

# Town of Bradley

## Fee Schedule

### Administrative Fees:

Notary		
Resident	\$	-
Non-Resident	\$	5.00
Photocopies		
General 8 1/2" X 11"	\$	0.50
General 8 1/2" X 14"	\$	0.75
General 11" x 17"	\$	1.00
Tax Card	\$	1.00 Per Card
Tax Map	\$	1.00 Per Map
Maine Freedom of Access Act	\$	0.10 Per 8 1/2" x 11"
Fax	\$	0.50 Per Page
Research Fees		
Maine Freedom of Access Act Request	\$	25.00 Per Hour after first 2 hours
Genology		\$3.00 Per Name
		If record found photocpy included
Returned Check Fee	\$	25.00 + Bank Fee

### Land Use Fees:

All fees will be computed by and permits issued by the Code Enforcement Officer, with the approval of the Planning Board as required. Unless stated otherwise, all usages require an application fee. Application fees are to be submitted with the application and are non-refundable.

Building Permit:		
Residential		
Application Fee	\$	20.00
Permit: Finished (Includes 4 Season additions)	\$	0.20 Per Sq. Ft.
Permit: Unfinished (Sheds, etc. & 3 Season additions)	\$	0.10 Per Sq. Ft.
Commercial & Non Residential		
Application Fee (May require Land Use Review Fees/Subdivision Fees)	\$	40.00
Permit: Finished (Includes heated or conditioned warehouse 4 season additions)	\$	0.40 Per Sq. Ft.
Permit: Unfinished (unheated etc.)	\$	20.00 Per Sq. Ft.
CEO Review	\$	25.00
Planning Board Review-No Public Hearing	\$	50.00
Planning Board Review-With Public Hearing	\$	150.00
Includes Resource Extraction, Institutional, Commercial, Industrial, Transportation & Utilities-See Land Use Ordinance § IV		
Driveway Cuts/Entrance	\$	25.00
Culverts	\$	25.00
Driveway Cuts/Entrance & Culverts on the same permit	\$	40.00
Shoreland Zone	\$	25.00
Flood Zone-Minor	\$	25.00
Flood Zone-Major	\$	50.00

**Auto Graveyards/Junk/Salvage Yard**

Application Fee	\$ 150.00
Annual Fee	\$ 100.00

**Signs****Residential (only)**

One sign up to four (4) Sq. Ft.	\$ -
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**Other Residential**

Application Fee	\$ 20.00
Permit	\$ 0.10 Per Sq. Ft.

**Commercial & Non Residential**

Application Fee	\$ 50.00
Permit	\$ 0.20 Per Sq. Ft.

**Subdivisions****Fees Paid with Application Submission**

Includes manufactured home parks, motels, cabins & rental units of three or more  
See Article 6.2B & 7.1B Subdivision Ordinance

**Minor Subdivision-No Preliminary Review**

Final Review	\$ 125.00
Plus Per Lot or Unit	\$ 50.00

**Major Subdivision**

Preliminary Review	\$ 125.00
Plus Per Lot or Unit	\$ 25.00
Plus for every additional four acres or portion of	\$ 20.00

Final Review	\$ 50.00 Per Lot
Technical Review Fee	\$ 200.00 Per Lot

**Towers-Wireless Communication**

Application Fee-Submit with Plans	\$ 200.00
Approval-Up to 195' height	\$ 1,000.00
Approval-Over to 195' height	\$ 2,000.00
Building Permit w/Planning Board Approval	\$ 150.00

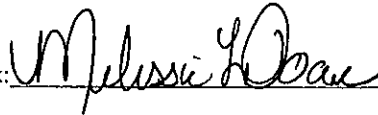
**Cemetery Fees**

Residents	\$ 250.00
Non-Residents	\$ 450.00

Each lot is 4 x 12 which will fit one adult body, two children or six cremated remains.

Approved by Town Council 3-15-2022

True Copy Attest Town Clerk:





## Town of Bradley Record of Ordinance

➤ Chapter 1	Charter of the Town of Bradley
➤ Chapter 2	Codification
➤ Chapter 3	Land Use Ordinance
➤ Chapter 4	Shoreland Zoning Ordinance
➤ Chapter 5	Floodplain Management Ordinance
➤ Chapter 6	Subdivision Ordinance
➤ Chapter 7	Addressing Ordinance
➤ Chapter 8	Pawnbrokers Ordinance
➤ Chapter 9	Dog Ordinance
➤ Chapter 10	Holding Tank Ordinance
➤ Chapter 11	Culvert and Driveway Entrance Ordinance
➤ Chapter 12	Special Amusement Ordinance
➤ Chapter 13	Ordinance Restricting Vehicle Weight on Posted Ways
➤ Chapter 14	Property Assessed Clean Energy Ordinance
➤ Chapter 15	General Assistance Ordinance – See General Assistance Administrator
➤ Chapter 16	Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana
➤ Chapter 17	An Ordinance to Restrict Winter Parking
➤ Chapter 18	Solar Array Ordinance
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# Chapter 1

## Charter of the Town of Bradley



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# **CHARTER OF TOWN OF BRADLEY**

## **PENOBSCOT COUNTY**

### **ARTICLE I: GRANT OF POWER TO THE TOWN**

#### **Section 1: Incorporation**

The Inhabitants of the Town of Bradley shall continue to be a Municipal Corporation by the name of the Town of Bradley, pursuant to its incorporation by law and amendments thereof.

#### **Section 2: Powers**

The Town shall have all the powers possible for a municipality to have under the Construction and the laws of the State of Maine.

#### **Section 3: Construction**

The powers of the Town under this Charter shall be construed liberally in favor of the Town and specific mention of particular powers in the Charter shall not be construed as limiting in anyway the general power stated in the article.

#### **Section 4: Intergovernmental Relations**

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any other municipality of the State of Maine, public agency of this State, or of the United States.

### **ARTICLE II: TOWN REFERENDUM**

#### **Section 1: Annual and Special Town Referendums**

Except as otherwise provided for by the provisions of this Charter, the legislative authority of the Town of Bradley shall continue to be vested in the Inhabitants of the Town of Bradley acting by means of the Town Referendum. The Annual Town Referendum shall be set by the Town Council and held in June. The provisions of the Revised Statutes of the State of Maine, including Title 30, Section 2061, shall govern the manner in which all annual and special town meetings shall be called and conducted and shall govern the Warrant for calling same. There shall be only one budget referendum per year.

#### **Section 2: Powers and Responsibilities**

The Annual Town Referendum shall have the exclusive power and responsibility to

- a. Elect all necessary town officers;
- b. Raise and appropriate monies for the Annual Budget;

The Annual Special Town Referendums shall have the power and responsibility to:

- a. Raise and appropriate monies for special purposes;

- b. Act on the issuance of bonds and notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued;
- c. Act on the sale of town owned real estate other than that acquired through matured tax mortgages liens;
- d. Transact other town business presented to it by Warrant Articles;
- e. Exercise all other powers not specifically delegated by this Charter or by law.

### **Section 3: Certification of Results**

- a. Two (2) days after the Annual Referendum or a Special Referendum, the Town Clerk shall certify the results of the respective referendum to the Town Councilors.
- b. Upon certification that a majority of the voters of the Town voting at the Annual Referendum have voted "YES" in response to a budget item, the Town Council shall adopt the budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for all approved line-items.
- c. Upon certificate that a majority of the voters of the Town voting at the Referendum have voted "NO" in response to a budget item, the Councilors shall adopt the Town Budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for each un-approved line-item equal to the budgeted appropriation for the line-item during the fiscal year just ending.
- d. Upon certification from the Town Clerk that other items as listed in Section 2, Powers and Responsibilities, voted on at the Annual Referendum have received a "YES" vote, the Town Council will take appropriate action.
- e. The Town Council/School Board may request a Special Referendum (not related to budget matters) as decreed in Section 2, Powers and Responsibilities. The Referendum must be called in accordance to all other requirements of the Charter.

## **ARTICLE III: THE TOWN COUNCIL**

### **Section 1: Composition, Eligibility, Election, and Terms**

- a. Composition. There shall be a Town Council of five members elected by a majority vote of the qualified voters of the Town who cast ballots in accordance with Article X.
- b. Eligibility. Only qualified voters of the Town, at the time of the election, shall be eligible to hold the office of Councilor.
- c. Elections and Terms. Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of the Charter one Councilor shall be elected. The four incumbent Selectman presently serving with more than one year to serve shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall have all the authority, duties, and responsibilities of Councilors set forth by the Charter.

