Final approval of the application shall be attested on two (2) Mylar's and on two (2) copies of the plan by the signatures of a majority of the members of the Board.

6.2.2.11 Any subdivision plan not recorded in the Kennebec County Registry of Deeds within thirty (30) days of the date the plan is approved and signed by the Board shall become null and void. All dedications of easement, development rights, or other legal documents required to be recorded, must be recorded prior to the conveyance, leasing or occupation of any lot.

6.2.3 Appeals

Any party aggrieved by a decision of the planning board may appeal the decision to Kennebec County Superior Court. Such appeal must be filed within thirty (30) days of the written notice of the planning board's decision.

6.2.4 Revisions and Amendments to Approved Plans

6.2.4.1 Except as provided in section 6.2.4.3.1 below, an applicant for a revision to a previously approved plan shall request to be placed on the Boards agenda at least ten (10) working days prior to a scheduled meeting of the Planning Board.

6.2.4.2 If the revision involves the creation of additional subdivision lots or additional building area to be occupied, the procedures for application approval specified in sections 6.2.1 and 6.2.2, above, shall be followed.

The applicant shall not be required to submit application materials beyond those which are necessary to consider the new lots or building area being created. The applicant should present a list of proposed submissions for review and discussion at the pre-application meeting.

The Planning Boards scope of review shall be limited to those portions of the plan which are proposed to be changed. This shall not be construed to limit the board's authority to consider overall site impacts of the changes.

6.2.4.3 If the revision involves only modifications of the approved plan, without the creation of additional lots or building area, the following procedures shall be followed:

6.2.4.3.1 If a proposed change is related to construction of improvements and is the result of conditions in the field, such as the moving of a building envelope, or the relocation of infrastructure, the Code Enforcement Officer is authorized to approve such changes. The Code Enforcement Officer, upon approval, shall provide written notice of his/her actions to the Board and attach a record of his/her action to the approved plan.

6.2.4.3.2 If the proposed change will require a change to an existing recorded plan, the Board shall within thirty (30) days of its first meeting to review the change, approve or deny the application for change. Upon approval, the Board shall sign a new final plan, as provided in section 6.2.2.10, above.

Except as provided in section 6.2.3.3.1, above, a revised plan shall indicate that it is a revision to a previously approved and recorded plan and shall show the assigned registry reference by which the original plan is recorded at the Kennebec County Registry of Deeds.

6.3 **Review Criteria**

Based on its findings of fact, the reviewing authority shall approve a plan which shows that it will meet all of the criteria listed in this section. It shall approve a plan with conditions whenever it finds that the imposition of conditions will be sufficient to meet the criteria. It shall deny a plan which does not show that it will meet the criteria.

The applicant has the burden of presenting credible evidence that his or her application should be approved. Failure to provide sufficient evidence of compliance with the criteria shall be grounds for denial.

- 6.3.1 A plan which is classified as a subdivision, in accordance with section 6.1.1, above, shall demonstrate compliance with all of the criteria listed below.
- A. **Local planning:** The proposed development is in conformance with all duly adopted Town of Monmouth ordinances and regulations and the Comprehensive Plan.
 - B. **Water and air pollution:** The proposed development will not result in undue water or air pollution on- or off-site. In making this determination the Board shall at least consider: the elevation of land above sea level and its relation to the flood plains; the nature of soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resource rules and regulations.
 - C. **Water availability:** The proposed development has sufficient quantity and quality of water available for the reasonably foreseeable needs of the project including, but not limited to, potable water and fire control water.
 - D. **Water supply:** The proposed development will not cause an unreasonable burden on an existing water supply, including private ground water or the Monmouth Water Association, whichever is to be utilized. This shall be interpreted to mean that the subdivider will be responsible for all costs of engineering and installation of public improvements necessary for extension of public water supply.
 - E. **Ground water:** The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water, both on and off site.
 - F. **Surface water:** Whenever situated, in whole or in part, within the direct watershed of a pond or lake or within a shoreland zone, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

- G. Freshwater wetlands:** The plans for the proposed development have identified all freshwater wetlands, regardless of size, within the area to be subdivided or developed.
- H. Rivers, streams and brooks:** The plans for the proposed development have identified any river, stream or brook within or abutting it.
- I. Flood plains:** If the proposed development, or any part of it, is in a flood-prone area, based on the FEMA Flood Insurance Rate Maps for the Town of Monmouth, the plans for the proposed development provide that any principal structures will be constructed with their lowest floor, including the basement, at least one foot above the 100 year flood elevation.
- J. Soil erosion:** The proposed development will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results, with or without on or off the site.
- K. Storm water:** The proposed development will provide for adequate storm water management.
- L. Traffic conditions:** The proposed development will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed. This shall be interpreted to mean that the applicant will be responsible for all costs of engineering and installation of public improvements necessary for satisfactory access to and functioning of the public road system.
- M. Sewage waste disposal:** The proposed development will provide for adequate sewage waste disposal and will not cause an unreasonable burden on the Monmouth Sanitary Treatment System if it is utilized. This shall be interpreted to mean that the applicant will be responsible for all costs of engineering and installation of public improvements necessary for connection to the sanitary treatment system.
- N. Solid waste disposal:** The proposed development has made adequate provision for solid waste disposal and will not cause an unreasonable burden on the ability of the town to dispose of solid waste if town services are to be utilized.
- O. Aesthetic, cultural and natural values:** The proposed development will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat, or rare and irreplaceable natural areas or any public right for physical or visual access to the shoreline.
- P. Financial and technical capacity:** The applicant has adequate financial and technical capacity to meet these standards, including the maintenance of common areas and facilities (including but not limited to water and sewer utilities and roads), until such maintenance is adequately provided by a management entity, acceptance by the Town, or other mechanism acceptable to the Planning Board.
- Q. Lot Design:** If any lots within the subdivision will have frontage on any river, stream, brook, or great pond, none of the lots will have a ratio of lot depth to shore frontage in excess of 5 to 1.

- R. Phosphorous Management:** The long-term cumulative effects of the proposed development will not unreasonably increase the concentration of phosphorous within a great pond over the life of the proposed development.
- S. Impact on Adjoining Municipality:** If a proposed development crosses town boundaries, it will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in the adjoining municipality.

6.3.2 A plan which is classified as a non-residential development, in accordance with section 6.1.2, above, shall demonstrate compliance with all of the criteria listed in section 6.3.1, above, with the exception of **Q. “Lot Design.”** In addition, a non-residential development shall demonstrate compliance with all of the criteria listed below.

- A. Exterior Fixtures:** The plan will show that exterior fixtures such as signs, lighting, and fencing, will not have an adverse impact on public access to the property, and will not constitute hazards to vehicles and pedestrians, or nuisances to abutting properties.
- B. Vegetation and Landscape:** The proposed development will provide for the retention of contours and vegetation in their natural state insofar as practicable, by minimizing tree and soil removal and grade changes, and for the restoration of landscape through grading and re-vegetation of disturbed areas, and planting of buffers.
- C. Transportation Impacts:** The proposed development will accommodate the anticipated level of usage without undue adverse impact on public highways, through the provision of safe and adequate access, internal circulation, and parking for all forms of transportation. This shall be interpreted to mean that the applicant will be responsible for all costs of engineering and installation of public improvements necessary for satisfactory access to the property.

6.4 Submission Requirements

In order to be judged complete, an application shall consist of a written application on a form designated for the purpose, a development plan that meets the requirements of the following paragraphs, and all fees, attachments, or additional information required under this ordinance.

The required submissions for an application are intended to be appropriate for the type, size and complexity of the proposed development. The requirements of section 6.4.1, below, apply to all applications. The requirements of section 6.4.2, below, apply to only larger applications. The requirements of section 6.4.3, below, apply only to special cases and circumstances. Application requirements may be waived at the discretion of the Planning Board under the provisions of section 6.4.4, below.

6.4.1 Required of all Applications

- 6.4.1.1 An Application for Development Approval, available from the Town of Monmouth.
- 6.4.1.2 A check or other form of payment in the amount of the Application Fee, as provided in section 2.4 of this ordinance.

6.4.1.3 A check or other form of payment for the Technical Review Fee, as provided in section 2.4.4 of this ordinance.

6.4.1.4 A subdivision or site plan, consisting of two (2) copies on sheets not larger than 24" x 36" each, and additional copies identical in detail but reduced to 11" x 17". The scale of the plan shall be adequate to allow all text and graphics to be legible on the 24" x 36" form.

For final approval and signing, the two 24" x 36" copies must be on a stable, reproducible film and contain the seal and signature of the registered engineer or surveyor responsible for preparation of the plan. The final plan shall also be made available electronically, in the Board's choice of AutoCAD, PDF, or GIS format.

If the review is intended to be preliminary, copies may be paper-based and shall bear the title "PRELIMINARY" prominently displayed.

The subdivision or site plan shall include the following information:

- a. Name of the development, the name of the town(s) in which it is located, the property tax map and lot numbers, name and address of the applicant, and the name and registration number of the preparer.
- b. A location map, drawn at no smaller scale than 500 feet to the inch, showing the relationship of the proposed site or subdivision to all land within 1,000 feet of all boundaries of the site and public access to the site.
- c. If a new parcel or parcels are to be created, parcel boundaries to be shown based on a perimeter survey of the parcel, along with internal lot lines, made d by a professional land surveyor licensed in Maine and completed to the standards of the Board of Licensure, relating to reference points, and showing magnetic and true north, graphic scale, corners of the parcel, date of survey and total acreage.
- d. If a subdivision, a listing or depiction of the lots or units to be created, together with dimensions and areas, and proposed street names in conformance with the Town of Monmouth Addressing Ordinance.
- e. Location and description of all existing and proposed permanent markers, as well as location of temporary markers placed to enable the Planning board to locate the parcel or lots and appraise the layout of the proposed project in the field.
- f. The location and dimensions of all existing and proposed buildings, structures and additions.
- g. A depiction within each lot of a building envelope, illustrating required setback and buffer areas, and proposed clearing limits.
- h. The location and design of any existing or proposed sewage disposal, water supply, storm

drainage and trash disposal facilities and other utilities such as gas and electricity, both above ground and buried.

