

**LAND USE
ORDINANCE**

OF THE

**TOWN OF
BOWERBANK,
MAINE**

LAND USE ORDINANCE OF THE TOWN OF BOWERBANK, MAINE

TABLE OF CONTENTS

SECTION I: GENERAL PROVISIONS

- 1.1. TITLE
- 1.2. AUTHORITY
- 1.3. PURPOSES
- 1.4. APPLICABILITY
- 1.5. CONFLICT WITH OTHER ORDINANCES
- 1.6. SEVERABILITY
- 1.7. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP
- 1.8. ANNUAL ADMINISTRATIVE REVIEW
- 1.9. EFFECTIVE DATE

SECTION II: NON-CONFORMITY

- 2.1. BURDEN OF PROOF
- 2.2. CONVERSION TO CONFORMANCE ENCOURAGED
- 2.3. CONTINUANCE
- 2.4. NON-CONFORMING LOTS OF RECORD
- 2.5. TRANSFER OF OWNERSHIP

SECTION III: ESTABLISHMENT OF DISTRICTS

- 3.1. DISTRICTS ESTABLISHED
- 3.2. STANDARDS ESTABLISHING DISTRICTS/DISTRICT DESCRIPTIONS
 - Village district (VILLAG)
 - Residential district (RESID)
 - Rural district (RURAL)
 - Forestry district (FORES)
 - Protection district (PROTC)
- 3.3. OFFICIAL ZONING MAP
- 3.4. INTERPRETATION OF DISTRICT BOUNDARIES
- 3.5. DIVISION OF LOTS BY DISTRICT BOUNDARIES
- 3.6. AMENDMENTS TO DISTRICT BOUNDARIES

SECTION IV: SCHEDULE OF USES

- 4.1. ACTIVITIES DESCRIBED
- 4.2. SYMBOLS USED IN SCHEDULE OF USES
- 4.3. USES SIMILAR TO PERMITTED USES
- 4.4. USES SIMILAR TO PROHIBITED USES
- 4.5. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED
- 4.6. SCHEDULE OF USES
 - Resource management activities
 - Resource extraction activities
 - Residential activities
 - Institutional activities
 - Commercial activities
 - Industrial activities
 - Transportation and utilities

SECTION V: LAND USE STANDARDS

- 5.1. DIMENSIONAL STANDARDS
- 5.2. GENERAL STANDARDS
 - Accessory uses
 - Access requirements
 - Access entrances
 - Agricultural management activities
 - Air pollution
 - Archaeological and historic resources
 - Buffers
 - Building/structures/premises maintenance
 - Conformance with comprehensive plan
 - Conversions
 - Density bonus provisions
 - Dust, fumes, vapors, gases, odors, glare and explosive materials
 - Erosion and sedimentation controls
 - Flood hazard areas
 - Garage/yard sales
 - Home occupations
 - Industrial performance standards
 - Junkyards
 - Landscaping
 - Lighting design standards
 - Lot size, setback and coverage requirements
 - Manufactured housing
 - Mineral exploration and extraction
 - Off street parking
 - Off street loading
 - Oil and chemical storage

Pesticide application
Ridgeline high elevation protection
Refuse disposal
Sewage disposal
Signs
Site conditions
Soils
Temporary storage
Topsoil and vegetation removal
Towers
Transient accommodations "bed and breakfast"
Transient accommodations "motel/hotel"
Transient accommodations "rental cabins and cottages"
Utility installation
Yard sales

SECTION VI: ADMINISTRATION AND ENFORCEMENT

- 6.1. CREATION OF ADMINISTRATIVE BODIES AND AGENTS
- 6.2. APPROVAL REQUIRED
- 6.3. APPLICATION REQUIRED
- 6.4. CODE ENFORCEMENT OFFICER PERMIT
- 6.5. PLANNING BOARD PERMIT REVIEW
- 6.6. OTHER PERMITS REQUIRED BEFORE APPROVAL
- 6.7. POSITIVE FINDINGS REQUIRED
- 6.8. VIOLATIONS
- 6.9. COMMENCEMENT AND COMPLETION OF WORK
- 6.10. CERTIFICATE OF OCCUPANCY REQUIRED
- 6.11. ENFORCEMENT
- 6.12. APPEALS
- 6.13. VARIANCES RECORDED
- 6.14. FEE SCHEDULE

SECTION VII: DEFINITIONS

- 7.1. CONSTRUCTION OF LANGUAGE
- 7.2. DEFINITIONS

SECTION I: GENERAL PROVISIONS

1.1. TITLE

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of Bowerbank, Maine", and will be referred to herein as the "Ordinance".

1.2. AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution and Title 30-A, Section 4352 and Title 38, Section 435 et.seq., of the Maine Revised Statutes Annotated.

1.3. PURPOSES

The purposes of the Ordinance are as follows:

1. COMPREHENSIVE PLAN IMPLEMENTATION: To implement the policies and recommendations of the Bowerbank Comprehensive Plan;
2. PROTECTION OF THE GENERAL WELFARE: To assure the comfort, convenience, safety, health and welfare of the present and future inhabitants of the Town of Bowerbank;
3. PRESERVATION OF THE TOWN CHARACTER: To preserve and protect the character of Bowerbank by dividing the Town into districts according to the use of land and buildings and the intensity of such uses;
4. PROTECTION OF THE ENVIRONMENT: To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;
5. PROMOTION OF COMMUNITY DEVELOPMENT: To promote the development of an economically sound and stable community;
6. REDUCTION OF TRAFFIC CRASHES: To lessen the danger of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and insure the continued usefulness of all elements of the existing transportation systems for their planned function;
7. BALANCING OF PROPERTY RIGHTS: To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses;
8. REDUCTION OF FISCAL IMPACT: To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and

9. ESTABLISHMENT OF PROCEDURES/STANDARDS: To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

1.4. APPLICABILITY

This Ordinance shall apply to all land areas within the Town of Bowerbank. All buildings or structures thereafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of this Ordinance. No existing or future building, structure, or land area shall be used for any purpose or in any manner except as provided in this Ordinance.

1.5. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant that imposing the most restrictive or higher standards shall govern.

1.6. SEVERABILITY

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

1.7. AMENDMENTS

1. INITIATION

An amendment to this Ordinance may be initiated by one of the following:

- The Planning Board provided a majority of the board has so voted.
- Request of Board of Selectpersons to the Planning Board.
- Written petition of 10% of the number of registered voters who voted in recent gubernatorial election.

2. HEARINGS

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within 30 days of receiving a proposed amendment, the Planning Board shall make a written recommendation to the Board of Selectmen.

3. MAJORITY VOTE

After receiving the recommendations of the Planning Board, by a majority of the Planning Board members, the amendment may be adopted or rejected by majority vote of the voters at a Town Meeting.

4. **SHORELAND ZONING**

The appropriate State agency shall be notified of applicable amendments to this Ordinance within 30 days after the effective date of such amendments.

1.8. ANNUAL ADMINISTRATIVE REVIEW

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually to the Town Manager and Board of Selectpersons on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Manager and Board of Selectpersons shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance;
2. Enhance the implementation of the purposes of this Ordinance contained in subsection C, paragraphs 1 through 9, above.

1.9 EFFECTIVE DATE

The effective date of this Ordinance, when adopted, and any amendments thereto, shall be effective immediately following its/their adoption or approval at Town Meeting or Special Town Meeting. A copy of this Ordinance, certified by the Town Clerk shall be filed with the Town Clerk and the Piscataquis County Registry of Deeds.

SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS

2.1. BURDEN OF PROOF

The burden of establishing that any non-conforming structure, use, or lot is a lawfully existing non-conforming structure, use of lot as defined in this Ordinance, shall, in all instances, be upon the owner of such non-conforming structure, use, or lot and not upon the Town of Bowerbank. In all cases ownership shall be evidenced by a copy of the deed as registered in the Piscataquis County registry of deeds, or for leased parcels by a copy of the Town Tax Maps.

2.2. CONVERSION TO CONFORMANCE ENCOURAGED

Owners of all existing non-conforming structures and uses shall convert such existing non-conforming structures and uses to conformance whenever possible and shall be required to convert to conforming status as required by this Ordinance.

2.3. CONTINUANCE

The use of any building, structure, or parcels of land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

I. EXISTING NON-CONFORMING USES OF LAND

Continuance of non-conforming uses of land shall be subject to the following provisions:

An existing non-conforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;

If any non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and

A non-conforming use may be moved within the boundaries of the lot provided that the Planning Board finds that the change in location on the lot is appropriate in regards to:

Location and character;
Fencing and screening;
Landscaping, topography, and natural features;
Traffic and access;
Signs and lighting; and
Potential nuisance.

2. EXISTING NON-CONFORMING STRUCTURES

Continuance of non-conforming structures shall be subject to the following provisions:

No such structure shall be enlarged or altered in any way that increases its non-conformity;

Should any structure, exclusive of the foundation, be destroyed, or damaged by any means, exclusive of the planned demolition, said structure may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year; and

A non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is appropriate in regards to:

Location and character;
Fencing and screening;
Landscaping, topography, and natural features;
Traffic and access;
Signs and lighting; and
Potential nuisance.

3. EXISTING NON-CONFORMING USE OF STRUCTURES

Continuance of non-conforming structures shall be subject to the following provisions:

No structure devoted to a non-conforming use shall be enlarged or extended;

Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;

Any non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more consistent with the District's purpose than the existing non-conforming use, at no time shall a use be permitted which is less conforming nor revert back to the previous non-conforming use;

If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;

If any such non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall comply with standards specified by this Ordinance for the district in which such structure is located; and

A structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is appropriate in regards to:

Location and character;
Fencing and screening;
Landscaping, topography, and natural features;
Traffic and access;
Signs and lighting; and
Potential nuisances.

4. **CONSTRUCTION BEGUN PRIOR TO ORDINANCE**

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made, provided application has been subject to substantive review, or a permit that has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of the permit.