## **Section 2: Salary**

The salary of the Town Council Chairperson and Councilors shall be established at the Annual Town Meeting. The salary established by the Annual Town Meeting shall be paid the Councilors in equal quarterly amounts; provided, however, that a Councilor's failure to attend 75% of the Regular Council Meetings shall result in a forfeiture of payment of that quarter.

## **Section 3: Chairperson, Secretary**

The Council shall elect from among its members a Chairperson, who shall serve at the pleasure of the Council. The Chairperson shall preside at meetings of the Council, and shall be recognized as the head of the Town Government for all ceremonial purposes. The Chairperson shall have no administrative duties.

The Town Clerk or Deputy Clerk shall give notice of all Council Meetings to Council Members and to the public in such manner as deemed suitable. The Town Clerk or Deputy Clerk shall keep a journal of the proceedings of the Council and perform such duties as assigned to him/her by this Charter or by the Council.

## **Section 4: General Authority and Duties**

The Council shall have the authority to:

- a. Appoint and remove for cause, after hearing, the Town Manager, Town Treasurer, Town Clerk, and Town Assessor; appoint Town Attorney who shall serve at the will of the Council; appoint and remove for cause, after hearing, the members of the Planning, Cemetery committee, Board of Appeals, Recreation Committee, Health Officer, local Constables, and all other appointed committees as The Council may determine necessary, each of which shall have authority and perform such duties as are provided by this Charter, Municipal Ordinance and by Statute.
- b. By ordinance create, change, and abolish offices, departments, committees, and agencies, other than the offices, departments, committees and agencies created by the School Department.

The Town Council by resolution may assign additional functions or duties to officers, departments, committees, or agencies established by this charter, but may not discontinue or assign to any office, departments, committees, or agencies established by this charter any function or duty assigned by this Charter to a particular office, department, committee or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office under this Charter, with the exception of that of Town Assessor, or Town Attorney or any School Officers

- c. Convey or authorize the conveyance of real estate acquired by mature tax mortgage liens and the lease or authorization for lease of town owned property.
- d. Adopt an annual budget which shall be presented to the Public Hearing as provided by this Charter, and upon receipt of recommendation of the Public Hearing, cause the budget, with or without change, to be printed in the Town Warrant.
- e. Borrow funds and provide for the execution of notes thereof in anticipation of taxes, said notes to be repaid within the fiscal year in which issued.

- f. Provide for annual audit.
- g. Dispose of by sale or otherwise, surplus town owned personal property.
- h. Make, alter, and repeal ordinances permitted by statute.
- i. Appropriate, by resolution, up to \$5000.00 per year from unappropriated surplus for emergency purposes as defined by the Council.
- j. Accept gifts, conditional or unconditional, including, but not limited to cash, real estate and personal property and acquire real estate or personal property as it deems to be in the best interest of the Town of Bradley.

#### **Section 5: Prohibitions**

- a. Holding another office. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold any other town office or town employment while serving as a member of the Council.
- b. Appointment and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his/her subordinates is empowered to appoint.
- c. Interference with Administration. Except for the purpose of inquiries and investigation under Article III, Section 4(h), the Council or its members shall deal with town officers, who are subject to the direction and supervision of the Town Manager, solely through the Town Manager. Neither the Council nor its members shall give orders to any such officer or employee, either public or privately.

#### **Section 6: Vacancies, Forfeiture of Office**

- a. Vacancies. The Office of Councilor shall become vacant upon his/her nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetence, failure to qualify for the office within 10 days after written demand by the Council, or forfeiture of office.
- b. Forfeiture of Office. A Councilor shall forfeit his/her office if he/she:
  - 1. lacks at any time during his/her term of office any qualification for the office prescribed by this charter or by law;
  - 2. violates any express prohibition of this Charter;
  - 3. is convicted of a crime or offense which is reasonably related to his/her ability to serve as Councilor; or
  - 4. fails to attend three consecutive meetings of the Council without being excused by the Council.

The Council shall prescribe by rule provisions for Notice and Hearing for any Councilor deemed to have forfeited his/her office.

- c. Filling of vacancies. One vacancy shall be filled by appointment. Any other vacancies the Council shall be filled for the remainder of the un-expired term at the next annual election held more than 120 days after the occurrence of the vacancy. Any further vacancies will necessitate a special election to ensure that the Council remains an elected body. If the next annual election is to be held more than 120 days of the occurrence of the vacancy, then a special election shall be held to fill the vacancy. Notwithstanding the requirement of a quorum in Article III, reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

#### **Section 7: Judge of Qualifications.**

The Council shall be the judge of the election and qualification of all officers elected by the voters under this Charter and of the ground for forfeiture of their office and for that purpose shall have the authority to provide for the compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged in writing with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, made within ten (10) days of receipt of notice of forfeiture. Notice of the Hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advanced of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

#### **Section 8: Procedure.**

- a. Meetings: The Council shall meet regularly at least once every two weeks at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Council Chairperson, Town Manager, or of three or more Council Members by causing a notification to be given in hand or left at the usual dwelling place of each council member at least 24 hours before the meeting. All meetings shall be public; however, the Council may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council except in public meetings.
- b. Rules and Journal: The Council shall determine its own rules and order of business, however, when a question of procedure develops Robert's Rules of Order shall apply. The Council shall provide for the keeping of a written journal of its proceedings by the Town Clerk. This journal shall be kept for public record.
- c. Voting: Voting, except on procedural motions, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Each Councilor in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest clearly exists.



## **Section 9: Ordinance in General.**

- a. Form: Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title.

The enacting clause shall be "The Town of Bradley hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Town of Bradley Code shall set forth in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or underscoring or italics.

- b. Procedure: An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Council member and to the Town Manager, a reasonable number of copies shall be filed in the Town Clerks office, and such other places as the Council shall designate, and shall publish the notice together with a notice of setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in conjunction with a regular or special Council Meeting and may be adjourned from time to time. All persons interested shall have reasonable opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment, or reject it; but, if it is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Town Clerk shall have it published again together with a notice of its adoption.
- c. Effective date: Except as otherwise provided in the Charter, every adopted ordinance shall become effective at the expiration of thirty days after the adoption or at any later date specified therein.
- d. "Publish" Defined; As used in this section the term "publish" means to print in one or more newspapers of general circulation in the municipality:
  - 1. the ordinance or a brief summary thereof, and
  - 2. the place where copies of it have been filed and the time when they are available for public inspection.

## **Section 10: Emergency Ordinances**

To meet a public emergency affecting life, health, property, or public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form or manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or

at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61<sup>st</sup> day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section for adoption of emergency ordinances.

#### **Section 11: Authorization and Recording; Codification; Printing**

- a. Authorization and Recording: All ordinances and resolutions by the council shall be authenticated by the signature of Chairperson of the Council, and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.
- b. Codification: Within three years after the adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all the ordinances and resolutions having full force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or in loose leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and such codes of technical regulations and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be cited officially as the Town of Bradley Code. Copies of the code shall be furnished officials, placed in libraries, and public offices for free public reference and made available for purchase by the public as a reasonable price fixed by the Council.
- c. Printing of Ordinances and Resolutions: The Council shall cause each ordinance and resolution having full force and effect of law and each amendment to this charter to be printed promptly following adoption, and printed ordinances, resolutions, and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Town of Bradley code and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed substantially in the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make further arrangements as it deems desirable with respect to production and distribution of any current changes in or addition to, the provisions of the Constitution and other laws of the State of Maine, or regulations included in the code.

### **ARTICLE IV: THE TOWN MANAGER**

#### **Section 1: Appointments; Qualifications; Compensation**

The Council shall appoint a Town Manager for indefinite term unless otherwise specified by contract, and fix his/her executive and administrative qualifications. He/she need not be a resident of the Town or State at the time of his/her appointment, but may reside outside the Town while in office only with the approval of the Council.

#### **Section 2: Removal**

The Town Manager may be removed for cause by the Council in accordance with the provisions of the revised statutes of the State of Maine relating to the removal of a Town Manager.