- i. Unless the development consists of building conversion or construction within an existing building footprint, show significant existing natural features including surface water, swales and other drainage ways, floodplain boundaries, wetlands, steep slopes (over 20 percent), rock outcrops, forested and open areas, and any essential or unique physical features, including but not limited to those shown on maps in the current Comprehensive Plan.
 - j. Any fish, aquatic life, bird, or other wildlife habitat, including vernal pools, located on or adjacent to the property and identified by the Maine Department of Inland Fisheries and Wildlife, or on maps in the current Comprehensive Plan.
 - k. Any archaeological, historical, or visual resources, including but not limited to those described in the current Comprehensive Plan.
 - l. The location, names, and dimensions of existing streets, sidewalks, rights-of-way, easements, utility lines, and other built features on and abutting the project.
 - m. Unless the development consists of building conversion or construction within an existing building footprint, show existing contours and proposed finished grade elevations of the entire site shown at a contour interval of two feet (2'), unless otherwise specified by the Board.
 - n. The location of any shoreland zoning district boundaries affecting the property.
 - o. If a non-residential development, show all proposed property improvements, including driveways and parking, lighting, signs, fences and buffers, outdoor machinery, waste disposal facilities, and similar fixtures.
 - p. Five (5) lines for signatures of the Town of Monmouth Planning Board members and one (1) line for the date of approval.
 - q. Identify farm land p2009 chapter 356
- 6.4.1.5 Attached and appended narrative documentation, in electronic or printed form, including the following:
- a. A copy of the most recent registered deed of ownership of the property, and if the applicant is not the owner of the property, additional evidence of the applicant=s right, title or interest in the property.
 - b. A listing of the names, addresses and map and lot numbers of owners of all properties within five hundred (500) feet of the subject property as shown in the property tax records of the Town as of the date of the application.
 - c. If new parcel(s) are to be created, a copy of the original perimeter survey.
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- d. A soils report, containing:
 - 1 An on-site soils investigation prepared by a Maine Certified Soil Scientist, Maine Registered Professional Engineer, or Maine State Certified Geologist, indicating types of soil and location of test sites with measured distances from an identifiable boundary, and proposed location and design of subsurface sewerage disposal systems if these are to be used.
 - 2 A copy of that portion of the Kennebec County Soil Survey covering the proposed project.
 - 3 When the soil survey shows soils which have low or very low potential for residential development under the rating system of the SCS publication *Soil Survey Data for Growth Management in Kennebec County, Maine, December 1989*, and wastewater will not be disposed of through the Monmouth Sanitary Treatment System, the applicant shall prepare a high intensity soil survey and report. Soils shall be identified in accordance with the National Cooperative Soil Survey. The report shall include a map identifying soil types down to 1/8 acre or less at a scale equivalent to the plan submitted, and shall show the location of all test pits, accompanied by a log of each sample point identifying textural classification and depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for subsurface waste disposal shall not constitute a high intensity soil survey.

- e. Indication of the type of sewage to be used:
 - 1. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Monmouth Sanitary District shall be provided stating that the district has the capacity to collect and treat the wastewater and that proposed improvements have been suitably designed; or
 - 2. When sewage disposal is to be by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted, with measured distances from an identifiable boundary and from existing wells and waste disposal systems on adjacent properties within 300 feet.
 - 3. If a non-residential development, a description of the type and quantity of waste to be produced, identification of potentially toxic wastes, and a description of proposed pre-treatment systems, if warranted.

- f. Indication of the type of water supply to be used:
 - 1. When water is to be supplied by public water system, a written statement from the Monmouth Water Association shall be provided, indicating there is adequate supply and pressure for the development and that proposed improvements have been suitably designed. Where the MWA's supply main is to be extended, a written statement from the Fire Chief, approving the location of fire protection facilities, if any; or
 - 2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro-geologist familiar with the area.

- g. Unless the development consists of building conversion or construction within an existing building footprint, a soil erosion and sedimentation control plan that includes temporary and

permanent soil retention measures and a schedule showing when erosion controls will be installed in relation to construction activities. The erosion control plan shall include a site plan locating erosion controls for the contractor and/or builder.

- h. A storm water management plan that uses methods of calculating runoff appropriate to the size and nature of the proposed project and the area in which it is located, and which addresses specific numerical standards applicable to the watershed in which it is located. When located within the jurisdiction of the Cobbossee Watershed District, comments from the Cobbossee Watershed District or any other qualified agency or engineer designated by the town shall be provided prior to final approval.

Copies of any proposed restrictive covenants, easements, leaseholder or homeowner association agreements and corporate papers, contracts, deeds to commonly held lands, deeds and covenants to the Town of Monmouth, or to the State of Maine or to any other public body or to any private organization or corporation; and any other documents, existing or proposed, which may affect the land or determine or affect the uses of land in the development.

6.4.2 Additional Required Submissions

Further submissions are required for the following forms of development:

- I. A non-residential development that exceeds ten thousand (10,000) square feet of gross floor area;
- II. Any development which proposes the construction of a street, regardless of whether it is to be dedicated to the Town, or extension of public water or sewer lines;
- III. Any subdivision containing ten (10) or more lots;
- IV. Any subdivision containing five (5) or more lots which is not proposed to be connected to the Monmouth Sanitary Sewer System.

6.4.2.1 On the plan or additional sheets:

- i. Proposed design and location of all streets, with construction details including a typical cross section, plan, and profile with lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.
- j. The location, dimensions and layout for all proposed curbs, sidewalks, driveway entrances, parking areas, fences, retaining walls, outdoor lighting and similar features.
- k. The location and construction details of all proposed public water lines, sewer lines, common utility lines, including electrical, telephone, and cable.
- l. The location, dimensions, and purposes of any existing or proposed rights- of -way, easements and dedicated or common areas, whether private or public, together with a description of how these and any other legal restrictions may affect the use of the parcel.

6.4.2.2 Attached and appended narrative material:

- a. An initial assessment of the proposed development=s impact upon Town services and facilities, including written review comments from relevant town officials. If the initial assessment indicates a potentially adverse impact upon a service or facility, the Board may request additional studies or reports including but not limited to the following:
 - i. Estimated impact on the sewage disposal system, including flow estimates and assessment of capacity;
 - ii. Estimated impact on the public water system, including flow estimates, capacity and assessment of existing or potential water pressure;
 - iii. Estimated impact on the school system;
 - iv. Estimated impact on public safety providers;
 - v. Estimated impact on the public works department, including solid waste disposal;
 - vi. Estimated impact on existing storm water management systems, including flow and water quality; and
 - vii. Estimated impact on existing recreation facilities and provisions or methods to meet proposed needs.
- b. A road use evaluation that includes the expected volume and type of traffic resulting from the proposed subdivision and site distance analyses at each entrance/ exit to the development and at each internal intersection. Trip generation rates used shall be taken from *Trip Generation Manual, 1991 edition* or subsequent revisions, published by the Institute of Transportation Engineers.
- c. A cost estimate and proposed performance guarantee sufficient to secure completion of all improvements proposed to be constructed.
- d. Prior to final approval by the Board, the applicant shall present written evidence that the Board of Selectpersons is satisfied with the legal sufficiency of any documents conveying any public land dedication or easement.
- e. If a subdivision will contain twenty (20) or more lots which will not be connected to the Monmouth Sanitary Sewer System, a description of the phased implementation of the subdivision, in such a way that no more than ten (10) lots are sold or developed during any twelve month period.

6.4.3 Submission Items Related to Particular Circumstances:

- 6.4.3.1 A hydro geologic assessment, to be prepared and submitted by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology under the following conditions:
 - i. When the property will not be served by public sewer and the proposal involves a non-residential use which will generate more than a daily average of 500 gallons of waste water of any type, *or*
 - ii. When any part of the subject property is located within the wellhead protection area of a public water supply *or*

- iii. When the subject property lies over or within 300 feet of a mapped sand and gravel aquifer.
- 6.4.3.2 A traffic impact analysis report shall be prepared and submitted by a professional engineer, when the road use evaluation (section 6.4.2.2b) indicates a traffic generation of greater than one hundred (100) trips during the peak hour of the day. The report must demonstrate that the street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development have adequate traffic carrying capacity or can be suitably improved to accommodate the amount and types of traffic generated by the proposed use. The analysis will demonstrate whether the development will reduce the streets Level of Service to ADT or below according to the *1985 Highway Capacity Manual, Special Report 209*, Transportation Research Board, or most current edition or subsequent revisions.
- 6.4.3.3 A natural resource mitigation plan, prepared by a qualified professional in the area(s) affected, shall be submitted, if preliminary analysis shows that the development will impact an identified deer wintering area, an identified critical natural area, or other critical natural resource identified by the Comprehensive Plan.
- 6.4.3.4 An historical resource mitigation plan, prepared by a qualified professional in the area(s) affected, will be submitted, if preliminary analysis indicates the potential for impact on archeological or historic resources.
- 6.4.3.5 If the development will require a permit from any state or federal agency, including but not limited to those listed below, a copy of the permit shall be submitted prior to final approval by the Board.
- a. Maine Department of Environmental Protection, under the Site Location of Development Act or Natural Resources Protection Act, or if a Wastewater Discharge License is needed.
 - b. Maine Department of Health and Human Services, if the subdivider proposes to provide a public water supply system.
 - c. Maine Department of Health and Human Services, if an engineered subsurface wastewater disposal system is proposed.
 - d. US Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 - e. Maine Department of Transportation, if the development will require driveway or entrance permit(s) or a Traffic Movement Permit.
- 6.4.3.6 The Planning Board may request additional information or studies whenever conditions exist to suggest extraordinary impacts from the development. The Board may request items at any time; items not requested at the time of pre-application meeting may not be required for a determination of a completed application.

6.4.4 Waiver of Submission Requirements

- 6.4.4.1 Where the Board or the Code Enforcement Officer concludes that there are unique circumstances of a particular development, it may waive portions of the submission requirements. The Board may accept a site plan that is not prepared by a registered engineer or surveyor if there is no structural change to existing buildings, there is no significant site work required or the proposed project does not trigger concerns of storm water management. Waiver of submission requirements does not relieve the applicant of the responsibility to demonstrate that the Review Criteria and Performance Standards of this Chapter will be met.
- 6.4.4.2 The applicant shall submit a list of submission requirements proposed to be waived at the pre-application meeting. The planning board or CEO may grant any or all requested waivers at the time of the pre-application, unless it finds that the granting of a waiver may prejudice its review of the application on its merits.
- 6.4.4.3 The Board or CEO is authorized to require such conditions in the granting of a waiver as will assure the purposes of this Ordinance are met.

6.5 Performance Guarantees

6.5.1 Types of Guarantees

Performance guarantees are required to ensure the completion of infrastructure improvements including but not limited to roads, sidewalks, utilities, sewerage collection and treatment, water supply, fire protection facilities, and storm water control.

Prior to final plan approval, the applicant shall provide one of the following performance guarantees for an amount, determined by a professional engineer or estimator, adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- i. Either a certified check payable to the Town of Monmouth or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- ii. An irrevocable letter of credit from a financial institution establishing funding for the construction of improvements, from which the Town may draw if construction is inadequate, approved by the Board of Selectpersons, or Town Manager;
- iii. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed; or
- iv. Any combination of the three methods described above.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Code Enforcement Officer, Public Works Director, Board of Selectpersons, and/or Town Attorney.

6.5.1.1 Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a line account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

6.5.1.2 Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the improvements and may not be used for any other project or loan

6.5.1.3 Conditional Agreement

In the case of a subdivision, the Board, at its discretion, may allow the applicant to enter into a binding agreement with the Town in lieu of, or in combination with, the other financial performance guarantees. Such an agreement shall provide for approval of the plan on the condition that no more than four lots may be sold or built upon until either:

1. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this Ordinance and the regulations of the appropriate utilities; or
2. A performance guarantee, acceptable to the Town, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the final plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in section 6.5.3 below.

6.5.2 Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the Town shall have access to the funds to finish construction.

6.5.3 Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part based upon the inspection report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release was requested.

6.5.4 Default

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the Board of Selectpersons, the Planning Board, and the developer or builder. The Board of Selectpersons shall take any steps necessary to preserve the Town=s rights.