2.4. **NON-CONFORMING LOTS OF RECORD**

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map recorded in the Registry of Deeds which at the effective date of adoption or subsequent amendment of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record even though such lot may be contiguous with any other lot in the same ownership, provided that all other provisions of this Ordinance are met.

2.5. **TRANSFER OF OWNERSHIP**

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

SECTION III: ESTABLISHMENT OF DISTRICTS

3.1. DISTRICTS ESTABLISHED

For the purposes of this Ordinance, the Town of Bowerbank is hereby divided into the following districts.

IN THIS ORDINANCE	IN COMPREHENSIVE PLAN
VILLAGE DISTRICT (VILLAG)	Village/Residential District (VRD)
RESIDENTIAL DISTRICT (RESID)	Residential District (RD)
RURAL DISTRICT (RURAL)	Rural Residential District (RRD)
FORESTRY DISTRICT (FORES)	Rural Resource Forestry District (RRFD)
PROTECTION DISTRICT (PROTC)	Rural Resource Protection District (RRPD)

Note: Shoreland Zoning Districts are established in the Town of Bowerbank Shoreland Zoning Ordinance.

3.2. STANDARDS ESTABLISHING DISTRICTS AND DISTRICT DESCRIPTIONS

1. VILLAGE DISTRICT (VILLAG)

a. PURPOSE

The purpose of the Village District is to accommodate existing limited commercial, residential, in-home businesses, retail, service and public land uses while providing an area of the community for similar development.

b. AREAS INCLUDED

The location of the Village District is illustrated on the Land Use Zoning Map of Bowerbank, Maine.

2. RESIDENTIAL DISTRICT (RESID)

a. PURPOSE

The purpose of this district is to provide for the infill development of existing residential areas of the community, with the provision of continued medium density residential growth, encompass areas of existing residential development while maintaining the rural character of the town, and to provide medium density residential opportunities between the higher density Village District and the lower density Residential Districts.

b. AREAS INCLUDED

The location of the Residential District is illustrated on the Land Use Zoning Map of Bowerbank, Maine.

3. RURAL DISTRICT (RURAL)

a. PURPOSE

The purpose of this district is to maintain the rural character of the town; to protect forestry uses (natural resource based industries); to provide open

spaces and to provide for lower-density residential development.

b. AREAS INCLUDED

The location of the Rural District is illustrated on the Land Use Zoning Map of Bowerbank, Maine.

4. FORESTRY DISTRICT (FORES)

a. PURPOSE

The purpose of the Forestry District is to preserve and protect undeveloped woodland, wetland, and areas of significant natural resources for traditional forestry uses, recreational and resource-based activities while allowing development for residential, commercial and light industrial uses.

b. AREAS INCLUDED

The location of the Forestry District is illustrated on the Land Use Zoning Map of Bowerbank, Maine.

5. PROTECTION DISTRICT (PROTC)

a. PURPOSE

The purpose of Protection District is to preserve undeveloped woodland, wetlands and significant areas of natural and/or historical and archaeological resources for the community while providing for development of recreational and resource based activities. To accomplish these goals, efforts will be made to endorse having open lands be permanently set aside thorough grants, gifts, land trusts, irrevocable trusts or purchase to maintain the land in perpetuity as open space.

b. AREAS INCLUDED:

The location of the Protection District is illustrated on the Land Use Zoning Map of Bowerbank, Maine.

6. *SHORELAND ZONING DISTRICTS**

a. PURPOSE

The purpose of the Shoreland Zoning Districts is to administer and enforce ordinances that regulate land use activities within 250 feet of great ponds, rivers and freshwater wetlands and within 75 feet of streams, as defined in the Town of Bowerbank Shoreland Zoning Ordinance, and Title 38 M.R.S.A. sections 435-449, as amended.

b. AREAS INCLUDED

The location of Shoreland Zoning Districts is illustrated on the Land Use Zoning Map of Bowerbank, Maine and defined in the Shoreland Zoning Ordinance.

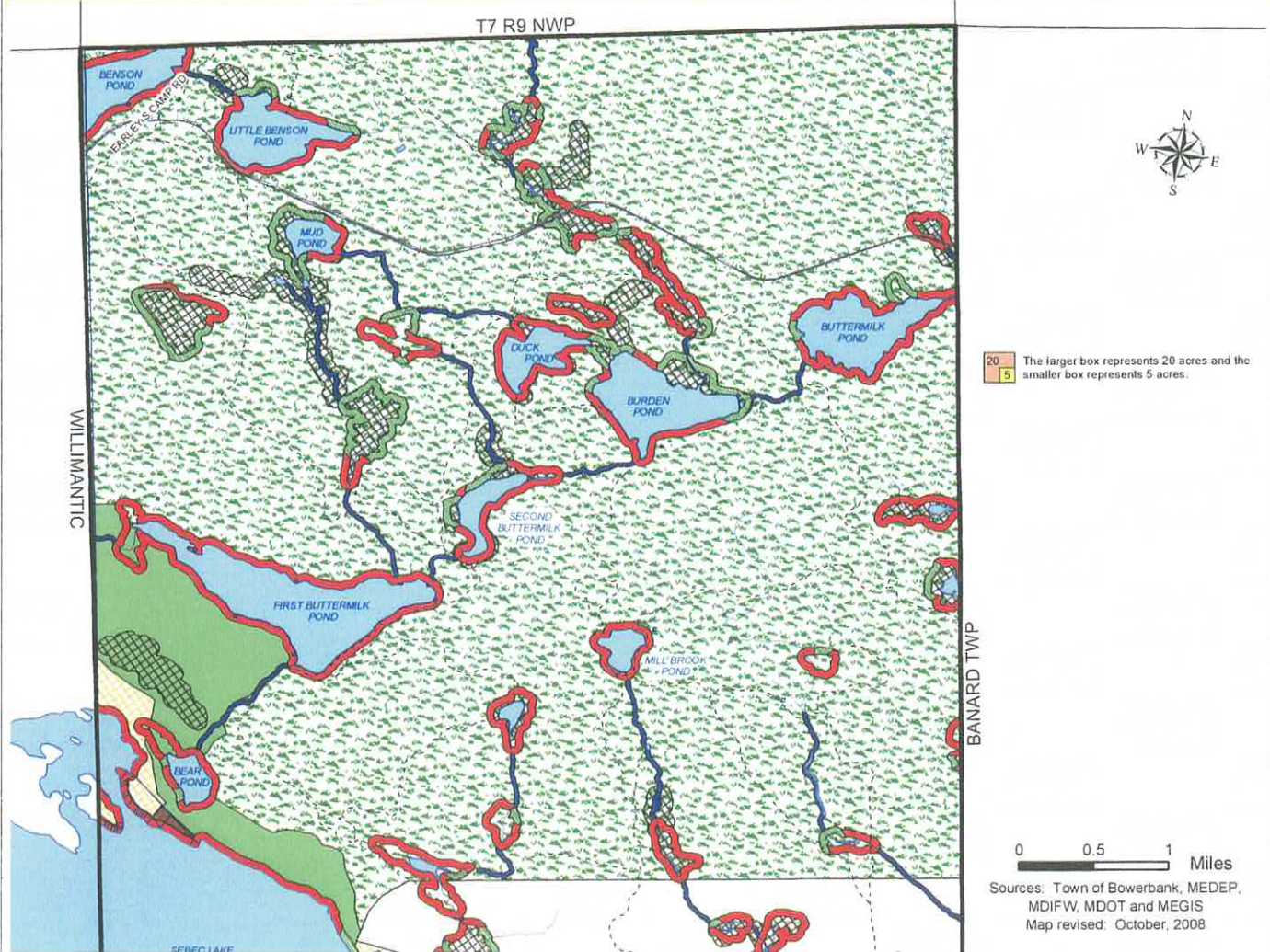
**Important Note: See the Shoreland Zoning Ordinance for the schedule of uses, land use standards, administration and enforcement, and definitions that are applicable to areas within the Shoreland Zoning Districts.*

3.3. LAND USE ZONING MAP OF BOWERBANK, MAINE

Districts established by this Ordinance are bounded and defined as shown on the official "Land Use Zoning Map of Bowerbank, Maine".