### **Section 3: Acting Town Manager**

The Town Manager shall:

- a. Be the chief administrative official of the municipality;
- b. Be responsible to the Council for the administration of all departments and offices over which the Council has control;
- c. Serve as Road Commissioner, Town Clerk, Town Treasurer, Tax Collector, General Assistance Administrator, and Registrar of Voters, unless otherwise directed by the Town Council;
- d. Execute all laws and ordinances of the municipality;
- e. Serve as head of any department under the control of the Council when so directed;
- f. Appoint, subject to the confirmation by the Council when the department is not headed by the Town Manager under paragraph (e);
- g. Appoint, supervise, control or remove all other officials, subordinates and assistants, except that he/she may delegate this authority to a head of a department, and report all appointments and removals to the Council;
- h. Act as purchasing agent for all the departments, except for the School Department, provided that the Town or the Council may require that all purchases above a designated amount shall be subject to Council approval. The Town or Council may also require that any purchase greater than a designated amount shall be by sealed bid;
- i. Attend all meetings of the Council;
- j. Attend such meetings and hearings of the municipality as the Council may require;
- k. Make recommendations to the Council for the more efficient operation of the municipality;
- l. Keep the Council and the residents of the municipality informed as to the financial condition of the Town;
- m. Collect data necessary for and prepare the annual budget and Capital Improvement Budget;
- n. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governing practices.

## **ARTICLE VI: PERSONNEL ADMINISTRATION**

### **Section 1: Merit Principle**

All appointments and promotions of town officials and employees shall be made solely on the basis of qualification.

### **Section 2: Personnel Director**

The Town Manager or person appointed by him/her shall be designated Personnel Director. The Personnel Director shall administer the personnel system of the Town.

### **Section 3: Personnel Rules**

The Personnel Director shall prepare personnel rules. These personnel rules shall not apply to any school administrator or school employee. When approved by the Manager, the rules shall be proposed to the Council for adoption. The Council may adopt them with or without amendment. These rules shall provide for:

- a. The classification of for all town positions based on the duties, authority and responsibility for each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances. For purposes of this section town positions shall include all town employees;
- b. A pay plan for all town positions;
- c. Methods for determining the qualifications of candidates for appointment or promotion;
- d. The policies and procedures regulating reduction in force;
- e. The policies governing disciplinary measures such as suspension, demotion or discharge, with provisions for presentation of charges, hearing rights, and appeals;
- f. The hours of work, attendance regulations and provisions for sick and vacation leaves;
- g. The policies and procedures governing persons holding provisional or part-time appointments;
- h. The policies and procedures governing relationships with employee organization not consistent with law;
- i. Policies regarding in-service training programs;
- j. Grievance procedures, and;
- k. Other practices and procedures necessary to the administration of the town personnel system.
- l. No person shall hold more than one compensated position in the town at one time.

## **ARTICLE VII: THE FIRE CHIEF**

### **Section 1: Composition; Eligibility; Appointment and Term**

- a. Composition: There shall be a Fire Chief appointed by the Town Manager, subject to confirmation by the Town Council.
- b. Eligibility: Only qualified voters of the Town of Bradley shall be eligible to hold the office of Fire Chief.
- c. Appointment and Term: The incumbent Fire Chief serving at the time of the adoption of this Charter shall continue to serve as Fire Chief for the remainder of his/her term or until his/her successor is appointed and confirmed and shall have all of the authority, duties, and responsibilities of Fire Chief as set forth by this Charter.

### **Section 2: Salary**

The salary of the Fire Chief shall be determined by the Town Council, and shall be reviewed from time to time.

### **Section 3: General Authority and Duties**

The Fire Chief shall:

- a. Direct and command all municipal and volunteer firefighters in the performance of fire fighting operations within the Town of Bradley;
- b. Determine the adequate number of firefighters necessary to compose an effective Bradley Fire Department.
- c. Appoint all officers and firefighters; and have authority to remove them for just cause after notice and hearing;
- d. Be authorized, with the approval of the Town Council, to promulgate administrative rules and regulations relating to municipal fire protection consistent with this Charter, Municipal Ordinances and the Maine Revised Statutes Annotated;
- e. Provide a training program for firefighters within the municipality in cooperation with the appropriate governmental agencies;
- f. Provide for the maintenance of all Town owned fire equipment used by the Municipal Fire Department;
- g. Prepare and annually submit to the Town Manager a budget relating to fire protection activities;
- h. Be authorized to obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury or damage;
- i. Be responsible for the acquisition of all necessary fire protection commodities, related services, and equipment by ordering said commodities, services and equipment as per established purchasing procedures;

- j. Be authorized to pull down and demolish structures and appurtenances if he/she judges it necessary to prevent the spread of fire;
- k. Suppress, disorder and tumult at the scene of a fire, and generally, to direct all operations in order to prevent further destruction and damage.

#### **Section 4: Fire Department General Provisions**

- a. Firefighters Duties: All firefighters duly appointed by the Fire Chief shall be under a duty to extinguish all fires to which they are called; protect lives and property endangered by fires; and carry out all other related activities as directed by the Fire Chief.
- b. Firefighter Training: All firefighters shall attend training sessions as scheduled by the Fire Chief.
- c. Meetings: The members of the Fire Department shall meet regularly at such time and place as the members may prescribe by rule. The Department shall provide for the keeping of a written journal of its proceedings by the Fire Department Clerk. This journal shall be kept for public record.

### **ARTICLE VIII: SCHOOL ADMINISTRATION**

#### **Section 1: Superintending School Committee; Eligibility; Election and Terms; Compensation**

- a. Superintending School Committee: There shall be a superintending School Committee, sometimes referred to herein as School Committee, of five members elected by the qualified voters of the Town in accordance with Article X.
- b. Eligibility: Only qualified voters of the Town shall be eligible to hold the office of School Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, not town employment while serving as a School Committee Member. This provision shall not apply to persons who are employed by the town on less than a full time annual basis. " Full time employee" means person employed on a weekly basis regardless of remuneration or the number of hours worked. Volunteer firefighters with the exception of the Fire Chief, shall not be considered "full time employees:" for the purposes of this section.
- c. Election and Terms: Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of this Charter one School Committee Member shall be elected and the four Committee Members presently serving shall be sworn as Committee Members and continue to serve as Committee Members for the remainder of their terms or until successors are elected and qualified.
- d. Compensation: The Compensation of the School Committee Chairperson and members shall be established at the Annual Town Referendum. The salary established by the Annual Town Referendum shall be paid the School Committee Members annually provided, however, that a member's failure to attend 75% of the regular School Committee Meetings shall result in a forfeiture of payment for that year.

## **Section 2: Vacancy; Forfeiture of Office; Filling of Vacancies**

The office of School Committee Member shall be deemed vacant or forfeited for the same reasons that the office of Councilor shall be deemed vacant or forfeited, as provided in Article III, Section 6 (a) and Section 7 (b) 1-4. If any vacancy occurs, the vacancy shall be filled for the remainder of the unexpired term in the same manner as provided in Article III, Section 6 (c) for filling of Council vacancies, provided, however, the School Committee shall be the appointing authority for School Committee vacancies.

## **Section 3: Powers and Duties**

The School Committee shall have all the powers and duties prescribed for Superintending School Committees by the general laws of the State of Maine and as provided by this Charter consistent with said laws. The School Committee shall supervise the school department and for financial purposes shall be governed by Article IX.

## **Section 4: Chairperson; Secretary**

The School Committee shall elect by majority vote from among its members a Chairperson for ensuing year. The Chairperson shall preside at all meetings of the School Committee and shall have a vote as other members of said committee.

The Superintendent of Schools shall act as recording secretary of the School Committee. The Superintendent of Schools shall give notice of School Committee Meetings to its members and to the public in such manner as deemed suitable by the Committee and keep a journal of the votes and proceedings of the School Committee.

## **Section 5: Procedure**

- a. Meetings: The School Committee shall meet regularly at least once in every month, except during the months when school is not in session, at such time and place as the School Committee may prescribe by rule. Special meetings may be held on the call of the Chairperson, Superintendent of Schools, or if any two or more Committee Members by causing a notification to be given or left at the usual dwelling place of each Committee Member. All meetings shall be public, however, the Committee may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling such session and that final action thereon not be taken by the Committee except in public meeting.
- b. Rules and Journal: The Committee shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be kept for public record.
- c. Voting: Voting, except on procedural motion, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Committee shall constitute a quorum, but a smaller number may adjourn from time to time and may compel to the penalties prescribed by the rules of the Committee. Each Committee Member shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists.

## ARTICLE IX: FINANCIAL PROCEDURES

### **Section 1. Fiscal Year**

The fiscal year of the Town government shall begin the first day of July and shall end the thirtieth day of June of each year. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

### **Section 2: Preparation and Submission of the Budget**

The Town Manager shall submit a projected Municipal Budget and an explanatory budget message to the Town Council on or before February 1<sup>st</sup>.