6.6 Completion of Required Improvements

- 6.6.1 At least five (5) days prior to commencing construction of required improvements, the developer or builder shall:
- a) Notify the Code Enforcement Officer in writing of the time when he/she proposes to commence construction of such improvements, so that the Board of Selectpersons can cause inspection to be made to assure that all specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board, and
 - b) Deposit with the Board of Selectpersons a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the developer or builder as appropriate. If the inspection account shall be drawn down by 90%, the developer or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- 6.6.2 The Board of Selectpersons shall appoint an inspecting official, who shall be qualified to evaluate construction materials and practices to be utilized. The inspecting official shall have no financial interest in the project to be inspected.
- 6.6.3 If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plan and specifications filed by the developer, he/ she shall so report in writing to the Board of Selectpersons, Planning Board and the developer and builder. The Board of Selectpersons shall take any steps necessary to preserve the Towns rights.
- 6.6.4 If at any time during the construction of the required improvements, it becomes necessary to modify the installation due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc., the Code Enforcement Officer is authorized to approve minor modifications. The Code Enforcement Officer shall approve any action under this section in writing and shall attach a copy of the approval to the approved site plan. Revised plans shall be filed with the Board as appropriate. For major changes, such as relocation of rights-of-way and property boundaries or changes of grade by more than 1%, etc., the developer shall obtain permission to revise the plans in accordance with section 6.2.3.
- 6.6.5 At the close of each summer construction season the Town shall, at the expense of the developer, have the site inspected by a qualified individual. By December 1 of each year

during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

- 6.6.6 Prior to the sale of any land, the developer shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments shown on the plan have been installed.
- 6.6.7 Approval of a project by the Planning Board shall not constitute acceptance by the Town of any street, easement, open space or recreation area or other public improvement shown on a plan. Approved plans shall contain a statement that such areas shall remain private and be maintained by the developer or by a management entity and shall not be maintained by the Town of Monmouth until such time as accepted by the Town.
Prior to a vote by the Board of Selectpersons to submit a road or other public improvement to a town meeting, a written certification signed by a professional engineer shall be submitted to the Board of Selectpersons at the expense of the applicant, certifying that the proposed public improvement meets or exceeds the design and construction requirements of this Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. AAs built@ plans shall be submitted to the Board of Selectpersons.
- 6.6.8 The developer shall be required to maintain all improvements and provide for snow removal on streets, parking areas, and sidewalks within the development until control is placed with an approved management entity or the Town.

6.7 General Development Standards

The development standards in this section are intended to ensure that new development meets the review criteria expressed in section 6.3 of this Ordinance. Compliance with development standards is *prima facie* evidence of meeting the criteria. However, applicants for development review may propose alternative approaches that will satisfy the criteria equally as well or better than the ordinance standards. In all instances, the burden of proof shall be on the applicant to demonstrate that criteria have been met.

6.7.1 Lot Design

- 6.7.1.1 All lots proposed for development shall meet the dimensional standards of section 3.1 of this ordinance, unless they are legally non-conforming lots created prior to the effective date of this ordinance. A building envelope shall be shown on the development plan to depict building setback, clearing limits and other areas of development limitation.
- 6.7.1.2 All lots created within a subdivision shall contain the minimum required street frontage along existing public roads or along a road meeting the standards of the Monmouth Streets and Ways Ordinance, unless otherwise specified in this ordinance.

6.7.1.2.1 A lot existing as of the effective date of this ordinance that has no street frontage may be divided into no more three (3) lots, provided that each lot shall have the minimum required frontage on a right-of-way at least thirty (30) feet in width, with a travel way a minimum of eighteen (18) feet in width, surfaced with at least twelve (12) inches of base gravel. Lots so created shall meet all other dimensional requirements of this ordinance.

6.7.1.3 No lot in any development shall have a ratio of lot depth to shore frontage of greater than 5:1. No lot in any development shall have a ratio of lot depth to street frontage of greater than 5:1, *unless* the plan shows a strip of land within the lot a minimum of fifty (50) feet wide labeled with the phrase “reserved for future right-of-way, not to be built upon.” The street frontage shall exceed two hundred fifty (250) feet and the building envelope shall be shown with a road setback on the side facing the future right-of-way.

6.7.1.4 On a cul-de-sac or street with a radius at the right-of-way line of less than two hundred fifty (250) feet, the frontage may be measured at a distance equal to the required front setback for the lot.

6.7.2 Erosion and Sedimentation Control

6.7.2.1 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of *Maine Erosion and Sediment Control BMPs*, published by DEP (March, 2003 or as revised).

6.7.2.2 The plan for erosion control submitted with a development application shall illustrate the timing and installation of measures for control of runoff during construction, as well as permanent vegetative and structural measures.

6.7.2.3 Erosion and sedimentation control measures shall apply to all aspect of the proposed development involving land disturbance, and shall be in place during all stages of the activity. The amount of exposed soil at every phased of the construction shall be minimized to reduce erosion potential.

6.7.3 Stormwater Control and Phosphorous Management Adequate provision must be made for the collection and dispersal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a Stormwater Management Plan.

- 6.7.3.1 Stormwater runoff systems must be designed to detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- 6.7.3.2 To the extent possible, the plan must retain stormwater on the site using the natural features of the site and must not have adverse impacts on abutting or downstream properties.
- 6.7.3.3 The level of phosphorous in runoff expected to be generated shall be estimated and controlled as described in the manual Stormwater Management for Maine, Vol. II – Phosphorus Control in Lake Watersheds (Maine DEP, 2008), with the exception of chapter 6, or as revised. The quantity of phosphorous leaving any site shall not exceed the permitted allocation for the Watershed District in which the property is located. When located within its jurisdiction, comments from the Cobbossee Watershed District or any other qualified agency or engineer designated by the town shall be provided prior to final approval.
- 6.7.3.4 The Planning Board may require additional off-site mitigation of phosphorous.
- 6.7.3.5 Any project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit prior to final approval.
- 6.7.3.6 For projects which do not require a DEP Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication *Stormwater Management for Maine*, (MAINE DEP 2008 or as revised) is highly encouraged.
- 6.7.3.7 For projects involving structural treatments, a Stormwater Maintenance Agreement must be submitted at the time of application. The SMA must indicate how stormwater facilities will be maintained through the course of their projected life.

6.7.4 Preservation of Critical Natural and Cultural Resources

6.7.4.1 Habitat Preservation:

- 6.7.4.1.1 Any development shall be planned, sited, and constructed so as to avoid impact on critical wildlife habitat or Critical Natural Areas as identified in the Monmouth Comprehensive Plan, including the habitat of endangered or threatened species.
- 6.7.4.1.2 Any application for development within a Deer Wintering Area, as identified in the Monmouth Comprehensive Plan, shall be offered for review by the Maine Department of Inland Fisheries and Wildlife prior to approval by the Town. Any comments on the application from IFW shall be submitted to the Planning Board.

6.7.4.1.3 If any portion of the site has been identified and field-verified as a significant vernal pool, that area shall be located outside of any proposed building envelope or area to be cleared or filled.

6.7.4.2 Visual Resources:

6.7.4.2.1 A development shall be planned, sited, and constructed in a manner that minimizes negative impacts upon scenic views and prominent landmarks identified in the Monmouth Comprehensive Plan. Measures to minimize visual impacts may include enhanced setbacks, height limitations, or limitations on construction materials.

6.7.4.2.2 When a proposed development encompasses a hilltop or ridgetop area, the plan shall specify a limitation on tree removal and building placement within twenty (20) feet vertical distance of the ridgeline.

6.7.4.3 Archeological and Historic Features

6.7.4.3.1 Within any area identified by the Monmouth Comprehensive Plan or competent historic survey as having a potential for archeological resources, an assessment shall be performed to determine the existence and significance of those resources. The assessment shall be performed by a qualified professional and shall be submitted for review and comment to the Maine Historic Preservation Commission. If significant resources are identified in the course of this assessment, the development will be designed and constructed to minimize impacts on these resources.

6.7.4.3.2 Any development proposed on or within five hundred (500) feet of sites listed on the National Register of Historic Places shall be submitted for review and comment to the Maine Historic Preservation Commission prior to consideration by the Board. Development, including renovations, within these areas may be subject to limitations to preserve historical integrity, including but not limited to construction materials and architectural treatments.

6.7.5 Air Quality

6.7.5.1 No emission of dust, dirt, fly ash, smoke or other particulate matter, gasses or chemicals shall be allowed which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which fail to meet or cannot meet the standards set by the Maine Department of Environmental Protection.

6.7.5.2 No development shall emit offensive or harmful odorous air contaminants perceptible beyond the property boundaries, either at ground or habitable elevation

6.7.6 Water Quality

6.7.6.1 No development shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature,

quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, in the form of debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

- 6.7.6.2 No discharge of contaminants into the environment shall increase any contaminant concentration in groundwater to exceed the Primary Drinking Water Standards established by the State of Maine.
- 6.7.6.3 No extraction of groundwater, whether for commercial purposes or through density of development, shall result in a noticeable decrease in the level of the water table upon neighboring properties.
- 6.7.6.4 Where required under section 6.4.3.1 of this Ordinance, an assessment of groundwater hydrology shall contain data on existing groundwater quantity, quality, and directional flows, the location and size of any wells, disposal fields, extraction or injection facilities proposed, and an analysis of the effects of the proposed facilities both within the development and at the limits of groundwater impacts.
- 6.7.6.5 In a situation where installation of individual wells is proposed over active or recently active farmland, the Planning Board may require an analysis of existing and proposed levels of nitrate loading in the groundwater. The analysis must show that the concentration of nitrates in groundwater under drought conditions will not exceed the Primary Drinking Water Standards of the State of Maine at any point of extraction existing or proposed.
- 6.7.6.6 Any development which proposes to use or store petroleum products, toxic or hazardous chemicals, or liquid waste or byproducts shall provide a spill prevention and management plan, prepared by a registered professional engineer, at the time of application. The plan shall show the location and dimensions of all storage and containment facilities and an analysis of response measures to be in place. The spill prevention and management plan shall also be submitted for review and comment to the Monmouth Director of Civil Emergency Preparedness..
- 6.7.6.7 All wells, disposal systems, and other structures shown on the hydrogeological assessment or site plan shall be installed as shown at the time of installation, unless evidence is provided to the Planning Board that the alternative will provide better water quality protection.

6.7.7 Floodplain Development

In areas delineated as being within the 100 year floodplain as shown on the Flood Insurance Rate Maps for the Town of Monmouth, all development, including modifications to existing structures shall conform to the requirements of the Monmouth Flood Plain Management Ordinance.

6.7.8 Public Safety

- 6.7.8.1 For proposed commercial buildings it is recommended a key box security system be installed. A key box may be required in some cases.

6.7.8.2 The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the Monmouth Fire Chief that the proposed development will not exceed the capacity of the town fire department to provide adequate protection. Any development that will utilize water from the Monmouth Water Association shall provide standard hydrants at intervals specified by the fire chief. The fire chief may recommend additional protective improvements, including but not limited to cisterns, fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems. Commercial development requires state fire marshal review and approval.

6.7.8.3 Any security systems proposed for the development must be designed consistent with the capacity and practices of the law enforcement agency with primary jurisdiction in Monmouth. The applicant shall provide a written statement from the chief of that agency approving any proposed security measures.

6.7.9 Homeowners Associations

6.7.9.1 A Homeowners Association shall be created whenever there is common ownership of property, including but not limited to, streets, open space, or common areas. The plan for a Homeowners Association shall be provided prior to final approval and shall contain, at a minimum, the following elements:

- i. Covenants for mandatory membership in the association, setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
- ii. Articles of incorporation of the association as a not-for-profit corporation;
- iii. Draft by-laws of the association specifying the responsibilities, authority, and operating procedures of the association and providing for proper capitalization of the association.
- iv. A process whereby the association will levy annual charges against all owners of lots or dwelling units to meet expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
- v. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

6.7.9.2 The developer shall maintain control of common property, and be responsible for its maintenance until development sufficient to support the association has taken place. The timing and process for the transfer of control of common property to the association shall be stated in the bylaws.