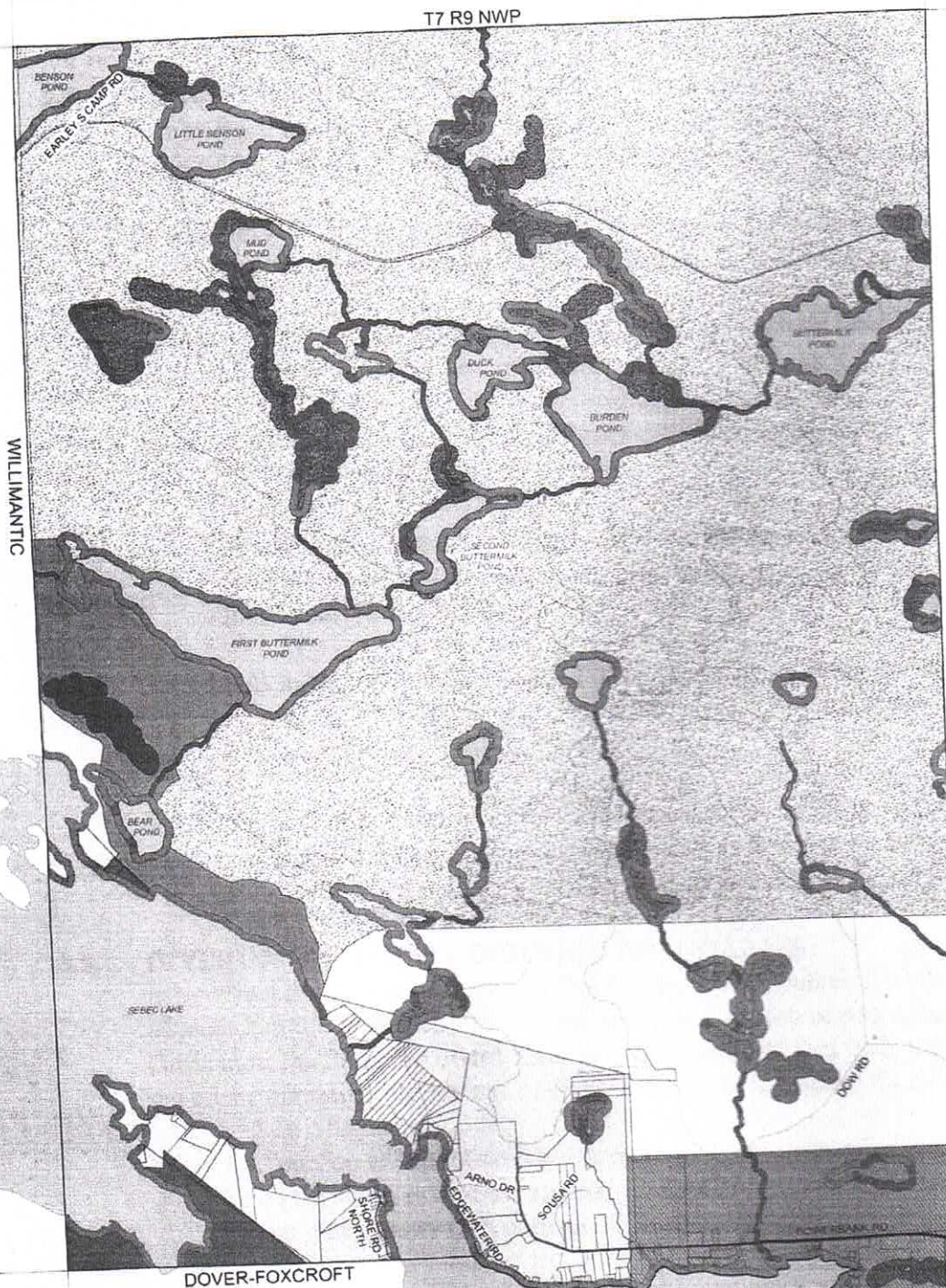
The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk and on file in the office of the Town Clerk.

Bowerbank Land Use Ordinance Zoning Map



Bowerbank Land Use Ordinance Zoning Map

T7 R9 NWP



The larger box represents 20 acres and the smaller box represents 5 acres.

0 0.5 1 Miles

Sources: Town of Bowerbank, MEDEP, MDIFW, MDOT and MEGIS
Map revised: October 2008

LEGEND

- | | |
|--|---------------------|
| — State roads | — Perennial streams |
| — Town roads | — Railroad |
| — Private/undeveloped roads | — Water |
| ■ State Land | — Parcel boundaries |
| ■ Resource Protection - State Identified moderate and high value wetland habitats. 10+ Ac. | |

TOWN ZONES

- Residential District
- Rural District
- Forestry District
- Protection District
- Village District

SHORELAND ZONES

- Limited Residential District
- Resource Protection District
- Stream Protection District

Certified to be true and correct:

Planning Board Chair

Date

Attested by:

Town Clerk

Date



3.4. INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to boundary lines of Districts as shown on the "Land Use Zoning Map of Bowerbank, Maine", the following rules of interpretation shall apply:

Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right of ways shall be construed as following such center lines;

Boundaries indicated as being approximately following shore lines of any lake or pond shall be construed as following the normal high water mark;

Boundaries indicated as being the extension of center lines of streets shall be construed to be the extension of such center lines;

Boundaries indicated as approximately following the center lines of streams, rivers or other continuous flowing water courses shall be construed as following the channel center line of such watercourses;

Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the scale of the map;

Where physical or cultural features existing on the ground are at variance with those shown on the official map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.

3.5. DIVISION OF LOTS BY DISTRICT BOUNDARIES

In the event that a District boundary line divides a lot or parcel of land of the same ownership of record, at the time such line is established by adoption or subsequent amendment of this Ordinance, the Planning Board, after written findings of fact finds that such extensions will not create unreasonable adverse impacts on the existing uses of the adjacent properties, may:

When that portion of the lot which is located in the more restrictive District is greater than ten (10) acres, extend the regulations applicable to the less restrictive portion into no more than twenty (20) percent of the more restrictive portion.

When that portion of the lot which is located in the more restrictive District is less than ten (10) acres, extend the regulations applicable to the less restrictive portion into no more than fifty (50) percent of the more restrictive portion.

3.6 AMENDMENTS TO DISTRICT BOUNDARIES

The Board of Selectmen, of its own initiative, and the Planning Board or any property owner may petition for a change in the boundary of any District. No change in a District boundary

shall be approved without a duly authorized majority vote at a Special or Annual Town Meeting. A warrant article shall not be presented for consideration without written finding of fact upon substantial evidence that:

The change would be consistent with: the standards of the District boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and

The change in District boundaries will satisfy a demonstrated need in the community and will have no undue adverse impact on existing uses or resources; or that a new District designation is more appropriate for the protection and management of existing uses and resources within the affected area. The Board of Selectman will not act upon petition for a change in District boundaries unless notice is first given to all owners of land abutting or located within 1,000 feet of the parcel for which a change in boundaries is sought. The Board of Selectman may require, as a part of any petition for a change in District boundaries, that the petitioner submit the names and addresses of all such surrounding landowners as well as notify all registered voters.

SECTION IV: SCHEDULE OF USES**4.1. ACTIVITIES DESCRIBED**

Tables listing the uses permitted in the various Districts under this Ordinance begin on page 15.

The various land uses contained in the matrix are organized according to the following activity classifications:

Resource Management Activities
 Resource Extraction Activities
 Residential Activities
 Institutional Activities
 Commercial Activities
 Industrial Activities
 Transportation Activities

4.2. SYMBOLS USED IN SCHEDULE OF USES

The following symbols contained in the Schedule of Uses have the following meanings:

1. DISTRICT SYMBOLS

SYMBOL	DESCRIPTION
VILLAG	Village District
RESID	Residential District
RURAL	Rural District
FORES	Forestry District
PROTC	Protection District

2. PERMIT SYMBOLS

SYMBOL	DESCRIPTION
N	Uses prohibited within the District (NOT ALLOWED)
Y	Uses allowed without a permit
CEO	Use permitted with a land use permit issued by the Code Enforcement Officer subject to all applicable standards, as found in this Land Use Ordinance and/or the Shoreland Zoning Ordinance.
PB	Use permitted with a permit from the Planning Board subject to all applicable standards, as found in this Land Use Ordinance or the Shoreland Zoning Ordinance
BMP/DEP	Best Management Practices and State D.E.P standards

g	Non-commercial uses for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located	Y	Y	Y	Y	Y
h	Accessory uses and structures that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO

4.6.2. RESOURCE EXTRACTION ACTIVITIES

	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Commercial timber harvesting	Y	Y	Y	Y	Y
b	Production of commercial agricultural products	N	PB	PB	N	N
c	Mineral extraction for road building materials only, affecting an area of less than 2 acres in size	Y	Y	Y	Y	Y
d	Mineral extraction operations for road building materials affecting an area 2 acres or greater in size	Y	Y	Y	Y	Y
e	Accessory use and structures that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO

4.6.3. RESIDENTIAL ACTIVITIES

	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Single-Family Detached Dwelling	CEO	CEO	CEO	CEO	N
b	Single-Family Mobile Home	CEO	CEO	CEO	CEO	N
c	Multi-Family Dwelling: Duplex	PB	PB	PB	PB	N
d	Multi-Family Dwelling: 3 or more families, including apartments	PB	PB	PB	PB	N
e	Mobile Home Park	N	PB	N	N	N
f	Nursing Home/Boarding Care	PB	PB	PB	N	N
g	Home Occupations	Y	Y	Y	Y	N
h	Accessory uses or structures that are essential for the exercises of uses listed above.	CEO	CEO	CEO	CEO	CEO

4.6.4. INSTITUTIONAL ACTIVITIES

	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Hospital and Medical Clinic	N	N	PB	N	N
b	Government Facilities and Services	N	PB	PB	PB	N
c	Public Schools	N	PB	PB	PB	N
d	Private Schools	N	PB	PB	PB	N
e	Day Care Centers	PB	PB	PB	N	N
f	Churches	N	PB	PB	N	N
g	Cemeteries	Y	Y	Y	Y	Y
h	Fraternal Orders and Service Clubs	PB	PB	PB	N	N
i	Post Secondary Education Facilities	N	PB	PB	N	N
j	Fish & Game/Recreation based facilities	PB	PB	PB	PB	PB
k	Accessory uses and structures that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	CEO

4.6.5. COMMERCIAL ACTIVITIES						
	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Automobile Supplies	PB	PB	PB	N	N
b	Automobile Body Repair	PB	PB	PB	N	N
c	Automobile Repair/Service	PB	PB	PB	N	N
d	Automobile Sales	PB	PB	PB	PB	N
e	Automobile Recycling Facility	PB	N	N	N	N
f	Banks/Credit Unions	PB	PB	PB	N	N
g	Beauty Shops	PB	PB	PB	N	N
h	Clothing Store	PB	PB	PB	N	N
i	Greenhouse	PB	PB	PB	N	N
j	Florist Shop/Craft Shop	PB	PB	PB	N	N
k	Fuel Oil Sales	PB	PB	PB	N	N
l	Funeral Home	PB	PB	PB	N	N
m	Grocery Store	PB	PB	PB	N	N
n	Hardware Store	PB	PB	PB	N	N
o	Professional Offices (Maximum six offices)	PB	PB	PB	N	N
p	Professional Office Complex (More than 6 offices)	N	N	PB	PB	N
q	Pharmacy	PB	PB	PB	N	N
r	Restaurant (Interior seating)	PB	PB	PB	PB	N
s	Recreation Vehicles Sales and Service	PB	PB	PB	N	N
t	Sporting Goods	PB	PB	PB	N	N
u	Restaurant; Take Out Only (No interior seating)	PB	PB	PB	N	N
v	Veterinary Clinic/Hospital	N	N	PB	PB	N
w	Boarding Kennels	PB	PB	PB	N	N
x	Bed and Breakfast	PB	PB	PB	N	N
y	Video Rentals	PB	PB	PB	N	N
z	Redemption Center	PB	PB	PB	N	N
aa	Motel, Hotel and Inns (Maximum 10 rooms)	PB	PB	PB	PB	N
ab	Motel, Hotel and Inns (More than 10 rooms)	N	N	PB	PB	N
ac	Campgrounds-less than 10 sites	PB	PB	PB	PB	N
ad	Campgrounds-more than 10 sites	N	N	PB	PB	N
ae	Retail Establishments of more than 5,000 square feet	PB	PB	PB	N	N
af	Retail/service oriented businesses of less than or equal to 5,000 square feet not listed above	PB	PB	PB	N	N
ag	Accessory uses and structures that are essential for the exercise of uses listed above.	PB	PB	PB	PB	PB