The Superintendent of Schools shall submit a projected Education Budget and an explanatory message to the School Committee on or before February 1<sup>st</sup>.

The budgets prepared by the Town Manager and the Superintendent of Schools shall be compiled from detailed information furnished by the administrative officers, the Superintending School Committee, and other boards, on forms which shall be designated by the Town Manager for the Municipal Budget, and by the Superintendent of Schools for Education Budget.

The projected budgets, as prepared by the Town Manager and the Superintendent of Schools shall contain the following:

- a. An itemized statement of appropriations recommended for current expenses with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated and explained.
- b. An itemized statement of estimated revenue from all sources, other than local taxation, and statement of taxes required, comparative figures from current and next preceding year.
- c. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax and shall be itemized also by department and kinds of expenditures, in such manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.
- d. The Town Manager's projected budget shall include a statement of the financial condition of the town.
- e. Such other information as may be required by the Town Council or the School Committee.

The Superintending School Committee shall present a projected education budget to the Town Council on or before April 1<sup>st</sup> of each year.

The Town Council shall have authority to recommend amendments to the School Committee, but the actual budget as prepared by the School Committee shall be published along with the Municipal Budget as approved by the Town Council.



The Town Council shall fix a time and place for holding a Public Hearing on the budget, the Town Council shall again review the entire budget. The complete Municipal Budget as approved by the Council, and the complete Education Budget as approved by the School Committee and reviewed by the Town Council, shall then be recommended by the Town Council with or without amendments to the Annual Town Referendum.

Provided, however, the projected budget of the School Committee shall be published as it was approved by the School Committee. Should the Town Council wish to recommend amendments to the Education Budget, such recommendations shall be included in the Town Referendum warrant below the recommendations of the School Committee.

### **Section 3: Budget and Expenditures**

The Town Budget shall have two divisions: Municipal Budget and Education Budget, and each shall include all proposed expenditures for the upcoming year.

### **Section 4: Transfer of Appropriations**

At the request of the Town Manager and within the last three months of the budget year, the Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

At the request of the Superintendent of Schools, and within the last three months of the budget year, the School Committee may by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

### **Section 5: Interim Expenses**

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current department expenses chargeable to the appropriations for the year, in amounts to cover the necessary expense of the various departments.

### **Section 6: Capital Improvement Program**

The Town Manager and the Superintending School Committee each shall prepare and submit to the Town Council a five year Capital Improvement Program at least three months prior to the final date for submission of the budget to the Town Council. The Capital Improvement Program shall include:

- a. A clear summary of its contents
- b. A list of all capital improvements which are proposed for the successive five fiscal years, with proper supporting information as to the necessities of such improvements.
- c. Cost estimates, methods of financing, and recommended time schedules for such improvements.
- d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, if any.

The above required information shall be reviewed and extended each year with regard to capital improvements still pending or in the process of construction or acquisitions. The current year's

portion of the five year Capital Improvement Program, as approved by the Town Council, shall be included as an item with Municipal Budget presented to the Annual Town Meeting.

## **ARTICLE X: ELECTION AND NOMINATION**

### **Section 1: Elections**

- a. Conduct Elections: The Annual Municipal Election shall be held on a date in June set by the Town Council. Except as otherwise provided for by this Charter; Title 30, Section 2061, 2062, 2063, 2064 and 2065 of the provisions of the Revised Statutes of the State of Maine shall govern the election of all town officials required by this Charter, and said election shall be conducted by the election officials accordingly. Polls shall be open at specified polling places from at least 9 a.m. to 6 p.m. for Municipal Elections.
- b. Qualified Voter: The term "qualified voter" as used in this Charter shall mean any person qualified and registered to vote in the Town of Bradley pursuant to the laws of the State of Maine.

### **Section 2: Nominations**

- a. Petitions: Candidates for election to the Council and the School Committee shall be nominated by petition. Any qualified voter of the town may be nominated for election as a Councilor, or School Committee Member by a petition signed by not less than 25 not more than 75 of the qualified voters of the Town. The voters may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.
- b. Filing and Acceptance of Nomination Petitions: All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as an instrument on or before the 35<sup>th</sup> day next prior to the day of elections. This is the final date of filing for nomination petitions. Nomination papers shall be available to candidates for Municipal Office no earlier than 40 days next prior to the final date of filing nomination petitions. The Clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.
- c. Procedure After Filing Nomination Petitions: Within five days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions. Such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The Clerk shall keep on file all petitions found to be insufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

### **Section 3: Moderator**

Whenever the election of a Moderator is required at the annual or special town meeting, the provisions of Title 30, Section 2054 of the Maine Revised Statutes as amended shall govern.

## **ARTICLE XI: INITIATIVE AND REFERENDUM**

### **Section 1: General Authority**

- a. Initiative: Qualified voters shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the voters may vote to adopt or reject it in an election, provided that such power shall not extend to the budget or capital improvement program or any ordinance relating to appropriation of money, levy of taxes or salaries of officers or employees.
- b. Referendum: The qualified voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered said voters shall have the power to approve or reject it at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance relating to appropriation of money, levy, taxes, or salaries of officers or employees.

### **Section 2: Commencement of Proceedings; Petitioners; Petitioners Committee; Affidavit**

Any five qualified voters may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and address and specifying the mailing address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners committee is filed the Clerk shall issue the appropriate petition blank to the petitioners committee.

### **Section 3: Petitions**

- a. Number of Signatures: Initiative and referendum petitions must be signed by qualified voters of the town equal to at least 20 percent of the total number of qualified voters registered to vote at the last annual municipal election as certified by the Town Clerk.
- b. Form and Consent: All papers of a petition shall be uniform size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- c. Affidavit or Circulator: Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signed had a opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- d. Time for Filing Referendum Petitions: Referendum petitions must be filed within 120 days after adoption by the Council of the ordinance sought to be reconsidered.

#### **Section 4: Procedure after Filing**

- a. Certification of Clerk; Amendment. Within 20 days after the petition is filed, the Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of his/her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) and (c) of Section 3, Article XI, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petitions certified insufficient and the petitioners committee does not elect to amend or request Council review in subsection (b) of this section within the required, the Clerk shall promptly present his/her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.
- b. Council Review: If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within five days after receiving copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate and its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.
- c. Court Review; New Petition: A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### **Section 5: Referendum petitions; Suspension of Effect of Ordinances**

When a petition is filed with the Town Clerk, the ordinance to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is final determination of insufficiency of the petition, or
- b. The petitioners Committee withdraws the petition, or
- c. The Council repeals the ordinance

#### **Section 6: Action on Petitions**

- a. Action by Council: When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fail

to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

- b. Submissions to Voters: The vote on a proposed or referred ordinance shall be held not less than 30 days and no later than one year from the date of final Council vote thereon. If no annual election is to be held within the period prescribed in the subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as the annual election, except that the Council may, in its description, provide for a special election at an earlier date within the prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

An ordinance to be voted on shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title "shall appear the above described ordinance be adopted?" In the case of referendum, the question shall be:

"Shall the above described ordinance be repealed?" Immediately below such question shall appear the following order the words "yes" and "no" and to the right of each square in which the voter may cast his/her vote.

## **Section 7: Results of Election**

- a. Initiative: If a majority of the qualified elector voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council.
- b. Referendum: If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the elections results.
- c. Reconsideration: Upon the certification of the election results, if a proposed ordinance fails, or a referred ordinance is upheld by the voters, then a new petition proposing or attempting to repeal the same ordinance that was considered by the voters shall not be reconsidered for a period of twelve months from the date of the election at which the proposed or referred ordinance was defeated or upheld.

## **ARTICLE XII: RECALL**

### **Section 1: Recall Provisions**

Any member of the Town Council, or School Committee may be recalled and removed from office by the qualified voters of the Town as herein provided.

Any five qualified voters may begin at any time proceedings to recall a member of the Town Council or School Committee by requesting in writing to the Town Clerk for the appropriate petition blanks. Provided, however, that if the term of any person whose recall is sought expires within 90 days of the date of the acceptance of the request for the appropriate petition blanks by the Town Clerk, then said person may not be recalled. The five registered voters requesting the petition blanks shall be referred to as the Recall committee.

The recall committee shall have 30 days from the date of the acceptance of the request by the Town Clerk to cause the petition to be signed by 10% of the qualified voters of the Town. The petition shall be signed by qualified voters in the presence of the Town Clerk or his/her deputy. Each voter's signature shall be followed by his/her address.