6.7.10 Solid and Sanitary Waste Storage and Disposal

6.7.10.1 Unless the development consists of single-family homes on individual lots, the developer shall be responsible for provision and maintenance of a solid waste disposal system.

6.7.10.1.1 All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

6.7.10.1.2 The applicant shall provide a schedule for regular collection and a written statement from the manager of the facility at which waste will be disposed, approving the quantity and type of waste expected to be received.

6.7.10.1.3 All trash containers shall be placed on an impervious surface and fully screened from view of neighboring properties by a masonry or wooden screen a minimum of six (6) feet in height, with a finished side facing away from the container area. Provision shall be made to minimize loose and blowing trash.

6.7.10.2 All development on parcels located within two hundred (200) feet horizontal distance of sewer lines managed by the Monmouth Sanitary District, as measured from the corner of the parcel nearest an existing line, shall be required to connect to the public sewer system. Development on parcels not within 200 feet of the existing sewer lines shall not be prohibited from connecting. In all case, the Monmouth Sanitary District shall provide a written statement that the District has the capacity to serve the proposed use, and approving the design of the proposed improvements.

6.7.10.3 Development requiring sanitary waste disposal which will not be connected to the public sewer system shall demonstrate adequate soil capacity for subsurface wastewater disposal facilities. For each individual system proposed, a test pit within the proposed location of the system on the lot shall be shown. For all systems which are designed to serve two (2) or more lots or buildings, ownership and maintenance of the system shall be the responsibility of a homeowners association or, in the case of commercial development, the management entity for the development.

6.7.11 Handling and Storage of Toxic or Hazardous Materials

6.7.11.1 All materials must be stored in a manner and location, which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

6.7.11.2 No flammable or explosive liquids, solids or gases shall be stored in commercial quantities above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage.

6.7.11.3 Any facility for the use or storage of toxic or hazardous chemicals or other liquids shall be designed and constructed with sealed concrete floors with dikes or comparable containment facilities, adequate to contain the largest quantity of stored liquid on site below the level of any drains or other openings.

6.7.11.4 The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. The applicant shall identify any wastes proposed to be generated of these types and provide evidence that they will be disposed of in accordance with said standards.

6.7.11.5 A Spill Prevention and Response Plan prepared by a qualified professional and reviewed by the Monmouth Director of Civil Emergency Preparedness shall be provided to the Board at the time of application.

6.7.12 Street Improvements

6.7.12.1 Street access shall be provided to all new lots created within the development, except as provided in section 6.7.1.2.1 of this ordinance. All streets shall be designed and constructed in accordance with the Road Design and Construction Standards Ordinance for the Town of Monmouth, except as provided below.

6.7.12.1.1 The Board may approve the deferral of the requirement for paving until the street has been accepted by the Town. The performance guarantee required for street construction shall identify a portion to be reserved for paving, which portion is refundable to the developer if the Town chooses not to accept the street. If the Town has adopted a policy that new streets outside of specified areas will not be accepted by the Town, the Board may waive the requirement for paving altogether.

6.7.12.1.2 If a proposed street is intended to join with or extend an existing town way served by the public sewer, the Board may waive construction standards of the proposed street to a level consistent with the existing town way.

6.7.12.2 Sidewalks shall be provided along a street wherever a parcel to be developed abuts property with existing street-side sidewalks. Sidewalks shall be provided between common parking areas and buildings within commercial and multi-family developments. Sidewalks shall be constructed of Bituminous or Portland Cement Concrete to a minimum width of four (4) feet, and placed upon a suitable gravel base.

6.7.13 Access to the Development

6.7.13.1 All developments shall be designed to minimize the number of access points onto public roads in order to preserve safety and carrying capacity of those roads. Except where a parcel is located within the service area of the public sewer system, no proposed development shall be permitted more than one (1) access point for every four hundred (400) feet of frontage on an existing state or town way.

6.7.13.2 The applicant shall obtain a Driveway Permit, Entrance Permit, or Traffic Movement Permit from the Maine Department of Transportation and submit a copy of the approved permit prior to final approval of the development, if the development will access a state highway or state aid road.

6.7.13.3 The applicant shall obtain a Street Opening Permit from the Town Manager, or his/her authorized agent, for any new access onto an existing town way. The Town Manager, or his/her agent, shall specify culvert size and supervise culvert installation, and shall locate points of safe access for the opening. The cost of such opening shall be borne by the owner of the property to which access is provided.

- 6.7.13.4 All proposed access onto town ways shall be placed in a location with adequate sight distance to oncoming traffic. The sight distance, in linear feet, shall measure no less than ten (10) feet for every mile per hour of posted speed limit, but no less than two hundred fifty (250) feet. The sight distance of proposed access points and separation distances from adjoining driveways and street intersections shall be shown on the plan submitted for approval.
- 6.7.13.5 Access points shall be clearly identified by the use of signs, curb cuts, and landscaping. New streets shall be identified by name on the plan and shall be marked by signage conforming to the Town of Monmouth Street Naming and Numbering Ordinance.
- 6.7.13.6 All driveway entrances and exits shall be kept free from visual obstruction higher than three (3) feet above street level in a triangular area formed on two (2) sides by measuring 25 feet along the street and driveway lines from the intersection of the edge of their traveled ways, with the third side of the triangle defined by a line connecting the two points located 25 feet from that intersection.
- 6.7.13.7 Where a development has frontage on two or more streets, access shall be provided to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
- 6.7.13.8 All streets yielding access to the proposed development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use. No development shall reduce a street's Level of Service to "D" or below as determined by using the capacity analysis procedures set forth in the *1985 Highway Capacity Manual*, (or current edition) as published by the Transportation Research Board and as hereafter amended. Where deemed necessary by the Board, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle paths, driveways and traffic controls within existing public streets for the purpose of alleviating congestion or improving public safety.
- 6.7.13.9 Where topographic and other conditions allow, provision shall be made for connections to adjoining similar uses, or future extension into undeveloped adjoining parcels, when such access:
- i) Will facilitate fire protection services; or
 - ii) Will enable users to travel between similar uses, without need to travel upon a street.

6.7.14 Internal Circulation and Parking

- 6.7.14.1 A use shall not be extended, and no structures shall be constructed, enlarged, or changed to another use, unless off-street parking spaces and loading areas are provided. However, the requirements of this section may be waived by the planning board for establishments intending to occupy existing structures in Monmouth Center on Main Street from the Town Office to 500 feet southerly of the intersection of Welch Avenue and Main Street, on Pleasant and Maple Streets from their intersections

with Main Street to the Gray Mill Road, and the entire length of Gray Mill Road; and in North Monmouth on North Main Street from the Old Lewiston Road westerly to the intersection with the Wilson Pond Road.

6.7.14.2 Placement of Parking: Required off-street parking for all uses shall be located on the same lot as the principal structure, except when the Planning Board authorizes the joint use of a parking facility by two or more principal uses where it is clearly demonstrated that the parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use of the facilities by the employees and patrons of the uses involved.

Parking areas with more than two (2) parking spaces shall be arranged so that it is unnecessary for vehicles to back into a public or private street. The placement of off-street parking areas at the side and/or rear of structures will be strongly encouraged.

6.7.14.3 Parking Supply Schedule: Sufficient parking spaces shall be provided consistent with the proposed use of the property. The table below shall be used as a guideline for the quantity to be provided:

<i>Activity</i>	<i>Minimum Spaces</i>
Administrative, financial, governmental, legal and other professional uses	1 per 300 sq. ft. of gross floor area (GFA)
Auditorium, theatre, places of public assembly	1 per 3 seats
Multi-family housing	1 ½ per dwelling unit
Beauty and barber shops	2 per operator chair
Child care facilities	1 per 5 children
Gym, fitness center	1 per 1,000 square feet of gross floor area
Contract construction	1 per employee, plus 1 per vehicle normally on-site
Hotel, motel, inn, bed & breakfast, and rooming houses	1 per rental unit, plus 1 per employee
Industrial uses, warehouses, and wholesalers	½ per 1,000 square feet of gross floor area
Medical care facilities	1 per 4 beds
Medical offices	5 per physician
Restaurants	1 per 3 seats of rated seating capacity
Retail businesses	1 per 250 square feet of gross floor area
Schools:	
Elementary and Middle	2 per 1,000 square feet of classroom space
All other	4 per 1,000 square feet of classroom space
Veterinarian clinic	5 per veterinary

Notes:

The above are minimum standards, and additional spaces may be required, if necessary, to provide adequate off-street parking.

Where the calculation of parking spaces results in a fractional part of a complete space, the number of spaces required shall be rounded to the next highest number.

6.7.14.4 Design of Parking Spaces and Access Aisles

- 6.7.14.4.1 Parking stalls shall not be accessible directly from the street nor from the throat area leading to the street access point.
- 6.7.14.4.2 Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- 6.7.14.4.3 Parking stalls and aisle layout shall conform to the following minimum dimensions:

<i>Parking Angle</i>	<i>Stall Width</i>	<i>Skew Width</i>	<i>Stall Depth</i>	<i>Aisle Width</i>
90°	9' – 0"	--	18' – 5"	24' – 0"
60°	8' – 6"	10' – 5"	18' – 0"	16' – 0"
45°	8' – 6"	12' – 9"	17' – 5"	12' – 0"
30°	8' – 6"	17' – 0"	17' – 0"	12' – 0"

- 6.7.14.4.4 A minimum of one (1) space per development, plus one (1) per every twenty-five spaces of parking required under section 6.7.14.3, above, shall be designed and dedicated for the use of people with disabilities. Spaces so designated shall be a minimum of twelve-and-one-half (12 ½) feet wide and marked with pavement marking or signage.
 - 6.7.14.4.5 Parking spaces and traffic flow shall be clearly indicated with signs or surface markings. If the parking spaces are not angled at 90 degree to the access aisle, the aisle shall be marked for one-way traffic only.
 - 6.7.14.4.6 Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- 6.7.14.5 Loading Facilities: Commercial, industrial and other non-residential and non-agricultural uses shall provide, as necessary, off-street loading facilities sufficient to handle the delivery requirements of the use. Such facilities shall be sited so that trucks, trailers, and other containers shall not be located, parked, or maneuvered for loading, unloading, or storage so as to impede traffic on any public way.
- 6.7.14.5.1 No loading area shall be located between the principal structure and the front lot line or street if other practical options exist on the lot. Loading docks shall not face the street frontage.
 - 6.7.14.5.2 Retail, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet shall provide a minimum of one (1) bay, plus one (1) additional bay for every fifty thousand (50,000) square feet of gross floor area, up to a maximum of five (5) bays.

6.7.14.6 Lot Design and Circulation:

- 6.7.14.6.1 The design of parking lots may be required to reflect the incorporation of trees to reduce solar heating in the summer and to act as wind breaks. At minimum, lots shall be provided with at least one (1) two and one-half inch (2½”) caliper shade tree per twenty parking spaces, located throughout the lot.
- 6.7.14.6.2 Lots shall be designed so that interior circulation and parking does not interfere with vehicles entering or exiting the public street. Adequate throat depth will be provided based on the expected number and type of vehicle trips.
- 6.7.14.6.3 Enclosures, such as guardrails, curbs, fences, walls and landscaping, shall be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.
- 6.7.14.6.4 If sidewalks exist or are planned along the street, safe pedestrian access from the sidewalk to building entrances must be provided. Pedestrian crossings of paved parking or circulation areas must be marked with crosswalk signs and pavement markings.