4.6.6. INDUSTRIAL ACTIVITIES

	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Lumber Yard and Sawmill	N	PB	PB	PB	N
b	Log Merchandising Yard	N	PB	PB	Y	Y
c	Transportation Facility and Terminal Yard	N	PB	PB	N	N
d	Fixed Tank (not mobile) Bulk Oil and Fuel Tank Storage in excess of 500 gallons except for on-site heating and cooking purposes	N	PB	PB	N	N
e	Automobile Junk/salvage yard	N	N	N	N	N
f	Wholesale Business Facility More than 5,000 sq. ft	N	N	PB	N	N
g	Light Manufacturing Assembly Plant	N	N	PB	N	N
h	Disposal of Solid Waste other than agriculture	N	N	N	N	N
i	Disposal of Hazardous/Leachable Materials	N	N	N	N	N
j	Concrete Plant	N	N	N	N	N
k	Sewage Treatment Facility	N	N	N	N	N
l	Accessory uses and structures that are essential for the exercise of uses listed above.	N	PB	PB	N	N

4.6.7. TRANSPORTATION AND UTILITIES

	Activities/Districts	VILLAG	RESID	RURAL	FORES	PROTC
a	Land management roads and water crossings of minor flowing waters	CEO	BMP/DEP	BMP/DEP	BMP/DEP	BMP/DEP
b	Land management roads and water crossings of standing waters and of major flowing waters	CEO	BMP/DEP	BMP/DEP	BMP/DEP	BMP/DEP
c	Road construction projects, other than land management roads	CEO	CEO	CEO	CEO	PB
d	Road construction projects, other than land management roads, which are part of projects requiring Planning Board review	PB	PB	PB	PB	PB
e	Minor utility facilities, including service drops	CEO	CEO	CEO	CEO	PB
f	Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops	PB	PB	PB	PB	PB
g	Airport terminal building and airport uses	N	N	N	N	N
h	Accessory uses and structures that are essential for the exercise of uses listed above.	CEO	CEO	CEO	CEO	PB

SECTION V: LAND USE STANDARDS

SECTION USERS GUIDE: This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

The purpose of the regulations contained in this section is to allow maximum utilization of land while insuring against adverse impacts on the environment, neighboring properties, and the public interest. This assurance is provided by separating the areas of the Town of Bowerbank into districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance" standards which have been enacted to insure against the use causing (or having the potential to cause) adverse impacts.

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board.

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

5.1. DIMENSIONAL STANDARDS

5.1.1. All structures and uses shall conform to the following dimensional requirements:					
Standard/District	VILLAG	RESID	RURAL	FOREST	PROTC
Minimum Lot Size	1 acre	2 acres	5 acres	20 acres	N/A
Minimum Lot Size per Dwelling Unit	1 acre	2 acres	5 acres	20 acres	N/A
Minimum Continuous Road Frontage (along one roadway) excludes cul-de-sacs	100 feet	200 feet	300 feet	500 feet	N/A
Minimum Front Setback (Principal Structures)	50 feet	50 feet	100 feet	100 feet	N/A
Minimum Front Setback (Accessory Structures)	50 feet	50 feet	100 feet	100 feet	N/A
Minimum Side Setback (Principal Structures)	15 feet	15 feet	15 feet	15 feet	N/A
Minimum Side Setback (Accessory Structures)	15 feet	15 feet	15 feet	15 feet	N/A
Minimum Rear Setback (Principal Structures)	15 feet	15 feet	15 feet	15 feet	N/A
Minimum Rear Setback (Accessory Structures)	15 feet	15 feet	15 feet	15 feet	N/A
Maximum Structure Height	35 feet	35 feet	35 feet	35 feet	N/A
Maximum Lot Coverage (includes principal structures, accessory structures and impervious surfaces)	40%	40%	20%	10%	N/A

Note: For purposes of setback calculations, Principal and Accessory Structures include attached

porches, decks and any other attached structures excluding steps only if the steps do not exceed 25 square feet in size. Ramps for handicapped access are exempted from setback calculations.

5.2 GENERAL STANDARDS

1. ACCESSORY USES

An accessory use shall not include any use injurious to the neighborhood as initially determined by the Code Enforcement Officer and/or Planning Board.

2. ACCESS REQUIREMENTS

Access to public roads shall be strictly controlled in both location and design. Provision shall be made for adequate access to the development to safeguard against hazards to traffic and pedestrians in the road and within the development, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads.

3. ACCESS ENTRANCES

All entrances to public roads, constructed after the adoption of this ordinance shall be in accordance with the following standards.

- a. **Angles.** In order to minimize turning time and driver confusion, entrances which permit traffic flow for ingress and egress must intersect the road at an angle of or as near to 90 degrees as site conditions will permit and in no case less than 60 degrees. Entrances which permit one-way access for ingress only or egress only shall form an angle of at least 60 degrees with town roads.
- b. **Drainage.** In accordance with Title 23 Section 705, as amended, culverts of size, length, and type as determined by the municipality must adequately protect the roadway to control erosion and runoff with best management practices.
- c. **Emergency Vehicle Access.** For public health and safety purposes, clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (e.g., fire lane - no parking).
- d. **Grades.** The maximum grade for entrances is 3% for the first 45 feet from the edge of the existing road. Thereafter, the grade may not exceed 7% for entrances serving commercial, multifamily and all other non-residential uses.
- e. **Loading Docks.** Loading docks must not be located on any street frontage. Provision for handling all freight must be on those sides of any buildings which do not face on any street or proposed streets.
- f. **Multiple Entrances per Lot.** Uses on lots which generate 50 or more vehicle

trips per day (in accordance with the latest edition of the Trip Generation Manual, published by the Institute of Traffic Engineers) on a lot which has a minimum frontage of no less than 300 feet may have a maximum of 2 entrances for access onto town roads.

- g. On-site Vehicle Circulation. Entrances shall be designed with sufficient on-site turn-around area on the lot to enable a driver to exit the premises without backing onto a public right-of-way. The minimum turn-around area shall be 8 feet wide by 15 feet long.
- h. Shared Entrances. Owners of adjacent properties are encouraged to construct shared entrances. Road frontage requirements, if any, may be reduced by 10% when abutting property owners share one entrance. Provisions for vehicular connections to existing or future uses on adjacent properties are encouraged wherever feasible and to the maximum extent possible so as to minimize the traffic exit/enter movements.
- i. Truck Loading/Unloading. In order to minimize traffic back-ups caused by parked delivery vehicles, non-residential uses that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate design to allow for on-site turning and backing.
- j. Width. The two-way traveled portion of entrances shall be no less than 16 and no greater than 22 feet in width. The width of an entrance is the distance across the entrance, excluding radii, measured parallel to the roadway.

4. AGRICULTURAL MANAGEMENT ACTIVITIES

Agricultural practices shall be conducted in such a manner as to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters. Phosphorous allocation is addressed through implementation of the Town of Bowerbank Subdivision Regulations.

5. AIR POLLUTION

Air pollution control and abatement shall comply with applicable minimum Federal and State requirements.

6. ARCHAEOLOGICAL AND HISTORIC RESOURCES

If any portion of the site development site has been identified as containing historic or archaeological resources, the development project shall be required to submit inspection reports performed by qualified professionals and the development project shall be altered in such ways as to protect any discovered resources to the maximum extent practicable including, but not limited to site design, timing of construction and extent of excavation design of the site, timing of construction, and limiting the extent of excavation.

- (12) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible;
- (13) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

14. FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, and locally adopted Floodplain Management Ordinance, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

15. GARAGE/YARD SALES:

Persons shall have no more than three (3) separate sales during a one-year period. Duration of any one sale shall not exceed three (3) days. No more than three (3) sales shall be held at the same location in any given year.

16. HOME OCCUPATIONS

- a. The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the Districts in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structure;
- b. Any home occupation or profession that is accessory to and compatible with a residential use may be permitted if:
 - (1) It is carried out in a dwelling unit or in a structure customarily accessory to a dwelling unit;
 - (2) It is conducted only by a member or members of the family residing in the dwelling unit; and/or not more than one employee.
 - (3) It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.
- c. All home occupations shall conform with the following conditions:
 - (1) The home occupation shall be carried on wholly within the dwelling or accessory structure;

processed or assembled except in accordance with applicable State and Federal codes and regulations.

- b. Vibration
With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.
- c. Wastes
No offensive wastes shall be discharged or dumped into any location not specifically designed to accept such waste, or into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial waste water may be discharged to municipal sewers only and in such quantities and quality as to be compatible with existing municipal facilities.
- d. Noise
Offensive noise shall not be transmitted beyond lot lines so as to cause disturbance to neighboring residential properties between the hours of 10:00 p.m. and 5:00 a.m.