Within seven days after the petition circulation period ends, the Town Clerk shall certify to the Town Council that the petition as been signed by not less than 25 percent of the qualified voters of the Town, that all signatures were affixed in his/her presence or his/her deputy's presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signer had an opportunity to read the statement detailing the reason or reasons for recall.

Should fewer qualified voters than required by the Charter signed the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same Councilor, or School Committee Member will not be accepted by the Town Clerk until 180 days after the expiration of the previous filing period.

Upon receipt of the certification, the Council shall within 30 days hold a special election for the purpose of submitting the vote the question of recall. A Councilor or School Committee Member shall be recalled when a majority of those voting thereon have voted in the affirmative. The Councilor shall within 30 days after the voters have recalled a Councilor or School Committee Member hold a special election to fill the vacancy.

A Councilor or School Committee Member who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy his/her name appear on the ballot, no later than the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for an annual municipal election.

Pending action by the voters of the Town, the Councilor or School Committee Member that recall proceedings have been initiated against, shall continue to exercise all the privileges of his/her office.

The ballot for recall shall contain the following question: "Shall (name of person subjected to recall) be recalled from the office of (name of office)?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his/her vote.

## **ARTICLE XIII: GENERAL PROVISIONS**

### **Section 1: Elected Officers; Terms**

The term of any elected official shall begin that first day of the next fiscal year following the election of said officer. Provided, however, that any officer elected to fill a vacancy in office shall assume the responsibility of that office the first day following his/her election. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified.

### **Section 2: Swearing in Officers**

Every town officer or official shall be sworn to he faithful discharge of the duties incumbent upon his/her according to the Constitution and laws of the State of Maine, and the Charter and ordinances of the Town, and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

### **Section 3: Organizational Matters**

The Town Council and the Superintendent School Committee shall each convene during the first full week of the new fiscal following the Annual Election for the purpose of organizing as provided by Statute and this Charter.

### **Section 4: Prohibitions**

#### **a. Activities Prohibited:**

1. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, sex, political or religious opinions or affiliations.
2. NO person who holds a compensated appointive town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

- #### **b. Penalties:** Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the Council acting in juridical capacity, shall be ineligible for a period of five years thereafter to hold any town office or employment and shall immediately forfeit his/her position or office.

### **Section 5: Separability**

If any provisions of this Charter are held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstances is held invalid, the application of the Charter and its provisions to other persons and circumstance shall not be affected thereby. If any provisions of this Charter is held invalid by reason of any conflict with State or Federal Law, the provisions of the applicable State and Federal Law shall automatically become incorporated in this Charter in place of invalid Charter provisions.

## **ARTICLE XIV: TRANSITIONAL PROVISIONS**

### **Section 1: Time of Taking Full Effect – Charter**

This Charter shall be in effect for all purposes on and after this first day of the next succeeding municipal year after adoption. As used in this Charter, municipal year is defined as being from July 1<sup>st</sup> to June 30<sup>th</sup>.

### **Section 2: Incumbent Council**

As of the effective date of this Charter the five Selectmen incumbent as of said effective date shall continue as interim Councilors under this Charter until the next annual municipal election at which time Councilors will be elected as provided by Article III, Section 1( c)

During said interim period three shall be considered a majority of the Council.

### **Section 3: Staggering Terms Council**

Those Selectmen incumbent as of the effective date of this Charter shall continue as Councilors until the expirations of their terms.

One new Councilor shall be elected at the first annual municipal election following the effective date of this Charter to serve for three years in accordance with Article III, Section 1 ( c ).

### **Section 4: Incumbent Superintending School Committee**

As of the effective date of this Charter, the five School Committee Members incumbent as of said effective date shall continue as interim School committee Members under this Charter until the next annual municipal election at which time one School Committee Member will be elected as provided for Article VIII, Section 1 ( c ).

During said interim period three shall be considered a majority of the School Committee.

### **Section 5: Staggering Term Council**

Those School Committee Members incumbent as of the effective date of this Charter shall continue as School Committee Members until the expiration of their terms.

At the first annual municipal election following the effective date of this Charter one School Committee Member shall be elected for three years.

### **Section 6: Officers and Employees**

- a. Rights and Privileges Preserved: Nothing in this Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are town officers or employees at the time of its adoption.
- b. Continuance of Office or Employment: Except as specifically provided by this Charter, if at any time this Charter takes full effect, a town administrative officer or employee holds any office or position which is or can be abolished under authority of this Charter, he/she shall continue in such office or position until taking effect of some specific provision under this Charter directing that he/she vacate the office or position.
- c. An employee holding a town position at the time the personnel policies required by this Charter takes effect shall not be subject to competitive tests a condition of continuance in the same position, but in all other respects shall be subject to the rules and procedures provided for the personnel policies.

### **Section 7: Pending Matters**

All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the town department, office or agency appropriate under this Charter.



**Section 8: State and Municipal Laws**

- a. In General. All town ordinances, resolutions, orders and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting this town or its agencies, officers, or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

**CHARTER REVISED WITH CHANGES PURSUANT TO NOVEMBER 1996 ELECTION.  
APPROVED BY A MAJORITY OF REGISTERED VOTERS VOTING.**

## **CHARTER AMENDMENT**

The purpose of this amendment is to limit the increases to the net budget by the COLA

### **DEFINITIONS:**

**COLA:** Cost of Living Allowance, determined by the Social Security Administration.

**GROSS BUDGET:** Total amount proposed to expend

**REVENUES:** All forms of revenues, not including property/personal taxes.

**NET BUDGET:** Gross budget minus revenues.

### **SECTION 1:**

The Bradley Town Council/School Board may not propose a net budget to the Town Meeting/Referendum that (except as provided for) exceeds the previous years net budget by the most recent COLA a determined by the Social Security Administration.

### **SECTION 2:**

The Bradley Town Council may not commit tax money for a net budget (reserving section 4) exceeding the previous year's net budget by the COLA.

### **SECTION 3:**

Repeal of the section shall follow the procedures set forth in this charter

### **SECTION 4:**

The Town Council may exceed this budget cap by a 4/5 vote of the Town Council. If the School Board wishes to exceed the budget cap, a written request may be delivered to the Town clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter

**BRADLEY**  
**CERTIFICATION OF REFERENDUM RESULTS**  
**NOVEMBER 4, 2008**

**TOWN ARTICLES:**

**ARTICLE 1: CHARTER AMENDEMENT ARTICLE**

Shall the Town of Bradley approve the charter amendment reprinted below?

Article III: THE TOWN COUNCIL, Section 4: General Authority and Duties

j. Accept gifts, conditional or unconditional, including, but not limited to cash, real estate and personal property and acquire real estate or personal property as it deems to be in the best interest of the Town of Bradley.

YES- 577    NO- 200    BLANK- 39

ATTEST:

  
TOWN CLERK

July 28, 1999  
Bonnie Cote, Chairperson  
Bradley Town Council  
Via fax 207-945-3131

Re: Request of information pertaining to budget cap,

Dear Bonnie,

I recently received your memo regarding a request for information explaining how the budget cap works. I do not actually have any information pertaining to the cap on my person, however I do know how it was intended to work. I requested to Lucille that Mike forward me a copy of the cap so I could refresh myself with the language. In the meantime the shortest explanation of the budget cap was that is was intended to not ask citizens to have to pay a greater percent tax by inflating the budget every year. If your assessment increases it allows you to actually spend more money without affecting the budget cap. To determine how much you can spend over the previous year you have to take the inverse relationship of the mil rate formula. For example, the mil rate is generally figured the following way.

$$\text{Expenditures-revenues/value} = \text{mil rate. } 100,000 (\text{expenditures}) - 50,000 (\text{rev}) / 300,000 (\text{town value}) = .166 (\text{mil rate}).$$
$$100,000 - 50,000 = 50,000 / 300,000 = .166$$

Now suppose the assessor tells you that the town will be worth 350,000 and the manager says that outside revenue is remaining constant (50,000). To determine how much to increase your expenditures use the following formula. Last years mil rate  $.166 \times 350,000 (\text{new value}) = 58,100 + 50,000 (\text{outside revenue}) = 108,100$  x cost of living allowance (use .02) gives you the amount you can spend without exceeding the cap.

$.166 \times 350,000 = 58,100 + 50,000 = 108,100 \times .02 = 2162$ . The only increase you would be asking for is the 2162 even though you would get to spend 10,262 more than the previous year. The 10,262 is the  $8,100 - 2162$ .