6.7.14.7 Paving of Parking Lots:

- 6.7.14.7.1 Where required or provided, all areas intended for vehicle circulation or parking shall be surfaced with a minimum of six (6) inches of gravel meeting MDOT spec. 703.06C for a base course beneath six (6) inches of crushed gravel meeting MDOT spec. 703.06A for a surface.
- 6.7.14.7.2 Parking lots consisting of more than three thousand (3,000) square feet must be paved with a bituminous-type paving material. The use of porous paving materials (porous asphalt or pervious concrete) to aid in the management of stormwater and reduce ice and water buildup on parking lots is highly recommended. Porous paving materials must be installed by a licensed contractor certified in the installation of the system to be used.

6.7.15 Landscape Integration

All development shall preserve the existing natural landscape insofar as practicable and, where required, shall install vegetative or barrier landscaping for the purpose of reducing stormwater and visual impacts within the site and upon neighboring properties.

- 6.7.15.1 All subdivision plans shall show designated building envelopes within the development. Building envelopes shall be set so as to preserve existing wooded areas, areas with slopes exceeding twenty (20) percent, wetland areas, and any natural areas identified in the Monmouth Comprehensive Plan.
 - 6.7.15.1.1 Unless located within the service area of the public sewer system, the clearing limits for a development proposed within existing wooded areas shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public

roads and along the outside perimeter of the property to be developed. The buffer may be broken only for driveways and streets.

6.7.15.1.2 Within rural areas, clearing limits should be located so as to reduce the visual impact of new buildings from the street or from identified areas of high scenic value.

6.7.15.2 Where not located within an existing wooded area, all commercial and multi-family residential development shall be effectively screened from the view of adjoining residential properties. Measures to achieve an effective screen may include coniferous vegetation in a strip at least ten (10) feet in width, a solid wood fence, or a combination of these measures. Fencing shall be erected with a finished side facing the adjoining property, and must be a minimum of six (6) feet in height and located a minimum of five (5) feet from the property line.

6.7.15.3 All vegetation to be planted on the site shall be part of a landscaping plan. The landscaping plan shall demonstrate a variety of species and heights sufficient to achieve the purposes intended. All species shall be selected for suitability for the site, including, where appropriate, roadside conditions.

6.7.16 Business Signs

All business signs shall be described at the time of development approval. Signs shall be erected in conformance with the standards of this section and approval of the planning board, provided that signs erected on property which do not conform to the original approval may be considered and approved as a minor modification to the plans.

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures shall not detract from proposed buildings and the surrounding properties, through conformance with the following standards:

6.7.16.1 No sign shall be located in, or extend over, the street right-of-way, nor shall any sign reduce or obstruct traffic visibility or present a safety hazard.

6.7.16.2 Not more than two (2) signs, building-mounted or free-standing, shall be permitted per premise or per business enterprise.

6.7.16.3 Except for directional signs permitted under the Maine Travelers Information Services Act, no free-standing sign shall be located within ten (10) feet of any street right-of-way line nor within twenty (20) feet of adjacent property lines.

6.7.16.4 External illumination of signs may be provided only by steady, stationary, shielded light sources directed solely on the sign so as not to cause glare for motorists, pedestrians or neighboring premises.

6.7.16.5 Electronic Message Signs are subject to the following standards:

6.7.16.5.1 The installation of an electronic message sign on existing property may be approved by the Code Enforcement Officer as a minor modification to the existing site.

6.7.16.5.2 Electronic message signs are permitted to be located only within the Maine DOT-designated Urban Compact Area, or on US Route 202 between the Blue Road and the Winthrop town line, or on State Route 126 within 1,500 feet of the intersection with South Monmouth Road. Only one (1) electronic message sign is permitted per premises.

6.7.16.5.3 Electronic message signs shall consist of a single frame of text or graphics which may be changed with a minimum hold time of five (5) seconds between frame changes. Signs which display only time and temperature may change with a minimum hold time of two (2) seconds. Frames shall contain static images with no flashing, intermittent, or moving light or lights. A frame effect such as a scroll or travel may be used between frames, provided lighting does not vary in intensity.

6.7.16.5.4 Except for time and temperature displays, all electronic message signs shall be turned off within one (1) hour of the daily closing of a business to within one (1) hour of the following day's opening.

6.7.16.7 All signs shall be permanently affixed to the ground or building. Portable Signs, including but not limited to trailer-mounted signs, shall be prohibited, except under the following circumstances:

- i. advertising for a new businesses not to exceed thirty (30) days.
- ii. signs designed to be carried into the business building at the close of the business day.

6.7.17 Outdoor Lighting

All lighting and reflective properties of the proposed development shall be designed to minimize adverse impact on adjacent properties and public ways. No development shall produce a strong, dazzling light or reflection of light onto neighboring properties or public ways so as to create a nuisance condition for an adjacent property owner or impair the vision of the driver of any vehicle upon that way.

Lighting fixtures shall be shielded or hooded, and placed so that the lighting elements are not exposed to normal view by motorists or pedestrians or from adjacent dwellings.

If abutting property contains an existing or proposed residential use, illumination at the property line shall not exceed 0.5 foot-candles.

6.7.18 Noise

6.7.18.1 No development shall be permitted to produce noise which, by character of its loudness or frequency, constitutes an irritant to neighboring uses or the general public. Any development reasonably anticipated to produce such noises must demonstrate that the source of such noise is located, oriented, muffled or otherwise limited to the maximum permitted sound levels.

6.7.18.2 The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity shall be limited according to the abutting use and time period, as listed below. Sound level shall be estimated at a level 4 feet above ground at the property boundary of the source.

*Sound Pressure Level Limits Using the
Sound Equivalent Level of One Minute (leq 1)*

<u>Abutting Use</u>	<u>7am-10pm</u>	<u>10pm-7am</u>
Residential	60	45
Commercial	65	55
Industrial	70	60

Noise shall be estimated according to the A-weighted response scale, fast response on a meter conforming to the American National Standards Institute “American Standard Specification for General Purpose Sound Level Meters.” Noise estimates shall be based only on sound to be generated by the development, excluding background, or ambient noise.

- 6.7.18.3 The following activities within a development shall not be subject to sound level limitations:
- i. Noises created by construction and temporary maintenance activities between 6:30am and 8:00pm.
 - ii. The noises of safety signals, warning devices, emergency pressure relief valves and any other emergency activity.

6.8 Development Standards for Specified Activities

This section contains development standards tailored to specific forms of development based on their unique characteristics or features. The standards in this section do not apply outside of the specified use.

6.8.1 Open Space and Clustered Residential Subdivision

This section governs subdivisions which are proposed to differ from conventional subdivisions by the provision of undeveloped space for recreation or environmental protection in exchange for increased lot density within the developed area.

- 6.8.1.1 Development and Lot Design: To be eligible for treatment under the standards of this section, a minimum of 40 percent (40 %) of the area of the parcel to be subdivided must be reserved as open space meeting the criteria of section 5.8.1.3. Land area so reserved shall be clearly denoted on the subdivision plan with the notation “Reserved Open Space Not to be Developed.”

Building lots shall be oriented on the parcel to be developed so as to achieve multiple objectives: to minimize environmental impacts, to minimize costs of providing public water, sewer and road access, to provide individual lot access to the common open space, and to minimize visual impacts of development.

All building lots shall be shown on a subdivision plan with a building envelope.

6.8.1.2 Dimensional Requirements: Minimum required lot area and frontage shall be reduced according to whether the individual lots are served by the Monmouth Sanitary District, unless designed as a condominium form of ownership.

6.8.1.2.1 Development Served by the Public Sewer: Individual lots may be reduced to a minimum area of 10,000 square feet. Lots fronting on an existing public street may reduce street frontage to 75 feet.

Further, if at the time of application, the applicant demonstrates legally binding restrictions limiting occupancy to affordable incomes (as defined) or seniors, individual lots may be reduced to a minimum area of 5,000 square feet. Minimum frontage required on all streets may be reduced to 60 feet. If the applicant chooses to restrict only a portion of the proposed lots, the minimum lot size reduction shall only apply to those lots restricted.

6.8.1.2.2 Development NOT Served by the Public Sewer: Individual lots may be reduced to a minimum area of 24,000 square feet. Lots fronting on an existing public street must have a minimum street frontage of 150 feet. Lots fronting on an existing or proposed private road must have a minimum street frontage of 100 feet.

Further, if at the time of application, the applicant demonstrates legally binding restrictions limiting occupancy to affordable incomes (as defined) or seniors, individual lots may be reduced to no less than 20,000 square feet. Minimum frontage required on all streets may be reduced to 100 feet. If the applicant chooses to restrict only a portion of the proposed lots, the minimum lot size reduction shall only apply to those lots restricted.

6.8.1.3 Unit Density: If the development is proposed to be a condominium form of ownership on which all units are situated on a single lot owned in common, the permitted density shall be calculated based on the number of lots that would have been permitted on the net buildable area of the original parcel. The “net buildable area” is defined as the acreage of the parcel remaining after deduction of wetlands, floodplain, and ground slope exceeding twenty (20) percent.

If the development will be served by the public sewer, the permissible unit density will be one per 10,000 square feet of net buildable area. If at the time of application, the applicant demonstrates legally binding restrictions limiting occupancy to affordable incomes (as defined) or seniors, the permissible unit density will be one per 5,000 square feet of net buildable area.

If the development will NOT be served by the public sewer, the permissible unit density will be one per 24,000 square feet of net buildable area. If at the time of application, the applicant demonstrates legally binding restrictions limiting occupancy to affordable incomes (as defined) or seniors, the permissible unit density will be one per 20,000 square feet of net buildable area.

6.8.1.4 **Character of Open Space:** Open space proposed to be reserved must be of a character and design intended to provide significant recreational and/or environmental benefits. The following standards must be met.

6.8.1.4.1 Reserved open space shall contain areas of wetland and critical wildlife habitat, if located on the parcel, but shall not be limited to those areas. Generally, a minimum of 1/3 (one-third) of reserved land shall be suitable for recreational uses.

6.8.1.4.2 Reserved open space shall be accessible to all owners of property within the subdivision without necessitating crossing of non-reserved private land.

6.8.1.4.3 If located within 2,000 linear feet of the intersection of Routes 135 and 132 in Monmouth Center or the intersection of New Street and Main Street in North Monmouth, or within any area designated for public acquisition in a Monmouth Open Space or Comprehensive Plan, a portion of the reserved open space useable for public recreation shall be offered to the Town of Monmouth in accordance with the provisions of 6.8.1.4.5 (1) or (2), below.

6.8.1.4.4 Reserved open space shall be legally restricted from future development of any kind, except for structures in support of passive recreation. The reserved land may be used for managed agriculture or forestry.

6.8.1.4.5 Ownership of the reserved open space shall be limited to one of the following options:

- (1) Dedication to the Town or a suitable land trust, if either is willing to accept the dedication.
- (2) Dedication of a conservation easement or development rights to the Town or a suitable land trust with ownership and maintenance responsibilities remaining with the original owner or homeowners association.
- (3) Common ownership of the open space by a homeowners' association which assumes full responsibility for its maintenance.
- (4) Deed-restricted private ownership which shall prevent development and/or subsequent subdivision of the open space and provide maintenance responsibility. This option may apply only if open space is part of an existing farm, working or not, and there is a plan to farm by the owner.

6.8.2 **Manufactured Housing Parks**

This section governs subdivisions which are proposed to differ from conventional subdivisions in that all land and lots within the subdivision are used solely for the placement of manufactured housing units.

6.8.2.1 **Parks Limited to Land Accessible to Public Sewer:** New manufactured housing parks not located on public sewer are not permitted. This shall not be construed to prohibit the establishment of manufactured housing subdivisions on lots conforming to the dimensional standards of section 4.1.1.1.