18. JUNKYARDS/GRAVEYARD/AUTOMOBILE RECYCLING

The following performance standards are required of all automobile graveyards, junkyards and automobile recycling businesses, whether new or existing.

- a. The site must be enclosed by a visual screen at least 6 feet in height and built in accordance with the Department of Transportation rules issued pursuant to 30-A MRSA 3753;
- b. No vehicle shall be stored within 300 feet of any waterbody or inland wetland;
- c. No vehicle shall be stored within 100 feet of public or private well (excluding owners), school, church or public playground or public park;
- d. No vehicles shall be stored over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey or by a licensed geologist;
- e. No vehicle shall be stored within 100 feet of a floodplain;
- f. Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid and engine coolant (air conditioners included) shall be drained into watertight, covered containers and shall be recycled or disposed of according to all applicable Federal and State laws, rules and regulations regarding disposal of such waste material. No discharge of fluids from any motor vehicle shall be permitted into or onto the ground.

- g. No vehicle shall be closer than 50 feet from a lot line.
- h. All vehicles, once stripped of valuable parts shall be crushed and removed from the lot to a metal recycler. Any vehicle remaining over one year shall be considered as junk metal to be recycled.
- i. No more than four tires per vehicle shall be allowed to be stored in the yard. Scrap tires shall not be allowed to accumulate into a scrap tire pile. All tires shall be disposed of in an appropriate facility and manner in accordance with State and Federal regulations.
- j. No open burning of salvage materials or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in a duly licensed disposal facility.
- k. The Planning Board and/or Code Enforcement Officer may recommend the application of more stringent restrictions and /or limitations, and stipulate reasonable conditions which shall be attached to the permit covering the operation and use of the junkyard prior to the Selectpersons issuance of the permit.

19. LANDSCAPING

Development proposed within the industrial and commercial districts shall be landscaped to the extent possible as to maintain the aesthetic appearance of the property and preserve as much natural vegetation as possible on the site.

20. LIGHTING DESIGN STANDARDS

All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

21. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS

See 5.1. Dimensional Standards.

22. MANUFACTURED HOUSING

Intent: It is the intent of this Ordinance to provide a variety of housing alternatives to all economic levels within the community, while continuing to insure the minimum standards of health, safety and welfare of the community. To this end, this ordinance allows the siting of all types of manufactured housing within designated areas of the Town regardless of their construction date or compliance with all the standards of the Manufactured Home and Construction Safety Standards of the Department of Housing and Urban Development, adopted in 1976. The Town does hereby require however, that all manufactured housing sited within the Town of Bowerbank meet certain minimum safety and design criteria.

- a. Minimum Safety Standards: All manufactured housing as defined in this Ordinance, regardless of date of manufacture, and sited within the Town of Bowerbank after the effective date of this ordinance, shall meet or exceed the following minimum standards before a "Certificate of Occupancy" shall be issued by the Code Enforcement Officer in conformance with Section VI. H. of this Ordinance.
- c. HUD Approval Sufficient: All manufactured housing, as defined, constructed after July 1, 1976 and bearing the seal of the Department of Housing and Urban Development which certifies the manufactured home was built pursuant to the provisions of the Manufactured Homes Construction and Safety Standards as revised shall be deemed to have fulfilled the requirements of this section.
- d. Minimum Electrical Safety Standards: All manufactured housing shall meet the following minimum safety requirements for electrical installation and maintenance as provided for by the National Electrical Code as said code pertains to the following:
 - (1) 100 Ampere Entrance required;
 - (2) Copper wiring required;
 - (3) Two means of grounding required;
 - (4) Ground faulting receptacles required;

In addition, all electrical installation or modifications to existing manufactured housing shall be inspected by and certified by an electrician licensed by the State of Maine or the Municipal Code Enforcement Officer if duly appointed as electrical inspector.

- e. Minimum Fire Prevention Standards: All manufactured housing shall meet the following minimum fire safety requirements as provided for by the National Electrical Code and the Manufactured Housing Construction Standards of 1976 established by the Department of Housing and Urban Development (HUD)
 - (1) All homes shall contain at least one operable fire extinguisher which is readily accessible at all times;
 - (2) All homes shall have at least one operable AC smoke detector centrally located within the home and one operable smoke detector in each of the bedrooms;
 - (3) The installation and maintenance of all heating systems including vents, chimneys, and encompassing secondary and tertiary as well as primary heating sources, shall meet the standards of NFPA 211. In

addition, no wood stove shall be used for heating purposes in a manufactured home in the Town of Bowerbank without first being inspected and approved by the Bowerbank Fire Department for safe installation;

- (4) All automatic dryers, whether electric or gas, must meet the venting requirements of the Manufactured Home Construction Standards of 1976 as established by HUD; and
 - (5) All manufactured homes must meet the requirements of the Manufactured Home Construction Standards of HUD, to wit, all manufactured homes shall provide for at least two means of egress from each bedroom, one of which must be directly to the outside of the home and may be accomplished by way of a window of suitable size which can be opened easily without tools, and two doors exiting directly to the outside of the home separated by distances as established by the standards.
 - f. Minimum Plumbing Standards: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code as amended.
 - g. Minimum Design Standards: All manufactured housing will be sited and maintained in such a manner as to blend with other residential structures in close proximity, to this end all manufactured housing located within the Town of Bowerbank after the effective date of this ordinance shall:
 - (1) Have and maintain external siding which is residential in appearance for the manufactured home as well as any additions thereto or accessory structures located on the same lot;
 - (2) Be located on a permanent foundation at a minimum of a gravel pad. Pad must be 8" compacted and the manufactured home must be blocked with 2X2 pressure treated at the blocking points unless otherwise specified by a duly adopted building code.
 - (3) Permanent skirting and a pitched roof shall be installed within thirty (30) days of siting;
 - (4) Provide a safe means of egress and ingress to and from the manufactured home including stairs with handrails when applicable.
23. MINERAL EXPLORATION AND EXTRACTION
- The following requirements for mineral exploration and extraction activities, including the removal of topsoil, shall apply in all Districts:
- a. All exploration/extraction activities, including test pits and holes, shall be

capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;

- b. No portion of any ground area disturbed by the extraction activity shall be closer than 25 feet from a public roadway;
- c. Within 250 feet of any water body, the extraction areas shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams, or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body;
- d. A natural vegetation screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
- e. If any mineral extraction operation located within 75 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.
- f. Extraction operations (gravel pit, etc.,) shall not be permitted within one hundred (100) feet of any property line without a written agreement of consent between adjacent property owners.

24. OFF-STREET PARKING

- a. No On-Street parking will be allowed between November 1st and April 1st in any District.
- b. Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any District;
- c. Required off-street parking spaces shall be provided;
- d. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use or as deemed appropriate by the Planning Board.
 - (1) Dwellings - Two (2) parking spaces for each dwelling unit;
 - (2) Transient Accommodations:
 - (a) Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with 10 rooms or less -- Two (2)

- (b) parking spaces plus one space for each guest room; and
Motels, hotels, boarding houses, and inns with more than 10 rooms -- One (1) parking space for each guest plus one (1) space for each three (3) employees;
 - (3) Schools -- Five (5) parking spaces for each classroom plus one (1) space for each four (4) employees;
 - (4) Hospitals (bed facilities only) -- One (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy;
 - (5) Theaters, churches, and other public assembly places -- One (1) parking space for every four (4) seats or for every one hundred (100) square feet or major fraction thereof of assemblage space if no fixed assets;
 - (6) Retail Stores -- One (1) parking space for every two hundred (200) square feet of retail area, plus one for every two employees, unless public parking is provided;
 - (7) Restaurants, eating and drinking establishments -- One (1) parking space for every four (4) seats, plus one (1) for every two (2) employees, unless public parking is provided;
 - (8) Professional Offices and Public Buildings -- One (1) parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided;
 - (9) Other Commercial Recreation Establishments (mini golf courses, etc.) -- The number of spaces deemed appropriate by the Planning Board; and
 - (10) Industrial -- One (1) parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.
25. OFF-STREET LOADING
Adequate off-street loading areas shall be provided for appropriate land uses. Loading areas cannot be included as parking spaces when meeting parking requirements.
26. OIL AND CHEMICAL STORAGE
- a. All storage of petroleum or liquid products shall be in conformance with the

provisions of Title 38 M.R.S.A., Section 560 et seq., which among other things establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities; and compliance with any duly adopted building codes and ordinances of the Town of Bowerbank.

- b. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

27. PESTICIDE APPLICATION

Pesticide application in any of the Districts shall not require a permit provided such application is in conformance with applicable State and Federal statutes and regulations. Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guidelines established for it in the Safe Drinking Water Standard, EPA Health Advisory. Any violation of this standard shall be cause to order the immediate stop of the use or activity responsible for the contamination. The land owner shall be responsible for the cost of all remedial actions.

28. RIDGELINE HIGH ELEVATION PROTECTION

When a proposed development is located on a hillside or ridgeline and is visible from a public street, road, or water body, the development must be designed so that buildings, structures, and other improvements do not extend above the existing ridgeline or alter the ridge or hillside profile significantly when viewed from the a public street, road, or water body. This provision may be waived for communication towers, spotting towers, solar or wind towers, and similar facilities that must be located above the ridgeline for operational reasons.

In predominantly natural environments, site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed environments, the appearance of the new development, when viewed by the public from public areas, must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent reasonable.

29. REFUSE DISPOSAL

- a. The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner.
- b. The impact of particular industrial or chemical wastes or by-products upon the sanitary facilities (in terms of volume, flammability or toxicity) shall be considered and the applicant may be required to dispose of such wastes

elsewhere, in conformance with all applicable state and federal regulations. The applicant must specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

30. SEWAGE DISPOSAL

a. Subsurface Sewage Disposal

No permit shall be issued for a project with subsurface sewage disposal unless:

- (1) There is an area of suitable soils according to the Subsurface Waste Water Disposal rules of sufficient size to accommodate the proposed system;
- (2) An acceptable plan to construct the absorption area is prepared in accordance with the Subsurface Waste Water Disposal Rules; and
- (3) In lieu of (1) and (2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution;

No development shall be permitted which utilizes, for on-site subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Subsurface Waste Water Disposal Rules.