I hope that this helps. Please forward the appropriate documents to my attention. Good Luck,

Sincerely,

  
Don J. Thompson

Appendix F

# Town of Bradley



P.O. Box 502  
BRADLEY, MAINE 04411  
TELEPHONE (207) 827-7725

Don Thompson  
P.O. Box 459  
Greenland, NH 03840

Dear Mr. Thompson:

Enclosed is a copy of the Budget Cap Charter Amendment as well as an explanatory memo you wrote in 1996. As written the budget cap is tied to the net budget (gross budget-revenues). If you increase your gross budget by \$10,000 but non property tax revenues still remain the same, then the net budget has now increased by \$10,000. I understand the concept you were demonstrating for Bonnie but that appears to be more of a "back door" tax cap and not what has currently been adopted by the Town of Bradley. Once you've had an opportunity to review the enclosed materials would you please share any additional information you may have that may enlighten us regarding the budget cap as adopted by the citizens of Bradley. I thank you for your help and look forward to hearing from you in the future.

Sincerely

Michael R. Crooker  
Town Manager

Appendix F

August 24, 1999  
Michael Crooker  
Town Manager  
Town of Bradley  
Bradley, MB 04411

Re: Budget Cap

Dear Mike,

Thanks for forwarding the information to me concerning the budget cap. At an immediate glance, it became apparent that I should have waited a day before sending any details to Bonnie Cote. The explanation that I wrote to her, in my humble opinion is the way the cap should work. The language that you forwarded to me makes it clear that any new assessments can not factor into staying within the cap. What I sent to Bonnie, at this point, should be disregarded. Clearly, the only means to increase your spending is to increase your outside revenues and not factor in any new changes in assessment or valuation.

At the time the cap was written it was not foreseen or expected that a large taxpayer may be coming into Bradley any time soon. The intention of the cap, regardless of language, was to not subject individual taxpayers to an inflated tax burden every year. It would not be impossible to structure the cap to allow for growth in the valuation of the town and maintain the integrity of the original cap. After my discussions with you it is apparent to me that you understand the cap quite well, if you have any questions please do not hesitate to contact me at 207-373-1015.

Best,  
Burt Thompson

SPENCER, ZMISTOWSKI & MILLER  
ATTORNEYS AT LAW  
P O BOX 467 - 49 NORTH MAIN STREET  
OLD TOWN, MAINE 04468-0467  
(207) 827-4454  
FACSIMILE (207) 827-3237

SARAH S. ZMISTOWSKI  
ROBERT E. MILLER

BEVERLY W. SPENCER, RETIRED  
CHARLES O. SPENCER, (1947-1993)

June 17, 1996

Town Council  
Town of Bradley  
P.O. Box 502  
Bradley, ME 04411-0502

RE: Proposed Budget Cap Ordinance

Dear Council Members:

Don Thompson, Town Manager, sent me a copy of the proposed budget cap ordinance for review and comment. I have reviewed it's provisions, examined the Towns' charter, and have reviewed applicable provisions of state law. I also met with Don this morning to go over the proposal to attain additional information from him regarding the goals sought to be achieved if it is adopted. Under Article II, Section 1, except as otherwise specifically provided by charter, the legislative authority of the Town is vested in the inhabitants acting by and through the Annual or Special Town Meetings. Under Article II, Section 2, the Annual Town Meeting has exclusive and final authority over the appropriations of annual monies for the budget.

Under Section 4, the Council is delegated the responsibility of adopting an annual budget which is presented to the Annual Town Meeting for final approval. Likewise, the Council is delegated authority to adopt ordinances on matters within the scope of its authority.

The Charter also grants to the School Committee certain powers and authority. Provision for the establishment of a school committee and its powers of duties is found in Article VIII. See specifically Section 3.

As far as financial matters are concerned, both the School Committee and the Town Council are subject to the requirements of Article IX. Both budgets are incorporated into a final document known as the Town Budget which has two specific divisions, to wit: the municipal budget and the education budget. See Section VIII, Section 3.

In my opinion, subject to certain limitations, the Town has legal authority to limit the amount of money to be appropriated for budget purposes. It needs to be kept in mind that

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some elements of the local budget are dictated by outside sources and therefore cannot be modified. These items include the county tax and legislative expenditure mandates. Therefore, a cap on expenditures only restricts those amounts which are discretionary on the local level and not mandatory.

In my opinion, the Council does not have authority to legislate a limit on budgetary expenditures without, in the very least, amending the charter. The charter grants to both Municipal Officers and the School Committee certain powers and responsibilities in the creation of the budget. The charter by its terms, place no limits on the amounts that may be appropriated by either body. The ultimate decision maker is the town meeting. In theory, at every annual town meeting the policy decision as to whether to place a limit on the expenditures by either body is at issue for that one year.

By adopting a budget cap, the Town, in effect, is establishing a mechanical formula which limits the authority of both the Municipal Officers, the School Committee, and ultimately the voters at Town Meetings.

In my opinion, in order to establish a legally effective expenditure limit the Town must first amend its charter for such purposes. The Council, however, by ordinance could adopt a restriction which would be applicable only to itself, and not to the School Committee. As a practical matter, a limit on the municipal expenditures would not accomplish what I understand to be the goal, to wit: to limit the expenditures in the overall budget, a majority of which constitutes expenditures for education. Therefore, in order to gain control over school expenditures, the Town, in the very least, will have to amend the charter.

There are some issues raised by the proposal that should be addressed. The standard for annual limits on the amounts to be raised is stated to be the cost of living allowance as established by the Social Security Administration. I suggest that a precise reference to the Federal statute or Federal regulations under which the limit is established be included in the proposed provision. It is important there not be any question as to what cost of living computation is being used as the standard.

It is my understanding from Don that the Council wishes to limit both the municipal budget proposal and the school budget proposal by the COLA. In other words, it is my understanding that in the event one body comes in with a budget that is less than COLA, that additional amount is not to be credited in any way to the budget of the other body.

The proposal also is intended to limit the annual tax commitment by the COLA. Although I don't see it as being a real issue, the commitment is a mathematical computation based upon the amount of the appropriation and the annual assessed value of the town. In other words, one might have a situation where the values in the town were dramatically reduced thus resulting in an increase in taxes which was unrelated to the budgetary process.

In conclusion, I believe the town has authority by means by a charter amendment to establish a limitation on the amounts appropriated for annual expenditure purposes. I suggest that you conduct your public hearing this evening for purposes of receiving public input on the merits of the proposal. If, at the end of the public hearing it is decided that a budget cap

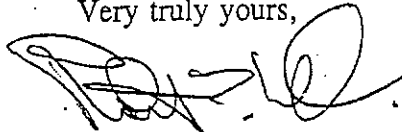
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is desired, I suggest that you direct the drafting of a proposed amendment to the Town Charter. The amendment would have to go through the procedure as established under the Home Rule statute and ultimately would have to be approved by the voters at a later date.

If you have any questions or would like to have me meet with you to further explain my conclusions and to discuss the issue further, please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert E. Miller', with a stylized flourish at the end.

Robert E. Miller  
Attorney at Law

REM/nm

File #

Appendix F.

Legal Services  
60 Community Drive  
Augusta, Maine 04330-9486  
(207) 623-8428  
Fax (207) 623-1287

WILLIAM W. LIVENGOD  
REBECCA WARREN SEEL  
RICHARD P. FLEWELLING  
ELLERBE F. COLE  
JAMES N. KATSIAFICAS  
SUSANNE F. PILGRIM

JOSEPH J. WATHEN  
(1957-1997)

September 21, 2000

Michael Crooker, Town Manager  
Town of Bradley  
PO Box 502  
Bradley, ME 04411-0502

VIA FACSIMILE: 827-7072

Re: Charter Amendment

Dear Mr. Crooker:


This letter is in confirmation of our telephone conversation of September 20, 2000, regarding the Town of Bradley "budget cap." It is my understanding that there is some uncertainty as to whether or not this cap was adopted as a charter amendment, or merely as an ordinance. Further, if the budget cap is in fact an amendment to your charter, you inquired as to the statutory procedure to amend the charter.

Although I have no information as to how this budget cap was enacted by the Town of Bradley, it is my opinion that it should have been enacted as a charter amendment, since it imposes restrictions on the power to adopt a budget which was otherwise given without restriction to the Town Council under Article 3, Section 4(d).

As I mentioned in our telephone conversation, I would try to determine how this cap was enacted, if at all possible. However, if records are so incomplete that the method of adoption cannot be determined, I would treat it as a charter amendment and follow the procedures set forth in 30-A M.R.S.A. §2104 to either change or repeal the "budget cap."