- 6.8.2.2 A manufactured housing park legally existing prior to the date of this ordinance may continue and may be expanded in compliance with other sections of this ordinance.
- 6.8.2.3 Submission Requirements: In addition to the requirements of Section 6.4 of this ordinance, an applicant for a manufactured housing park shall submit:
- i. A description of the proposed form of ownership of units within the park, and
 - ii. A copy of the proposed park rules to be implemented.
- 6.8.2.4 Dimensional Requirements: Lots within a manufactured housing park shall comply with the dimensional standards of sections 4.1.1.3, 4.1.2.4, 4.1.3.2.2, and 4.1.3.4.2, except as follows:
- 6.8.2.4.1 The planning board is authorized to allow a reduction in the minimum lot size to no less than five thousand (5,000) square feet where the development plan shows the precise location on each lot where the pads will be placed, provided those locations meet setback, parking, and other requirements.
- 6.8.2.4.2 The planning board is authorized to allow a reduction in the minimum lot size to no less than five thousand (5,000) square feet where either all of the units within the park will be owned by the park management, *or* where park rules limit occupancy of units to persons aged 60 or over.
- 6.8.2.5 Buffering and Screening: Unless the average lot size within a manufactured housing park exceeds 10,000 square feet, the development shall comply with the provisions of section 6.7.15.3 of this ordinance regarding buffering. Land area utilized for a vegetative buffer shall not be part of the individual lots to be rented or leased.
- 6.8.2.6 Parking Requirement: The development plan shall provide a minimum of two (2) parking spaces per lot or unit.
- 6.8.2.6.1 At least one (1) space must be provided upon each lot.
- 6.8.2.6.2 Any parking area intended for common use, including tenant or visitor parking, must comply with the design standards of section 6.7.14 of this ordinance.
- 6.8.2.6.3 Unless internal park roads are paved to a minimum width of twenty-four (24) feet, no parking spaces shall be located along the road, and the road shall be posted to prohibit parking.
- 6.8.2.7 Recreation or Open Space Areas: Open space shall be provided within a Manufactured Housing park in the amount of no less than five (5) percent of the aggregated lot area. Land allocated to open space may include required buffer areas. A significant portion of the open space shall be useable for active or passive recreation. The planning board may require the developer to make improvements within the open space to support active or passive recreation, based on the anticipated nature of the park tenants.

6.8.2.8 Park Streets and Sidewalks: All streets within the Manufactured Housing park shall conform to the requirements of the Monmouth Streets and Ways Ordinance for local roads, except that shoulders are not required and no right-of-way will be designated. If sidewalks are to be installed, they shall conform to section 6.7.12.2 of this ordinance.

6.8.2.9 Manufactured housing Sales: A manufactured housing park shall not be used to market Manufactured Housings which are not intended for use within the park. Any Manufactured Housing offered for sale must be installed on a pad on a designated lot within the park.

6.8.2.10 Limitation on Size of Manufactured Housing Unit: Manufactured housing units to be placed within a manufactured housing park shall be limited to ten (10) feet in height, and to a gross floor area of two thousand (2,000) square feet.

6.8.2.11 Movement of manufactured housing

6.8.2.11.1 Purpose

The purpose of this section is to regulate the moving of manufactured homes, house trailers and mobile homes within and beyond the municipal boundaries of the town and to ensure the safety and general welfare of the public. The park owner shall not allow any person to move or cause to be moved within or beyond the municipal boundaries of the town any manufactured homes, house trailers and mobile home that has been established within town six months or more without first obtaining a statement from the tax collector that no tax liens, tax assessments or other assessments are levied against the mobile home. The person shall further ensure that all licenses and permits necessary have been obtained prior to movement of this structure.

6.8.2.11.2 Violations

A person who violates this section shall be punished to the full extent of the law

6.8.2.12 Park License

A park license shall be issued by the Board of Selectmen when the Board is satisfied as to the conformance of the manufactured home, house trailer or mobile home park with the provisions of this article. No manufactured home, house trailer or mobile home is to be located on any site within a manufactured home, house trailer or mobile home park until a park license covering that site has been issued by the Board of Selectmen. There shall be no charge for the initial license, which shall cover the period from the date of the granting of the license to the following May 1. Licenses shall be renewable annually on May 1, with an annual fee of \$50.00. An annual list of all mobile home owners as of April 1 shall be submitted to the assessor prior to renewal. If mobile home park owner fails to comply submitting the annual list by renewal date of the license then the Board of Selectmen will impose a fee of \$25.00 per day until park owner complies. Annual licenses shall be required for manufactured home parks, house trailer or mobile home which falls within the definition of this article.

6.8.3 **Multi-Family Developments: Conversions of Existing Dwellings:**

This section governs the conversion of a single family house or buildings accessory into two or more dwelling units, one of which will be occupied by the owner of the property.

6.8.3.1 The addition of a single dwelling unit to an existing residential building shall require only a building permit from the Code Enforcement Officer. The addition of two (2) or more dwelling units to an existing residential building must be reviewed as a subdivision according to the procedures of section 5.2 of this ordinance. In all instances, the requirements of this section shall be applied.

6.8.3.2 Lot Area Requirements:

6.8.3.2.1 If served by public sewer:

6.8.3.2.1.1 Minimum lot size for three (3) or fewer dwelling units – None

6.8.3.2.1.2 Minimum lot size for four (4) units -- 40,000 square feet.

6.8.3.2.1.3 Each additional unit over four shall require an additional 5,000 square feet of lot area.

6.8.3.2.2 If the lot is not served by public sewer, each dwelling unit shall require 40,000 square feet of lot area.

6.8.3.3 **Building Standards:** The existing buildings shall not be substantially enlarged. The footprint of existing buildings may be expanded by no more than five (5) percent. An expansion of greater than five percent shall be considered new development, to be reviewed under section 6.8.4 of this ordinance.

6.8.3.4 **Signs:** One sign, not to exceed (3) feet by (4) feet, may be placed identifying the building and advertising vacancies.

6.8.3.5 **Parking:** One off-street parking space shall be provided for each bedroom or studio apartment to be developed, in addition to two spaces for the original dwelling unit. Parking shall not be located between the house and the street, and shall be oriented or screened so that headlights do not provide a nuisance to adjoining residences. No parking or travel ways shall be placed within five (5) feet of any lot line.

6.8.3.6 **Lighting:** A single yard light may be installed to provide illumination for the parking area.

6.8.4 New Multi-Family Development

This section governs development which is proposed to differ from conventional subdivisions in that three (3) or more dwelling units are proposed to be placed within a building. In addition to the design standards of section 6.7 of this ordinance, multi-family development shall comply with the following standards.

6.8.4.1 Lot Area Requirements:

- 6.8.4.1.1 On sites served by the public sewer system, a multi-family development shall contain no more than one dwelling unit per 10,000 square feet, except as provided in subsection (2) below.
- 6.8.4.1.2 On sites served by the public sewer system, the planning board may permit an increase in density to no greater than one unit per 5,000 square feet where the applicant demonstrates legally binding restrictions limiting occupancy of the dwelling units to affordable incomes (as defined) or seniors.
- 6.8.4.1.3 On sites not served by the public sewer system, a multi-family development shall contain no more than one dwelling unit per 24,000 square feet.
- 6.8.4.2 **Parking:** The development shall comply with the standards of section 6.7.14 of this ordinance for parking and circulation, except that the requirement of section 6.7.14.3 for 1.5 parking spaces per unit may be reduced to one space per unit where the applicant demonstrates legally binding restriction limiting occupancy of the dwelling units to seniors.
- 6.8.4.3 **Garages, sheds, and other accessory buildings** shall be located to side or rear of the principal buildings and shall be placed so as not to inhibit the access of emergency vehicles to the principal building.
- 6.8.4.4 **Recreation Areas:** Recreational space shall be provided within a multi-family development in the amount of no less than ten (10) percent of gross floor area of all principal buildings. The recreation space shall be useable for active or passive recreation. The planning board may require the developer to make improvements to support active or passive recreation, based on the anticipated nature of the multi-family occupants.
- 6.8.4.5 **Condominiums:** If the multi-family development will be a condominium form of ownership, the applicant shall submit proposed articles of incorporation for a condominium association, providing for adequate maintenance of all common fixtures and property.

6.8.5 **Wireless Communications Facilities**

This section governs communications towers, receivers, and associated facilities used primarily for commercial purposes. Personal communication antennae and support structures, including but not limited to satellite dishes for home use, and ham radio antennae, are not subject to the standards of this section.

- 6.8.5.1 **Dimensional Requirements:** All facilities shall comply with the dimensional requirements of section 4.1 of this ordinance for the creation of new lots, unless superseded by the standards of this section. Dimensional requirements do not apply to leased land.
- 6.8.5.2 **Setbacks.** Towers shall be set back from street rights-of-way and property lines by a distance equal to the height of the tower, plus ten (10) feet or by a distance equal to 110 percent of the height of the tower, whichever is greater. All tower supports and peripheral anchors shall be located entirely within the boundaries of the property and shall be not less than ten (10) feet from the property line.

- 6.8.5.3 **Height:** Towers may not exceed the height of 150 feet above ground surface. The height shall be measured from the natural, undisturbed ground surface below the center of the base of the tower to the top of the tower structure *exclusive* of antennae or equipment to be mounted on the tower.
- 6.8.5.4 **Structural Requirements:** No facility shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. Any tower shall be designed and maintained to withstand without failure the maximum forces expected from wind, earthquakes and ice when the tower is fully loaded with antennas, transmitters and other equipment, and camouflaging. Initial demonstration of compliance with this requirement shall be provided by submission of a report prepared by a structural engineer licensed by the State of Maine describing the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.
- 6.8.5.5 **Visual Impacts:** All facilities shall employ materials and colors that blend with the surroundings. They shall be initially painted and thereafter repainted as necessary with a non-reflective “flat” paint. The color selected shall be one that will minimize their visibility to the greatest extent feasible. Vegetative buffering must be provided to screen the facility, at ground level, from adjacent land uses. Any facility located on one of the town’s ridgelines identified as a visual resource in the Comprehensive Plan shall be placed so as to minimize its silhouette against the sky. No tower shall be installed within two miles of another tower unless it is planned and permitted as a multiple-user site, or camouflaged so as to simulate a natural feature of the environment.
- 6.8.5.6 **Lighting:** All facilities shall be unlit except for a manually operated or motion-detector controlled light above the equipment shed door which shall be kept off except when personnel are actually present at night.
- 6.8.5.7 **NIER Exposure:** Communications facilities may not emit unsafe levels of non-ionizing electromagnetic radiation (NIER) levels beyond the tower site’s boundaries. No facility or combination of facilities shall produce at any time power densities at property lines that exceed the ANSI C95.1-1992 standard for human exposure.
- 6.8.5.8 **Co-location and Multiple Use of Sites:** All co-located communication facilities and multiple-user sites shall be designed to promote facility and site sharing. Towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities and equipment buildings shall be shared by site users when this will minimize overall visual impact.
- 6.8.5.9 **Security:** Security measures, in accordance with industry standards, shall be placed no less than fifty (50) feet from the base of all towers, guide wires, buildings, and other structures associated with the development.
- 6.8.5.10 **Removal:** Tower operators shall notify the CEO within sixty (60) days of the facility going out of operation of their intention for the tower in the future. If there is no future use intended for the tower, it must be dismantled and removed from the site within twenty-four

(24) months after the tower is no longer in use. If the tower is not removed, the Town may cause the removal of the tower. The cost of such removal shall be placed as a lien against the subject property.