31. SIGNS

a. Conformance of Signs

No sign shall be hereafter erected, altered or maintained, within the limits of the Town of Bowerbank, Maine except in conformance with the provisions of this section.

b. Signs Prohibited

No sign, whether new or existing, shall be permitted within the Town of Bowerbank which causes a traffic sight, health or welfare risk, or results in a hazard, due to illumination, placement, display, or obstruction of existing signs.

c. Temporary Signs

The following temporary signs are permitted provide said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

(1) Temporary Signs Giving Notice

Signs of a temporary nature, except signs posted by the Town of Bowerbank, such as political posters, advertisements or charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed sixty (60) days, provided that the persons who posted the signs shall be responsible for their removal. Said removal shall be within 24 hours of the function, meeting or election, which ever comes first.

(2) Temporary Yard Sale Signs

Temporary yard sale signs are permitted provided they do not exceed the size standards of Subsection (e) and provided they are removed within 24 hours of the completion of the sale. Yard sales which extend for more than four (4) consecutive days are considered commercial use.

(3) Temporary Commercial Signs

Temporary commercial signs such as real estate or contractor signs may be displayed on the property being serviced only. Such signs must be removed within five (5) working days of completion of the service, i.e. paper passing date or completion of the project.

d. Sign Requirements

All signs, other than temporary signs, within the limits of the Town of Bowerbank shall meet the following requirements:

(1) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All free standing signs shall be set back a minimum of eight (8) feet from property lines in all Districts.

(2) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights;

(3) No sign shall exceed 15 feet above ground in height including its post or support.

(4) Signs may be illuminated only by downward full-shielded, non-flashing lights so as to effectively prevent beams of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.

(5) There shall be no roof mounted signs.

e. Off Premise Signs

No off premise sign shall be erected or maintained in the Town of Bowerbank except in conformity with the MRSA Title 23, Section 1901-1925, and The Maine Traveler Information Services Law. Off premises official business directional signs may be located in the Town of Bowerbank in such a location and in such a manner as allowed under Title 23, Section 1901-1925 and under the rules and regulations of the Department of Transportation of the State of Maine.

f. Exempt Signs

The following signs are exempt from the provisions of this section except as otherwise provided for herein:

- Traffic control signs, signals, and/or other devices regulating or enhancing public safety, erected by a governmental body.

32. SITE CONDITIONS

- a. During construction, the site shall be maintained and left each day in a safe and sanitary manner and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order of the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity.
- b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or properly destroyed immediately upon the request and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit; and
- c. No changes shall be made in the elevation or contour of the lot or site by the removal or earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

33. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and similar intensive land uses, shall require a soils report, prepared by a duly licensed individual as appropriate for the project.

34. TEMPORARY STORAGE

Vans, similar vehicles, shipping containers, or railroad cars, may be used for storage, only upon approval of the Code Enforcement Officer and only for temporary period not to exceed one (1) year. Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of up to six (6) months each, if a finding can be made that the use:

- a. Does not diminish area requirements of set forth for the District in which it is located;
- b. There is a valid temporary need which cannot be met with the principal structure and that adequate economic hardship can be shown;
- c. The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties;
- d. The use is not intended as a permanent or long term use;
- e. The use is not intended to circumvent building area limitations for the District in which it is located or prolong the use of facilities which have been outgrown;
- f. Will be adequately screened from neighborhood properties and the street;
- g. Will not be used as or intended for advertising for on or off premise purposes; and
- h. Is not intended for retail sales.

The above provisions do not prohibit the use of such temporary facilities as construction or job site office or equipment storage facilities during construction provided that no advertising other than the contractors name shall be permitted and that such signs meet the sign requirements of this Ordinance.

35. TOPSOIL AND VEGETATION REMOVAL

- a. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;
- b. Except for normal thinning, landscaping, cutting of trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.

36. TOWERS

No tower shall be hereinafter erected, altered or maintained, within the Town except in conformance with the provisions of this section. The Town may elect to require a surety prior to the construction of any tower. All towers within the Town shall meet the following requirements:

- a. New wireless telecommunications facilities should be, to the extent possible, co-located on an existing wireless telecommunications facility or other similar existing structure. In no case shall a new facility be located in a viewshed, as designated in the comprehensive plan, or in a Historic District, as recognized by the National Registry of Historic Places, or in the shoreland districts, as defined in the Bowerbank Shoreland Zoning Ordinance.
- b. Siting on Municipal Property: If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:
 - (1) The proposed location complies with applicable municipal policies and ordinances.
 - (2) The proposed facility will not interfere with the intended purpose of the property.
 - (3) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
- c. Structural Standards: A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
- d. Lighting: A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down directional to retain light within the boundaries of the site.
- e. Color and Materials: A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

- f. Landscaping: All new wireless telecommunications facility shall be screened with native plants from the view of abutting property owners to the maximum extent possible and landscaped to conform with the surrounding area.
- g. Fencing: A new telecommunications facility must be fenced to discourage trespass on the facility. As deemed appropriate by the Planning Board, sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the to reduce the potential for trespass and injury
- h. Visual impact: The proposed wireless telecommunications facility will have no unreasonable adverse impact upon scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency. The following submissions are required as a basis for the Planning Board to determine visual impact:
 - (1) A tree line elevation drawing depicting vegetation within two-hundred (200) feet of the proposed facility;
 - (2) Details regarding the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
 - (3) Details or drawings indicating the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) such as passing motorists;
 - (4) A description of the amount and location of proposed vegetative screening;
 - (5) The distance of the proposed facility from scenic areas and scenic views the viewpoint and the facility's location within the designated scenic resource; and
 - (6) A narrative regarding the presence of reasonable alternatives that would allow the facility to function consistently with its purpose.
 - (7) There shall be no signs, other than for public safety, installed on any tower.
- i. Setbacks: The center of the base of any proposed telecommunications tower must be setback a minimum of 125% of the towers height, or the required minimum setback of the district in which it is located, whichever is greater. No part of the tower structure, including anchors, guy wires, overhead lines, masts, etc., shall be located in the required setback or in any required buffer area, both on the ground or in the air space above the ground. A tower's setback may be reduced by the Planning Board to allow the integration of a tower into an existing or proposed structure such as a church steeple, power line support device, water tank or other similar structure.

- j. Historic and Archaeological properties: The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which may be listed on or eligible for listing on the National Register of Historic Places.
 - k. Abandonment: A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.
 - l. If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.
 - m. If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.
 - n. Exempt Towers: The following towers are exempt from the provisions of this section:
 - (1) Emergency, temporary wireless telecommunications facilities.
 - (2) Amateur (ham) radio stations, except where such activities impact other telecommunications in the area.
 - (3) Parabolic Antenna. Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.
 - (4) Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
 - (5) Temporary wireless telecommunications facilities.
 - (6) Antennas as a residential accessory use.
37. TRANSIENT ACCOMMODATIONS: "BED AND BREAKFAST"
- "Bed and Breakfast" accommodations shall be permitted in the private, year round residence of the host family who live on the premises provided that:
- a. The maximum number of guests at any time is ten (10) persons;

- b. The maximum number of guestrooms is three (3);
 - c. Breakfast is the only meal provided by the host family;
 - d. One (1) sign not to exceed four (4) square feet is permitted on the premises;
and
38. TRANSIENT ACCOMMODATIONS: "MOTELS AND HOTELS"
"Motel and Hotel" accommodations include buildings where rooms are provided for compensation and may include accessories uses such as restaurants, lounges, gift shops, conference rooms, and recreational facilities such as swimming pools and game rooms.
39. UTILITY INSTALLATION
The installation of utilities such as electrical service, transmission lines and associated cables shall be installed as determined by the Planning Board so as to blend harmoniously with the adjacent land uses and district design.
40. YARD SALES: See Garage/Yard Sales

SECTION VI: ADMINISTRATION AND ENFORCEMENT

SECTION USERS GUIDE: This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

6.1. CREATION OF ADMINISTERING BODIES AND AGENTS

1. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

2. PLANNING BOARD

The Planning Board of the Town of Bowerbank is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt. 2, Section 1, of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectmen of the Town of Bowerbank.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

3. BOARD OF APPEALS

The Board of Appeals for the Town of Bowerbank is hereby designated as the Board of Appeals heretofore, established in accordance with Article VIII, Pt 2, Section 1 of the Maine Constitution and with Title 30-A, MRSA, Section 4353. The Board of Appeals shall be appointed by the Selectmen of the Town of Bowerbank.

6.2. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

6.3. APPLICATION REQUIRED

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

6.4. CODE ENFORCEMENT OFFICER PERMIT

A permit issued by the Code Enforcement Officer shall be required before beginning or undertaking any of the following activities:

A. ACTIVITIES REQUIRING PERMIT

1. **FLOOD HAZARD AREAS:** All construction or earth moving activities or other improvements within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
2. **NEW CONSTRUCTION:** New construction of buildings or structures.
3. **ALTERATION:** Alteration of a building, structure, or land, or parts thereof, including, but not limited to:
 - a. Interior renovations for change in use;
 - b. Enclosing open frame porch, for the creation of additional sleeping space or any activity which increases the existing amount of water used daily;
 - c. Erection of fences as specified under State Statute
4. **PLACEMENT OF SIGNS:** Placement of signs except temporary signs.
5. **MOVING OR DEMOLITION:** All buildings or structures which are removed from or moved onto, or moved around within a lot, or demolished.
6. **CHANGE OF USE:** The change of any premises from one category of land use to any other land use.