I hope this information is helpful to you.

Sincerely,

  
William W. Livengood  
Director of Legal Services

WWL:lm

Appendix F.

P.O. BOX 467 - 49 NORTH MAIN STREET  
OLD TOWN, MAINE 04468-0467  
(207) 827-4454  
FACSIMILE (207) 827-3237

SARAH S. ZMISTOWSKI  
ROBERT E. MILLER

BEVERLY W. SPENCER, RETIRED  
CHARLES O. SPENCER, (1947-1993)

March 16, 1998

William S. Post, Town Manager  
Town of Bradley  
PO Box 502  
Bradley, ME 04411

RE: Budget Cap ordinance

Dear Bill,

The purpose of this letter is to respond to the inquiries raised in your recent letter relative to the budget cap ordinance, as well as tax caps generally.

General provisions outlining the requirements for preparation of the annual budget for the Town of Bradley are found in Article IX of the Bradley Town Charter. Under Section 2, as is the case in most municipalities operating under a Town Manager/Council form of government, responsibility rests with the Town Manager to prepare a budget for the Council's consideration. After the Council completes its review process, a budget is submitted to the voters at the annual town meeting.

It is my understanding that the Town's "budget cap ordinance" was adopted at an annual town meeting which took place in 1996. The preamble states clearly that the purpose of the ordinance is to provide a limit on increases in the annual budget by a factor equal to the cost of living allowance determined by the Federal Social Security Administration, in conjunction with Social Security benefits.

Although the ordinance does not specifically limit the budget the manager may propose in the first instance, it clearly establishes a policy which I believe you as manager should follow in the preparation of your budget, if at all possible.

Clearly the ordinance is intended to limit the budget recommended by the Town Council to the voters at the annual town meeting. It does not place a limit on the appropriations that may ultimately be approved by the town meeting. It also does not directly place a limitation on the amount of taxes that may be imposed as a result of the budget process.

The ordinance also is intended to place a limit on the amount proposed by the School Board as a part of the education budget. The Bradley Town charter contains very clear

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language outlining the procedure for developing the education budget, and its identity remains separate throughout the process.

If the Town Council and/or the School Board fail to follow the directives of the ordinance, there is no stated penalty that can be imposed. The voters may, of course, react to their failure by action taken at the annual town meeting. In addition, there is a possibility that a disgruntled group of taxpayers might be successful in getting a court to strike down an appropriation on the grounds that the Town has failed to follow the requirements of the ordinance in developing the budget. I have not been able to find any case law that would provide us with any guidance on the issue. However, it should be kept in mind that the town meeting is the "legislative body" or the policy making body of the town. The ordinance does not go so far as to impose a limit on the amount of money that may be raised at Town meetings. Therefore, even if the Town Council or the School Board fail to follow the ordinance's directives, the appropriation would still, in my judgement, be a legal appropriation of funds.

Limits of this nature are usually in the form of "tax caps", rather than caps on the budget process. Tax caps are, in effect, a limitation on the municipality's power to tax its inhabitants.

The different types of tax caps are briefly discussed in the enclosed excerpt from McQuillin, Municipal Corporations, § 44.26. As you can see, such restrictions are conservative, and are complicated to administer.

The article mentions Proposition 13, which was adopted in California. Proposition 13 does not apply to all types of spending. Enclosed please find a copy of § 44.29, which discusses the types of expenditures to which Proposition 13 applies.

If the levy exceeds the statutory or constitutional limit, the tax may be determined by the Courts to be void. I have enclosed a copy of § 44.30, which outlines what happens in such instances. Finally, if a tax cap was to be adopted, it likely would contain a provision which would permit its limits to be exceeded in "emergency situations". The budget cap ordinance does not have an emergency provision.

Bradley's budget cap ordinance is somewhat unique. It is difficult for me to give you clear-cut direction concerning its application. I believe that if the ordinance served to prevent the municipality from raising monies which were mandated by State or Federal law, the ordinance would not be effective. However, as to discretionary expenditures, a Court might well place a limit on the amounts the municipal officers may propose to the voters at the annual town meeting.

After you have had an opportunity to review these comments, please give me a call. I think you should analyze the practical impact of the ordinance on the Town's financial affairs. I would also suggest that you try to ascertain the reasons why the ordinance was

Appendix F

# CHARTER OF THE TOWN OF BRADLEY

## PENOBSCOT COUNTY

### ARTICLE I: GRANT OF POWER TO THE TOWN

#### Section 1: Incorporation

The Inhabitants of the Town of Bradley shall continue to be a Municipal Corporation by the name of the Town of Bradley, pursuant to its incorporation by law and amendments thereof.

#### Section 2: Powers

The Town shall have all the powers possible for a municipality to have under the Constitution and the laws of the State of Maine.

#### Section 3: Construction

The powers of the Town under this Charter shall be construed liberally in favor of the Town and specific mention of particular powers in the Charter shall not be construed as limiting in any way the general power stated in the article.

#### Section 4: Intergovernmental Relations

The Town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any other municipality of the State of Maine, public agency of this State, or of the United States.

### ARTICLE II: TOWN REFERENDUM

#### Section 1: Annual and Special Town Referendums

Except as otherwise provided for by the provisions of this Charter, the legislative authority of the Town of Bradley shall continue to be vested in the Inhabitants of the Town of Bradley acting by means of Town Referendum. The Annual Town Referendum shall be set by the Town Council and held in June. The provisions of the Revised Statutes of the State of Maine, including Title 30, Section 2061, shall govern the manner in which all annual and special town meetings shall be called and conducted and shall govern the Warrant for calling same. There shall be only one budget referendum per year.

Original  
Charter



## Section 2: Powers and Responsibilities

The Annual Town Referendum shall have the exclusive power and responsibility to:

- a. Elect all necessary town officers;
- b. Raise and appropriate monies for the Annual Budget;

The Annual Special Town Referendums shall have the power and responsibility to:

- a. Raise and appropriate monies for special purposes;
- b. Act on the issuance of bonds and notes, except notes in anticipation of taxes to be paid within the fiscal year in which issued;
- c. Act on the sale of town owned real estate other than that acquired through matured tax mortgage liens;
- d. Transact other town business presented to it by Warrant Articles;
- e. Exercise all other powers not specifically delegated by this Charter or by law.

## Section 3: Certification of Results

- a. Two (2) days after the Annual Referendum or a Special Referendum, the Town Clerk shall certify the results of the respective referendum to the Town Councilors.
- b. Upon certification that a majority of the voters of the Town voting at the Annual Referendum have voted "YES" in response to a budget item, the Town Council shall adopt the budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for all approved line-items.
- c. Upon certification that a majority of the voters of the Town voting at the Referendum have voted "NO" in response to a budget item, the Councilors shall adopt the Town Budget on or before the first day of the fiscal year for which it was proposed, said Town Budget to include an appropriation for each unapproved line-item equal to the budgeted appropriation for that line-item during the fiscal year just ending.
- d. Upon certification from the Town Clerk that other items as listed in Section 2, Powers and Responsibilities, voted on at the Annual Referendum have received a "YES" vote, the Town Council will take appropriate action.
- e. The Town Council/School Board may request a Special Referendum (not related to budget matters) as decreed in Section 2, Powers and Responsibilities. The Referendum must be called in accordance to all other requirements of the Charter.

### ARTICLE III: THE TOWN COUNCIL

#### Section 1: Composition, Eligibility, Election, and Terms

- a. Composition. There shall be a Town Council of five members elected by a majority vote of the qualified voters of the town who cast ballots in accordance with Article X.
- b. Eligibility. Only qualified voters of the town, at the time of election, shall be eligible to hold the office of Councilor.
- c. Elections and Terms. Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of the Charter one Councilor shall be elected. The four incumbent Selectmen presently serving with more than one year to serve shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall be known as Councilors and continue to serve as Councilors for the remainder of their terms or until their successors are elected and qualified and shall have all the authority, duties, and responsibilities of Councilors set forth by the Charter.

#### Section 2: Salary

The salary of the Town Council Chairperson and Councilors shall be established at the Annual Town Meeting. The salary established by the Annual Town Meeting shall be paid the Councilors in equal quarterly amounts; provided, however, that a Councilor's failure to attend 75% of the Regular Council Meetings shall result in a forfeiture of payment of that quarter.

#### Section 3: Chairperson, Secretary

The Council shall elect from among its members a Chairperson, who shall serve at the pleasure of the Council. The Chairperson shall preside at meetings of the Council and shall be recognized as the head of the Town Government for all ceremonial purposes. The Chairperson shall have no administrative duties.