6.8.6 Commercial Wind Energy Conversion Systems

This section governs wind energy systems with a rated output of more than 100 kW, installed for the primary purpose of sale of the energy.

6.8.6.1 Setbacks:

6.8.6.1.1 If a facility is to be sited on existing farmland, towers shall be a minimum setback distance from all surrounding property lines equal to 1.25 times the height of the tower. No structural development other than that directly connected with the facility, will be permitted in the setback zone.

6.8.6.1.2 Facilities on non-farmland will be required to meet a minimum setback distance from all property lines equal to 1.5 times the height of the tower plus the length of one blade.

6.8.6.2 The minimum distance between the ground and any part of a rotor blade system shall be fifty (50) feet.

6.8.6.3 Towers shall not be artificially lighted, except as required by the FAA or other applicable authority. All lights shall be designed to minimize visibility from the ground to the extent allowed by the FAA or other applicable authority.

6.8.6.4 Turbines shall have an automatic braking, governing, and/or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades and turbine components caused by extremely high winds, icing or other weather phenomena.

6.8.6.5 The tower and all ground-level equipment such as guide wires, transformers, and substations shall be enclosed within a security fence at least eight (8) feet in height.

6.8.6.6 Towers and turbines shall not contain advertising except for reasonable identification of the manufacturer or operator of the wind energy facility. Appropriate warning signs shall be placed on electrical equipment and facility entrances.

6.8.6.7 Visual Impacts: All facilities shall employ materials and colors that blend with the surroundings insofar as possible. They shall be initially painted and thereafter repainted as necessary with a non-reflective "flat" paint. The color selected shall be one that will minimize their visibility to the greatest extent feasible. Vegetative buffering must be provided to screen the facility, at ground level, from adjacent land uses. Any facility located one of the town's ridgelines identified as a visual resource in the Comprehensive Plan shall be placed so as to minimize its silhouette against the sky.

- 6.8.6.8 The facility shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as a) electrical equipment boxes on or near the ground that can provide shelter and warmth, or b) horizontal perching opportunities on the towers or related structures.

6.8.7 Small Wind Energy Systems

This section governs wind energy systems with a rated capacity of not more than 100 kW, used primarily for residential or agricultural purposes, and with an installed height of thirty-five (35) feet or more.

- 6.8.7.1 **CEO Permit Required:** A building permit issued by the CEO is required prior to construction. Applications for a permit shall include the following elements:
- a. Site plan to scale, showing the location of the proposed system and the locations of all existing buildings, structures and property lines.
 - b. An elevation drawing of the facility to scale showing the height, design and configuration of the system in relation to existing structures, buildings, electrical lines and property lines.
 - c. Standard drawings and an engineering analysis of the systems tower including weight capacity.
 - d. A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site.
 - e. Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system including the name and address of the manufacturer.
 - f. Emergency and normal shutdown procedures.
 - g. Verification that that the installation conforms to all applicable electrical codes and will be installed by a licensed professional.
 - h. Evidence that the provider of electrical service to the property has been notified of the intent to install an interconnected electricity generator unless the system will not be connected to the electricity grid.
- 6.8.7.2 **Minimum Lot Size.** No wind energy system shall be erected on any lot less than one acre in size.
- 6.8.7.3 **Total Height and Setback:** The structure shall be setback from all occupied buildings and property lines a minimum of 1.1 times the height of the structure, unless the building is occupied by the person who will own the system.
- 6.8.7.4 **Multiple Systems.** The addition or expansion of additional systems which cause the overall capacity to exceed 100 kW shall require review as a commercial system under the requirements of section 6.8.6.
- 6.8.7.5 **Minimum Blade Clearance:** The minimum clearance of the lowest extent of a turbine blade shall be 20 feet above the ground or 20 feet above the highest point of any structure or obstacle within 20 feet from base of the turbine.

- 6.8.7.6 **Access:** No tower shall have a climbing apparatus within 12 feet of the ground. All access doors or access ways to towers and electrical equipment shall be lockable.
- 6.8.7.7 **Noise:** The installation shall comply with the standards of section 6.7.18 of this ordinance.
- 6.8.7.8 **Visual Appearance:** The system shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. Systems shall be lighted only if required by Federal Regulations. No advertising signs of any kind or nature shall be permitted on the system.
- 6.8.7.9 **Electrical Interconnections.** All electrical interconnection or distribution lines shall be underground, unless attached to a building, and comply with all applicable codes and public utility requirements.
- 6.8.7.10 **Signal Interference:** Efforts shall be made to site the system to reduce interference with television and other communication signals. No system shall cause permanent and material interference with television or other communication signals.
- 6.8.7.11 **Overspeed Controls.** Every small wind energy system shall be equipped with both manual and automatic over speed controls.
- 6.8.7.12 **Abandonment:** If the CEO determines that a system has been abandoned, the Owner of the system shall remove it within six (6) months of notification.
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7: Definitions of Terms

All words and terms not defined herein shall carry their customary and usual dictionary meaning. Words used in the singular shall include the plural. Words referring to the present tense shall include the future. References to “person” or “he” shall include persons of all gender.

Abutting Property – Any property with one or more common boundaries, or across the street or stream from, a parcel of land. An *Abutter* is the owner of abutting property.

Accessory Structure or Use – A use or structure which is incidental and subordinate to the principal use or structure. A deck or similar extension of the principal structure, or a garage attached to the principal structure by a roof or a common wall, is considered part of the principal structure.

Aggrieved Party – An owner of land whose property is directly or indirectly affected by the granting or denial of a permit under this Ordinance; a person whose land abuts land for which a permit has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit.

Agriculture – The production, keeping, or maintenance of plants or animals for sale, lease, or personal use. The practice of agriculture, for the purposes of this ordinance, includes the erection and use of buildings and structures for the sale or storage of goods produced on the premises, but does not include value-added processing, or the sale of goods primarily produced off premises.

Affordable Housing - Housing units which are constructed with the intent to sell and/or legally constrained to households with *affordable incomes*: eighty (80) percent or less of the median household income for Kennebec County, as reported by the US Department of Housing and Urban Development.

Applicant - Any person applying for approval under this ordinance.

Buffer Area - A portion of a property or an entire property specifically intended to separate and thus reduce the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources. A buffer area is generally unimproved, except that improvements consisting of landscaping, fencing, earth-mounding or other similar devices, may be installed and maintained.

Building – Any three-dimensional structure which is used or intended for use for the enclosure of persons, animals, or property.

Building Envelope – A space designated on a subdivision or development plan within which a structure is permitted to be built. The building envelope is intended to exclude setbacks, buffer areas, wetlands, and other areas where development is not legally permitted. The appearance of a building envelope on an approved development plan constitutes a commitment to develop only within the designated envelope.

Building Height – The vertical distance between the base of a building, measured at the average grade level of the foundation, and the top of the building, measured at the roof eave of the highest floor.

Cluster or Open Space Subdivision - A subdivision in which the lot sizes are reduced below those normally required in return for the provision of permanent open space.

Commercial Use – The use of lands, buildings, or structures, other than as a home-based business, for the production of income from the production, buying, or selling of goods or services.

Common Open Space/ Common Property - Land or improvements within or related to a subdivision, which are not individually owned, and are designed and intended for the common use or enjoyment of the residents of the development or the general public.

Complete Application - An application shall be considered complete upon submission of the fee and all information required by this ordinance, with the exception of specified information for which the Planning Board votes to waive the requirements.

Comprehensive Plan – The most recently adopted version of the Town of Monmouth Comprehensive Plan.

Conservation Easement - A non-possessory interest in real property imposing limitation 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 specific natural resources; or maintaining air or water quality.

Critical Natural Area – Any geographic area identified by the Comprehensive Plan or by the Maine Department of Conservation Natural Areas Program, or successor agency, as containing plant or animal life or geological or ecological features worthy of preservation in their natural condition.

Density - The number of residential units per acre of land.

Developed Area - Any area on which a site improvement or change is made, including buildings, parking areas, and streets.

Development – Any intentional change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, the construction of additions or substantial improvements to buildings or other structures, or activities that create an intensification of land use or an increased demand for public services. A *Development Plan* is a scale drawing of the area to be developed, including accurate representations of all structures and improvements, and incorporating attachments and subsidiary plans.

Development Rights – The legal right to be able to place a development on property.

Dimensional Standards – Rules within this ordinance governing the size and location of structures, including lot area, setbacks, separation distances, lot coverage, and building 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 this ordinance, 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 the exact location of a watershed boundary that cannot be resolved based on an on-site investigation, the burden of proof shall lie with the applicant to provide the Planning Board with information from a registered land surveyor showing where the drainage division lies.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

Dwelling - Any building or portion thereof designed or used for human habitation. A *Single family dwelling* consists of one dwelling unit within a single building. A *Two family dwelling* contains two dwelling units within a single building. A *Multi-family dwelling* contains three or more dwelling units within a single building.

Dwelling unit - A room or suite of rooms which encompasses interconnected living, cooking, sleeping, and sanitary facilities, designed for use by a single household.

Earth – Topsoil, sand, gravel, clay, peat, rock, or other materials.

Earth Moving – Earth including all aggregates extracted from a property, introduced to a property or relocated from an area within a property to another area within the same property.

Electronic Message Sign – A sign capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed at regular or periodic intervals.

Engineered Subsurface Waste Water Disposal System - A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to treat waste water with characteristics significantly different from domestic waste water.

Expansion - Any increase in the size of an existing building or development which results in greater floor area, increased traffic generation, or increased capacity.

Flag lot – A parcel of land with less than the minimum frontage on a public road situated to the rear of an existing lot with the required minimum road frontage and area. A Flag lot consists of two parts: 1) a corridor from a public road for access and utilities and 2) a lot of at least minimum width and area for residential purposes only.

Frame – A complete, static display screen on an electronic message sign.

Frame Effect - A visual effect used on electronic message signs to transition from one message to another.

Forest Management – Practices involved in the cultivation and harvesting of wood products. The term includes management practices, thinning and pruning, forest road building, tree-cutting and chipping or rough milling on-site, but does not include permanently established sawmills, pellet foundries, chipmills, or transportation operations.

Fresh Water Wetland - 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 which are not part of a great pond, river, stream or brook. Fresh water wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Frontage, Street - The horizontal, straight-line distance between the point of intersection of the side lot lines with the street right-of-way. *Shore Frontage* is the horizontal, straight-line distance between the point of intersection of lot lines and the normal high water mark of a regulated water body.

Gross Floor Area (GFA) – The sum of the gross area all habitable areas of a building or buildings measured from the exterior walls or from the center lines of walls separating two separately-used spaces.

Hazardous Materials – Any waste as designated by the Maine Board of Environmental Protection in Chapter 850 of their rules under the authority of 38 MRSA, Section 1301, et seq. Generally a hazardous waste exhibits one of the following characteristics: ignitability, corrosivity, reactivity and toxicity.

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-Based Businesses – A business, occupation, trade or profession which is carried on on the same parcel of land as a single-family dwelling by a full-time permanent occupant of the dwelling. Such business concerns do not meet the definition of a home occupation, but, with the exception of farms, must conform to the following criteria:

Employees – does not employ more than 4 non-resident employees;
Size – does not utilize a structure larger than 2,000 square feet total;
Noise – does not result in noise levels at the lot lines that exceed those of a residential neighborhood;
Odors – does not result in detectable odors beyond the lot lines;
Parking – does not exceed 10 parking spaces to serve both employees and customers; and
Hazardous materials – if utilized in the business, meets any applicable State or Federal regulations.