B. PROCEDURE

1. **APPLICATION:** All applications for a Code Enforcement Officer Permit shall be submitted, with appropriate fee, in writing to the Code Enforcement Officer on forms provided.
2. **SUBMISSIONS:** All applications for a Code Enforcement Officer Permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distances, and showing:
 - a. The actual shape and dimensions of the lot for which a permit is sought;
 - b. The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all waterbodies and wetlands within two hundred fifty feet (250') of the property lines;

- c. The location and building plans of new buildings, structures or portions thereof to be constructed. Plans to be submitted if deemed necessary by the Code Enforcement officer;
 - d. The existing and intended use of each building or structure;
 - e. Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffers, private wells; and
 - f. Such other information as may be reasonable required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.
3. TO WHOM ISSUED: No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.
4. COMPLIANCE WITH LAND USE ORDINANCE: All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.
5. DEADLINE FOR DECISION: The Code Enforcement Officer shall, within thirty (30) days of receipt of an application: issue the permit, if all proposed construction and uses meet the provisions of the Ordinance; refer the application to the Planning Board for their review; or deny the application. All decisions of the Code Enforcement Officer shall be in writing.
6. COPIES: One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.
7. POSTING: The applicant shall cause any permit issued to be conspicuously posted on the lot on which the activity will occur at a location clearly visible from the street.
8. COMMENCEMENT AND COMPLETION OF WORK: Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within six (6) months of the date of issuance of the permit and shall be completed within eighteen (18) months of that date.

Activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement Officer, for good cause, if an application for an extension is submitted not later than

thirty days prior to the expiration of the prior permit.

9. APPEALS: Appeals from decisions of the Code Enforcement Officer may be taken pursuant to the provisions of this Ordinance.

6.5. PLANNING BOARD PERMIT REVIEW

The Planning Board shall review all applicable Land Use Permit applications pursuant to Section IV, F., Schedule of Uses.

1. APPLICATION: All applications for a Planning Board Permit shall be submitted, with applicable fee, in writing to the Code Enforcement Officer on forms provided.
2. SUBMISSION: All applications for a Planning Board Permit shall be accompanied by a sketch plan, accurately drawn to scale and showing actual dimensions or distances, and showing:
 - a. Map drawn to scale.
 - b. Name of applicant
 - c. Boundaries of the tract of land.
 - d. Location of existing and proposed buildings and other structures, including use and proposed use thereof.
 - e. Location of buildings on abutting properties or within 300 feet of the property line of the proposed development.
 - f. Location of existing public streets.
 - g. Location of proposed access drives to the lot from public streets.
 - h. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.
 - i. Location of existing and proposed pedestrian walkways.
 - j. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water, and electricity.
 - k. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes etc..
 - l. Location, intensity, type, size and direction of all outdoor lighting.
 - m. Location and proposed use for areas proposed for outdoor recreation.
 - n. Location and type of existing and proposed fences, hedges, and trees of 12 inch diameter and over a point 4.5 feet above ground level or filled.
 - o. Contour lines at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled if deemed necessary by the Planning Board.
 - p. Location and size of signs and all permanent outdoor fixtures.
 - q. Zoning district classification.
 - r. Setback dimensions from property lines and center of road.
3. TO WHOM ISSUED: No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization shall be required.

4. COMPLIANCE WITH LAND USE ORDINANCE: All activities undertaken pursuant to a permit issued under this Section shall comply with all applicable standards set forth in Section V of this Ordinance.
5. PUBLIC HEARING DEADLINE: Within a maximum of thirty (30) days after the filing of an application for a Land Use Permit, and before taking action thereon, the Planning Board shall hold a public hearing on the application. Notice of said hearing shall be published in a local newspaper at least ten (10) days in advance of said hearing. A notice of said hearing shall be mailed to each landowner abutting the parcel involved. Land owners shall be considered to be those against whom property taxes are assessed. Failure of any land owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the Planning Board. Responsibility for such notification shall be assumed by the Code Enforcement Officer. The applicant shall bear all associated costs of advertisements and notifications. The purpose of the public hearing shall be to receive input from the general public relative to the applicable sections of the review standards.
6. PLANNING BOARD REVIEW AND ACTION: Within thirty (30) days after the public hearing, in which the permit application is reviewed, the Planning Board shall approve, approve with modifications, or disapprove the application. The Board shall limit its review to the criteria and standards established within this Ordinance. The Board shall inform the applicant of its decision in writing, and in cases of disapproval or approval with modifications, reasons for such action shall be stated. A copy of the Board's decision shall be retained on file with the Code Enforcement Officer. A Land Use Permit shall not be issued unless approval of the application has been granted.
7. COPIES: One (1) copy of the application, with the permit or other written decision of the Code Enforcement Officer, shall be returned to the applicant, and one (1) copy, with a copy of the permit or written decision, shall be retained by the Code Enforcement Officer as a permanent public record.
8. POSTING: The applicant shall cause any permit issued to be conspicuously posted on the lot on which the activity will occur at a location clearly visible from the street.
9. COMMENCEMENT AND COMPLETION OF WORK: Construction and alteration activities on projects for which a permit has been granted under this Section shall commence within twelve (12) months of the date of issuance of the permit and shall be completed within eighteen (18) months from commencement of construction and/or alteration.

Activities which are not commenced or completed within the time limits provided above shall be subject to new application and the permit issued under this Section shall be considered void.

Activities may be extended for up to twelve (12) months by the Code Enforcement

Officer, for good cause, if an application for an extension is submitted not later than thirty (30) days prior to the expiration of the prior permit.

10. APPEALS: Appeals from decisions of the Planning Board may be taken pursuant to the provisions of this Ordinance.

6.6. OTHER PERMITS REQUIRED BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been secured and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

6.7. POSITIVE FINDINGS REQUIRED

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

- a. Is a permitted use in the district in which it is proposed to be located;
- b. Is in conformance with the applicable performance standards of Section V of this Ordinance;
- c. Will not result in unsafe or unhealthful conditions;
- d. Will not result in undue land, water or air pollution;
- e. Will not result in undue erosion or sedimentation;
- f. Will avoid problems associated with development in flood hazard areas;
- g. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- h. Will conserve significant natural, archaeological and historical resources;
- i. Will not adversely impact the proposed use on public infrastructure;
- j. Be consistent with the long range goals of the Comprehensive Plan, other adopted plans of the town, and the goals and purposes of the established districts.

6.8. VIOLATIONS

Violations of the terms and conditions of this Ordinance shall be corrected within 30 days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer, said violation may void all permits.

6.9. COMMENCEMENT AND COMPLETION OF WORK

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within six (6) months of the date of permit issuance and shall be completed within eighteen (18) months of the date of permit issuance.

6.10. CERTIFICATE OF OCCUPANCY REQUIRED

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same may be occupied or used. A Certificate of Occupancy is required for the following:

Activities granted approval under the provisions of this Ordinance.

6.11. ENFORCEMENT

1. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

2. CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

3. LEGAL ACTIONS

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

4. FINES

Any person who continues to violate any provisions of this Ordinance after receiving notice of such violation shall be liable for civil penalty of a minimum of \$100.00 - \$2,500.00 for each violation. Each day the violation continues shall constitute a separate violation as referenced in Title 30-A, Section 4452.

5. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained or if work performed by the contractor does not conform to all conditions of approval of the permit or the terms of this Ordinance.

6.12. APPEALS

1. ADMINISTRATIVE APPEALS

The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or the Planning Board in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.

2. VARIANCES

The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

- a. Dimensional variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, and setback requirements.
- b. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - (1) The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (2) The strict application of the terms of this Ordinance would result in an undue hardship.

The term "undue hardship" shall mean all of the following:

- i. The land in question cannot yield a reasonable return unless a variance is granted;
 - ii. That the need for a variance is due to the circumstances of the property and not to the general conditions in the neighborhood;
 - iii. That the granting of a variance will not alter the essential character of the locality; and
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. 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 or regularly visits the property. The Board shall restrict any variance granted under this Sub-Section 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.

- e. The Board may grant a variance to a property owner from a setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. A variance under this section may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:

The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

The granting of a variance will not alter the essential character of the locality;

The hardship is not the result of action taken by the applicant or a prior owner;

The granting of the variance will not substantially reduce or impair the use of abutting property; and

That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

3. APPEAL TO SUPERIOR COURT

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

6.13. VARIANCES RECORDED

If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance of the variance is void. A variance is not valid until recorded as provided in this section. The date of the final written approval shall be the date stated on the written approval.

6.14. FEE SCHEDULE

All applications fees for permits shall be paid to the Town of Bowerbank in accordance with the fee schedule as established by the Selectmen of the Town of Bowerbank. Fees shall be for the cost of processing the permits and shall not be refundable regardless of the final decision to issue or deny a permit. Advertising costs, technical or legal assistance and associated costs deemed necessary by the Town for the review of applications shall be the responsibility of the applicant.

ALL FEES SHALL BE IN ACCORDANCE TO THE "FEE SCHEDULE" OR "FEE SCHEDULE ORDINANCE" AS ESTABLISHED BY THE SELECTMEN OF BOWERBANK.

SECTION VII: DEFINITIONS

7.1. CONSTRUCTION OF LANGUAGE

In this Ordinance, certain terms or words should be interpreted as follows:

- The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
- The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
- The word "shall" is mandatory;
- The word "may" is permitted;
- The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
- The word "dwelling" includes the word "residence".
- In the case of any difference or meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

7.2. DEFINITIONS

For the purposes of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

ABUTTING: Having a common border with, or being separated from such common border by an alley or easement.

ACCESS: A means of approach or entry to or exit from property.

ACCESS ENTRANCE: An access serving one of the following land uses: residential uses or developments serving three or more dwelling units, retail, office, or service business uses including department stores, strip malls, convenience stores, gas stations, auto repair shops, restaurants, or similar uses.

ACCESSORY STRUCTURE: See Structural Terms

ACRE: A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

AGGRIEVED PERSON: A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.