Home-based businesses will be reviewed by the Code Enforcement Officer under the provisions of section 5.1.2.1 unless the Planning Board concludes that specific concerns raised by the nature of the activities require that they be reviewed as major developments.

Home Occupation – A business, occupation, trade or profession which is carried on in no more than 25% of the ground area of a dwelling unit or structure accessory to a dwelling unit by a permanent occupant of the dwelling, which does not employ more than 1 non-resident employee, which is clearly incidental and secondary to the use of the property for residential purposes, and which does not change the essential residential character of the property.

Impact Fee – A fee established by town ordinance which allocates the cost of improvements to shared public services among multiple developers.

Impervious Surface – Any hard-surfaced, human-made area that does not readily absorb or retain water, including but not limited to building roofs, paved or graveled parking and driveway areas, sidewalks and paved recreational facilities.

Industrial Uses – Those establishments which create new (or altered) products from raw materials or other products through various processes for ultimate distribution and sale. The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional Uses – Any establishment serving primarily a governmental, educational, fraternal, or other public function, including schools, municipal and state buildings, fraternal buildings, religious facilities, and the customary grounds, playing fields, parking lots, and other outdoor facilities attendant thereto.

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.

Lot Area – the gross area, in square feet encompassed within a lot or parcel of land.

Lot Coverage - The percentage of a lot covered by all buildings and impervious surfaces.

Lot Lines - The lines bounding a lot consist of the following:

Front Lot Line - Interior lots: the line separating the lot from a street or right-of-way. Corner or through lot: the line separating the lot from either street or right-of-way.

Rear Lot Line - The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line.

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

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

Manufactured Housing - A structural unit or units designed and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. For the purposes of this Ordinance, three types of manufactured housing are included. Those are:

1. Those units constructed after June 15, 1976, commonly called *newer Manufactured Housings*, 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. This term also includes any structure which meets all the requirements of the preceding paragraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the U.S. Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, USC, Title 42, Section 5401, et seq.;
2. Those units commonly called *modular homes*, which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, United States Code, 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 dwelling, on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical system, contained in the unit; and
3. Those units called *older Manufactured Housings*, "house trailers" and "trailers," which are terms that may be used interchangeably, and mean any factory built home which fails to meet the definition of "newer Manufactured Housings" above.

Medical Care Facility – A commercial operation which has as its primary purpose the physical or psychological care of persons on an in-patient basis, including, but not limited to, hospitals, rest homes, nursing homes, treatment centers.

Mixed Use – The use of property for a combination of a residential with any non-residential purpose. The uses may be within the same building or on the same premises.

Manufactured Housing Park - A parcel of land under unified ownership approved by the Town for the placement of 3 or more manufactured homes. The *Manufactured Housing Park Lot* is the area of land on which an individual manufactured home is situated within a Manufactured Housing park; and which is reserved for use by the occupants of that home. All individual Manufactured Housing park lots shall be designated on an approved plan for a Manufactured Housing park.

Manufactured Housing Subdivision - A parcel of land approved by the Town for the placement of manufactured homes on individually owned lots.

Multi - Family Development - A subdivision consisting of three (3) or more dwelling units within a each proposed building..

Nonconforming - A building, structure, lot, use of land, or portion thereof, existing on June 26, 1993, or the effective date of an amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Occupancy – The commencement of use of the building or structure for the purpose for which it was erected. A home or business is considered to be *occupied* from the time when the owner or tenant begins to use the property for its primary purpose on a regular basis.

Permanent Foundation - The term means all of the following:

1. A full poured concrete or masonry foundation;
2. A poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
3. A reinforced floating concrete pad, and
4. Any foundation which meets the standards of the Maine Uniform Building Code for one- and two-family dwellings.

Pitched Shingled Roof --A roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excludes corrugated metal roofing material.

Principal Building or Structure – The building or structure occupied by the principal use of the premises.

Principal Use – The primary use to which the premises are devoted and the main purpose for which the premises exist.

Professional Engineer - An engineer, registered to practice in the State of Maine.

Public Water System - A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least thirty days a year.

Recreational Area or Facility – A place designed and equipped for the conduct of indoor and/or outdoor sports, leisure time activities and other customary and usual recreational activities.

Retail business – A commercial operation which has as its primary purpose the sale of goods or merchandise to the general public for personal or household consumption and rendering of services incidental to those goods. The term includes among other things grocery stores, discount stores, gas stations, the sale of live vegetation, and take-out food service.

Right-of-way – All public streets, state and federal highways, private ways and easements, and public land reservations for the purpose of public access, including utility rights-of-way.

Seating Capacity – The maximum permissible occupancy of any public building, including restaurants, meeting rooms, and places of public assembly, as designated by the State Fire Marshal or code requirements.

Setback -- The minimum horizontal distance from a lot line or shore line to the nearest part of a building or other regulated structure.

Sight Distance - The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Sight distance is measured from a point 3.5 feet above ground level ten feet behind the edge of the road to a point 4.25 feet above ground level in the travelled way.

Sign – Any object, device, display, or structure, or part thereof, which is used to advertise, identify, or otherwise attract attention to the existence or location of a business, service, merchandise, organization or public use of a property through the use of words, figures, designs, or symbols. A *free-standing sign* is one which is not directly attached to a building.

Sketch Plan - Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for development approval.

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 right-of-way for vehicular access other than driveways.

A *State highway* is one of the major thoroughfares which serve as traffic ways for travel between and through Monmouth and have seasonal or year-round maintenance by the State of Maine. State highways include US 202, Maine Routes 9/126, 132, and 135, Maple Street, and Cobbooseecotee Road.

A *Local Street* (town way) is a street that is maintained year-round by the Town of Monmouth.

A *Private Street* is a street that is not owned or maintained by the Town or the State, regardless of whether the general public is entitled to access upon it.

A *cul-de-sac* is a circular turn-around at the end of a dead-end street.

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. The term includes, but is not limited to, buildings, commercial display and storage areas, carports, porches, and other building features, including stacks and antennas, but does not include sidewalks, driveways, fences, patios built at grade level, and field, garden, or retaining walls. The definition of structure excludes Sub-Surface waste disposal.

Structural Change – The cutting, adding to or otherwise altering of any support beams or materials necessary to maintain structural integrity of a building.

Substantial Start – The installation of all foundation walls, pilings and first floor deck, or installation of a subsurface wastewater disposal system for a building or structure.

Subdivision – A division of land or buildings as provided in Maine statute, 30-A MRSA, § 4401(4). A *non-conventional subdivision* is any subdivision that does not result in the creation of new lots meeting the dimensional standards of this ordinance.

Temporary Structures – Temporary structures are not attached to any permanent sub structure and include but are not limited to Canvas Garages, Tents, Summer Screen Houses.

Time and Temperature Sign – A type of electronic message sign which displays only public service information such as time, date, and temperature, and which does not display within the frame any symbols or advertising messages.

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 or a private street established by the abutting land owners.

Usable Open Space - That portion of common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture.

Use - The purpose for which land or building or structure or a part thereof is arranged, designed, intended or occupied.

Variance – Judicial relief from dimensional standards of this ordinance granted by the Board of Appeals under specific conditions and following a public hearing.

Vernal Pool – An area of land which, by reason of seasonal high water table, supports specific groupings of plant and animal life, as identified under guidelines promulgated by the Maine Department of Environmental Protection.

Wireless Communications Facility – A tower or other structure mounted with antennae for the purpose of broadcasting or relaying signals for commercial communications services, including commercial radio and television, telephonic, and similar services. The term includes support structures, antennae, maintenance buildings, and all other buildings and structures associated with the service.

Wind Energy Conversion System – A structure built for the purpose of converting the kinetic energy of wind into electrical energy. The term includes all towers, turbines, support structures and machinery associated with the conditioning and provision of wind energy to the electrical system. A *Small Wind Energy System* is one which is used primarily for residential or agricultural use and has a rated capacity of less than 100 kilowatts.

Comprehensive Development Ordinance

Changes 2012

- 1) Change Mobile Home to Manufactured Housing Throughout Document
- 2) Put non-conforming put in own chapter - New chapter 3 and Renumber throughout the rest of the ordinance
- 3) Renumbered Section 4.1.1.1 - reduce minimum lot size on public sewer from 20,000 to 15,000 Sq. Ft.
- 4) Renumbered Section 4.1.2.1 - reduce minimum road frontage on public sewer from 100 to 75 ft
- 5) Renumbered Section 4.1.2.1 - remove the word public so section applies to all roads
- 6) Renumbered Section 4.1.2.3 - Change language so it applies to all lots
- 7) Renumbered Section 4.1.2.4 - Change language so it applies to all lots
- 8) Renumbered Section 4.1.3.1 - Change language to make setbacks easier to understand
- 9) Renumbered Section 4.1.3.2 - Change language to make setbacks easier to understand
- 10) Renumbered Section 4.1.3.4 - Change language to make setbacks easier to understand
- 11) Renumbered Section 4.1.4.1 - Change language to make lot coverage easier to understand
- 12) New Section 4.1.6 – Flag Lots – Requirements for flag lots
- 13) Renumbered Section 5.1.1 – Insert language to authorize Double Fee for failure to get a building permit
- 14) Renumbered Section 6.1.2.1 – Change Development Review Options from 2000 to 5000 sq. ft. as in previous ordinance. Changed Parking from 1000 to 2000 sq. ft. added a new Requirement for Business to single family residential conversions.
- 15) Renumbered Section 6.1.2.2 – Change Development Review Options from 2000 to 5000 sq. ft. as in previous ordinance. Changed Parking from 1000 to 2000 sq. ft.
- 16) Renumbered Section 6.4.1.5h – Changed language to give planning board greater latitude in accepting runoff calculation from qualified individuals or agency’s or engineering firms.
- 17) Renumbered Section 6.7.3.3 – Changed language to give planning board greater latitude in accepting runoff calculation from qualified individuals or agency’s or engineering firms.
- 18) Renumbered Section 6.8.1.2.1 – Changed development Served by public sewer to street frontage of 75 ft. to conform to other sections of ordinance.
- 19) Renumbered Section 6.8.2 – Change language to allow Senior Citizens to own their lot
- 20) Renumbered Section 6.8.2 – Other Changes in sub section of this section to clarify ownership, lot size, dimensional requirements, display for sale, movement and other requirement for manufactured housing parks.
- 21) Renumbered Section 6.8.3 – Clarify Language
- 22) Renumbered Section 6.8.5.1 – Clarify that dimensional requirements do not apply to leased land but to the entire lot the land is leased from.
- 23) Renumbered Section 6.8.6.1.3 – This section is not necessary.
- 24) Renumbered Section 6.8.7.3 – Remove windmill tower height restriction
- 25) Renumbered Section 6.8.7.4 – Ease multiple install restriction on non-commercial systems.
- 26) Renumbered Section 6.8.7.8 – Higher towers may require lighting per federal regulations.
- 27) Added Definition for flag lot.

Comprehensive Development Ordinance Changes 2015

- 1) Deleted Section 4.1.3.2.1 – 70 Foot Setback on Rte. 202
- 2) New Section 4.1.7 Unbuilt Lots of Record
- 3) Section 5.4.4.4 – Added Carbon Monoxide and Heat Detectors
- 4) Section 6.1.2.1 – Removed Redundant Wording and Corrected inconsistent Size Requirement
- 5) Section 6.4.1.4 – Added new section q to comply with State law.