AGRICULTURAL ACTIVITY: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure and manure sludge, liming, planting, pesticide application, harvesting of cultivated crops, pasturing of livestock and other similar or related activities, but not the construction, creation or maintenance of land management roads.

ALTERATION: As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing height; or in moving from one location or position to another.

APPEAL: A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

ARCHAEOLOGICAL/HISTORIC SITE/STRUCTURE: Means any site or structure that is:

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

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

- Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

- Individually listed on a inventory or historic places in communities which historic preservation programs that have been certified either: (a) by an approved State program as determined by the Secretary of the Interior; or (b) directly by the Secretary of the Interior in States without approved programs.

ATTIC: That part of a building which is immediately below, and wholly or partly within, the roof framing.

AUTOMOBILE SALES: A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

AUTOMOBILE RECYCLING FACILITY: An automobile recycling business is a business which purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding or repairing salvage vehicles for resale. (See Title 30-A M.R.S.A. 3752)

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

BASEMENT: The substructure of a building that is partially or wholly below ground level

which may or may not be used for living spaces.

BED AND BREAKFAST: Accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three guest rooms and 10 guests at any one time. Breakfast is the only meal, if any, to be provided for compensation.

BUFFERS: Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

BUILDING: A roofed structure. See Structural Terms.

BUILDING FRONT LINE: Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

CAMPGROUND: Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses include camper services and facilities such as shower and laundry facilities, electricity, fresh water, propane and gas sales, ice, outlet for camping supplies and equipment, recreational services etc.

CERTIFICATE OF OCCUPANCY: Official certification that a premises conforms to provisions of the Land Use Ordinance (and electrical code, plumbing code, American Disabilities Act, Life Safety 101 and NFPA 31 and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

CLUSTER DEVELOPMENT: The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

CODE ENFORCEMENT OFFICER: A person appointed by the Board of Selectmen to administer and enforce this Ordinance.

DAY CARE CENTER: A house or place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

DAY CARE CENTER: A Day Care Facility as defined in State statutes for 13 or more children on a regular basis; and

DAY CARE HOME: A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis.

DEVELOPER: The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

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

DRAINAGE: The removal of surface or ground water from land by drains, grading or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and includes the means necessary for water-supply preservation or alleviation of flooding.

EASEMENT: Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

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

ENLARGEMENT OR TO ENLARGE: An "enlargement" is an addition to an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

ESSENTIAL SERVICES: The construction, alteration, maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include towers (with exception of cellular towers), poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from definition of a structure.

EXTENSION OR TO EXTEND: An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

FAMILY: Two (2) or more persons related by blood, marriage or adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

GARAGE, RESIDENTIAL: An accessory building for parking or temporary storage of

automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings. Not more than one (1) space may regularly be used by the private passenger automobile or a persons not resident on the premises.

GARAGE SALES/YARD SALES: Garage sales shall mean and include all sales entitled "garage sale", "lawn sale", "porch sale", "attic sale", "rummage sale", or "flea market" sale or any similar casual sale of tangible personal property which is advertised by any means or is made evident by articles being set out in a yard, porch, or garaged whereby the public at large is/can be made aware of such sale.

GROCERY STORE: A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a "Major Retail Outlet".

GUEST ROOM: A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation in which no provision is made for cooking.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of such building.

HOSPITAL: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

INDUSTRY: Use of premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

IN-LAW APARTMENTS: See Structural Terms

JUNKYARDS:

AUTOMOBILE GRAVEYARDS: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked automobiles.

JUNKYARD: A yard, field or other area used as a place of storage for discarded worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material including garbage dumps, waste dumps and sanitary landfills.

KENNEL, COMMERCIAL: Any place in or at which any number of dogs or cats are kept for the purpose of sale or in connection with boarding, care, training or breeding, for which a fee is charged.

KENNEL, NON-COMMERCIAL: An accessory building to a residence designed or used for the accommodation of dogs or cats owned by the occupants of the residence.

LAND USE PERMIT: A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

LIGHT MANUFACTURING: The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping of the processed materials into useful objects/products. Light manufacturing does not include the refining or other initial processing of basic raw materials such as metal ore, lumber or rubber.

LOADING SPACE: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOT: A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use or development, including such open spaces and yards as are designed, and arranged or required by this Ordinance for such building, use or development.

LOT AREA: The area contained within the boundary lines of a lot.

LOT, CORNER: A lot abutting two or more streets at their intersection. Corner lots have two or more front setbacks, two or more side setbacks, and no rear setbacks.

LOT DEPTH: The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

LOT FRONTAGE: Lot width measured at the street lot line. When a lot has more than one

street lot line, lot width shall be measured, and the minimum road frontage required by the Ordinance shall be provided on at least one roadway.

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

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

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

SIDE LOT LINE: Any lot line other than a front or rear lot line.

LOT OF RECORD: Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

LOT STANDARDS: The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as "space and bulk" regulations in size and height of building; location or exterior walls at all levels with respect to lot lines, streets and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

MANUFACTURED HOUSING: A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or placed on an independent chassis, to a building site. For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

MODULAR HOMES: Those units which the manufacturer certifies are constructed in compliance with the State's manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and area designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

NEWER MOBILE HOME: Those units constructed after June 15, 1976, which the

manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards Act of 1974, et seq., which in the traveling mode are 14 body feet or more in width and are 750 or more square feet and are constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;

OLDER MOBILE HOMES: Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called "travel trailers".

MARINA: A business establishment having frontage on navigable water within the Town and providing for hire off-shore mooring or docking facilities for boats and accessory services and facilities such as: boat sales, rental and storage, marine supplies and equipment, marina engine and hull repairs, construction and outfitting for pleasure craft, fuel and oil, electricity, fresh water, ice, shower and laundry facilities and on-premise restaurant.

MEDICAL CLINIC: An office building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

MINERAL EXTRACTION: The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

MOBILE HOME PARK: A parcel of land under unified ownership approved by the Town of Bowerbank for the placement of three (3) or more manufactured homes.

MOTOR VEHICLE: Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

MOTOR VEHICLE, UNSERVICEABLE: Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway, or which is not being used for the purposes for which it was manufactured.

MUNICIPAL FACILITIES: Buildings or land which is owned by a Public entity and operated under its supervision for a public purpose.

NON-CONFORMING USE: See USE TERMS

NORMAL MAINTENANCE AND REPAIR: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, and change in location, change size or capacity.

OWNER: The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

PARCEL: The entire area of a tract of land before being divided by a development.

PARKING LOT: An open area other than a street used for the parking of more than four automobiles and available for public use whether free, for compensation, or an accommodation for clients or customers.

PARKING SPACE: A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

PERFORMANCE STANDARD: A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by users in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of Bowerbank.

PROFESSIONAL OFFICE: An office of a professional such as an architect, accountant, dentist, doctor of medicine, lawyer, etc., but not including any manufacturing, commercial or industrial activity.

RESTAURANT: An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics:

Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or

A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

RETAIL ESTABLISHMENT: Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

ROAD: A thoroughfare or way consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

PRIVATE ROAD: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

PUBLIC ROAD: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

SETBACK: The minimum distance from the edge of the road right-of way or lot line to the nearest part of a structure.

FRONT SETBACK: The open, unoccupied space on the same lot with the principal structure between the front lot line and the nearest part of any structure on the lot, and extending the entire width of the lot.

REAR SETBACK: The open, unoccupied space on the same lot with the principal structure between a rear lot line and the nearest part of any structure on the lot, and extending the entire width of the lot.

SIDE SETBACK: The open, unoccupied space on the same lot with the principal structure between a side lot line and the nearest part of any structure on the lot, extending from the front setback to the rear setback.

SIGN ITEMS: Device, model, banner, pennant, insignia, flag, or other representation, which is used as, or is in the nature of an advertisement, announcement or direction.

SIGNS:

AREA OF A SIGN: The exposed surface of the sign including all ornamentation, embellishment, background, and symbols.

FREE STANDING SIGN: A sign supported by one or more uprights or braces permanently affixed into the ground.

PORTABLE SIGN: A sign not designed or intended to be permanently affixed into the ground or to a structure.

ROOF SIGN: A sign which is attached to a building and is displayed above the eaves of such building.

TEMPORARY SIGN: A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and for rent signs.

WALL SIGN: Any sign painted on, or attached parallel to, the wall surface of a building and projecting therefrom not more than six (6) inches.

WINDOW SIGN: Any on-premise, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued, or otherwise

affixed to a window.

STRUCTURAL TERMS:

STRUCTURE: Any building or similar structure, maintained, or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any use thereof. Where independent units with separate entrances are divided by walls, each unit is a structure. Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land, including a pool, patio or deck.

STRUCTURE, ACCESSORY: A building or similar structure which (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory or similar structure.

STRUCTURE, PRINCIPAL: A building or similar structure in which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is located.

DWELLING: A building or similar structure or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multiple family dwellings.

DWELLING UNIT/APARTMENT: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

DWELLING, SINGLE-FAMILY DETACHED: A dwelling designed for and occupied by not more than one (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

DWELLING, TWO-FAMILY: A detached or semi-detached building or similar structure used for residential occupancy by two (2) families living independently of each other.

DWELLING, MULTIPLE-FAMILY: A building or similar structure or portion thereof used for residential occupancy by three (3) or more families living independently of each other and doing their own cooking in the building, including apartments, group houses and row houses.

TRANSIENT: A non-resident person residing within the Town of Bowerbank less than

thirty (30) days.

USE: The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

ACCESSORY USE: A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.

PRINCIPAL USE: The specific primary purpose for which land is used.

CONFORMING (PERMITTED) USE: A use which may be lawfully established in a particular district provided it conforms to all the requirements, standards and regulations of such district.

NON-CONFORMING USE: A use which does not conform to the provisions of this Ordinance.

OPEN SPACE USE: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. Variances can only be issued by the Board of Appeals.

WAREHOUSE AND STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WHOLESALE BUSINESS ESTABLISHMENT: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to consumers.

YARD, see SETBACK