The Town Clerk or Deputy Clerk shall give notice of all Council Meetings to Council Members and to the public in such manner as deemed suitable. The Town Clerk or Deputy Clerk shall keep a journal of the proceedings of the Council and perform such duties as assigned to him/her by this Charter or by the Council.

March 16, 1998

adopted in the first place. If those circumstances now no longer exist, perhaps the voters would be willing to repeal it. If that result is not realistic, then perhaps consideration should be given to amend it to make it clearer in its application and to give greater flexibility to the municipal officers and to the School Board.

Very truly yours,



Robert E. Miller  
Attorney at Law

REM/dm

Appendix F



#### Section 4: General Authority and Duties

The Council shall have the authority to:

a. Appoint and remove for cause, after hearing, the Town Manager, Town Treasurer, Town Clerk, and Town Assessor; appoint a Town Attorney who shall serve at the will of the Council; appoint and remove for cause, after hearing, the members of the Planning, Cemetery committee, Board of Appeals, Recreation Committee, Health Officer, local Constables, and all other appointed Committees as The Council may determine necessary, each of which shall have authority and perform such duties as are provided by this Charter, Municipal Ordinance and by Statute.

b. By ordinance create, change, and abolish offices, departments, committees and agencies, other than the offices, departments, committees, and agencies created by the School Department.

The Town Council by resolution may assign additional functions or duties to officers, departments, committees, or agencies established by this charter, but may not discontinue or assign to any office, departments, committees, or agencies established by this charter, ~~but may not discontinue or assign to any office, department, committee, or agency~~ any function or duty assigned by this Charter to a particular office, department, committee, or agency. The Council may, however, vest in the Town Manager all or part of the duties of any office under this Charter, with the exception of that of Town Assessor, or Town Attorney, or any School Officers.

c. Convey or authorize the conveyance of real estate acquired by matured tax mortgage liens and the lease or authorization for lease of town owned property.

d. Adopt an annual budget which shall be presented to the Public Hearing as provided by this Charter, and upon receipt of recommendation of the Public Hearing, cause the budget, with or without change, to be printed in the Town Warrant.

e. Borrow funds and provide for the execution of notes thereof in anticipation of taxes, said notes to be repaid within the fiscal year in which issued.

f. Provide for an annual audit.

g. Dispose of by sale or otherwise, surplus town owned personal property.

h. Make, alter, and repeal ordinances permitted by statute.

- i. Appropriate, by resolution, up to \$5000.00 per year from unappropriated surplus for emergency purposes as defined by the Council.

#### Section 5: Prohibitions

- a. Holding another office. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no Councilor shall hold any other town office or town employment while serving as a member of the Council.
- b. Appointment and Removals. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his/her subordinate is empowered to appoint.
- c. Interference with Administration. Except for the purpose of inquires and investigation under Article III, Section 4(h), the Council or its members shall deal with town officers, who are subject to the direction and supervision of the Town Manager, solely through the Town Manager. Neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

#### Section 6: Vacancies, Forfeiture of Office

- a. Vacancies. The Office of Councilor shall become vacant upon his/her nonacceptance, resignation, abandonment, death, permanent disability, permanent incompetence, failure to qualify for the office within 10 days after written demand by the Council, or forfeiture of office.
- b. Forfeiture of Office. A councilor shall forfeit his/her office if he/she:
  1. lacks at any time during his/her term of office any qualification for the office prescribed by this Charter or by law;
  2. violates any express prohibition of this Charter;
  3. is convicted of a crime or offense which is reasonably related to his/her ability to serve as Councilor; or
  4. fails to attend three consecutive meetings of the Council without being excused by the Council.

The Council shall prescribe by rule provisions for Notice and Hearing for any Councilor deemed to have forfeited his/her office.

- c. Filling of vacancies. One vacancy shall be filled by appointment. Any other vacancies the Council shall be filled for the remainder of the unexpired term at the next annual election held more than 120 days after the occurrence of the vacancy. Any further vacancies will necessitate a special election to ensure that the Council remains an elected body. If the next annual election is to be held more than 120 days of the occurrence of the vacancy, then a special election shall be held to fill

the vacancy. Notwithstanding the requirement of a quorum in Article III, reduced below that requirement, the remaining members may by majority action appoint additional members to raise the membership to the number required; such appointed members shall serve until succeeded by a person duly elected to fill the vacancy.

#### Section 7: Judge of Qualifications

The council shall be the judge of the election and qualification of all officers elected by the voters under this Charter and of the ground for forfeiture of their office and for that purpose shall have the authority to provide for the compulsory attendance of witnesses, the administering of oaths, and the compulsory production of evidence. An officer charged in writing with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand, made within ten (10) days of receipt of notice of forfeiture. Notice of the Hearing shall be published in one or more newspapers of general circulation in the municipality at least one week in advance of the hearing. Decisions made by the Council under this section shall be subject to review by the courts.

#### Section 8: Procedure

a. Meetings. The Council shall meet regularly at least once every two weeks at such time and place as the Council may prescribe by rule. Special meetings may be held on the call of the Council Chairperson, Town Manager, or of three or more Council Members by causing a notification to be given in hand or left at the usual dwelling place of each council Member at least 24 hours before the meeting. All meetings shall be public; however, the Council may recess to a closed or executive session for any purpose permitted by law, provided that the general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council except in public meeting.

b. Rules and Journal. The council shall determine its own rules and order of business, however, when a question of procedure develops Robert's Rules of Order shall apply. The Council shall provide for the keeping of a written journal of its proceedings by the Town Clerk. This journal shall be kept for public record.

c. Voting. Voting, except on procedural motions, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Each Councilor in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest clearly exists.

## Section 9: Ordinances in General

a. Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title.

The enacting clause shall be "The Town of Bradley hereby ordains..." Any ordinance which repeals or amends an existing ordinance or part of the Town of Bradley Code shall set forth in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or underscoring or italics.

b. Procedure. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Town Clerk shall distribute a copy to each Council member and to the Town Manager, a reasonable number of copies shall be filed in the Town Clerk's office, and such other places as the Council shall designate, and shall publish the notice together with a notice of setting out the time and place for a public hearing thereon and for its consideration by the Council. The public hearing shall follow the publication by at least seven days, may be held separately or in conjunction with a regular or special Council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing, the council may adopt the ordinance with or without amendment, or reject it, but if it is amended as to any matter of substance, the Council may not adopt it until the ordinance or its amended sections have been subjected to all the procedures herein before required in the case of a newly introduced ordinance. As soon as practicable after adoption of any ordinance, the Town Clerk shall have it published again together with a notice of its adoption.

c. Effective Date. Except as otherwise provided in the Charter, every adopted ordinance shall become effective at the expiration of thirty days after adoption or at any later date specified therein.

d. "Publish" Defined. As used in this section the term "publish" means to print in one or more newspapers of general circulation in the municipality:

1. the ordinance or a brief summary thereof, and
2. the place where copies of it have been filed and the time when they are available for public inspection.

## Section 10: Emergency Ordinances

To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt one or more emergency ordinances. An emergency ordinance shall be introduced in the form or manner prescribed for ordinances generally, except that it shall

be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

An emergency ordinance may be adopted with or without amendment, or rejected at the meeting at which it is introduced, but the affirmative vote of at least three members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective immediately upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section for adoption of emergency ordinances.

#### Section 11: Authorization and Recording; Codification; Printing

a. Authorization and Recording. All ordinances and resolutions by the council shall be authenticated by the signature of Chairperson of the Council, and recorded in full by the Town Clerk in a properly indexed book kept for this purpose.

b. Codification. Within three years after the adoption of this Charter and at least every ten years thereafter, the Council shall provide for the preparation of a general codification of all the ordinances and resolutions having full force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Maine and such codes of technical regulations and other rules and regulations as the Council may specify. Any codification ordinance may be published by title. This compilation shall be cited officially as the Town of Bradley Code. Copies of the code shall be furnished officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

c. Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having full force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions, and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Town of Bradley code and at all times thereafter, the ordinances, resolutions, and Charter amendments shall be printed substantially in the same style as the code currently in effect and shall be suitable in form for integration therein. The Council shall make further arrangements as it deems desirable with respect to production and distribution of any current changes in or addition to the provisions of the Constitution and other laws of the State of Maine, or the regulations included in the code.

## ARTICLE IV: THE TOWN MANAGER

### Section 1: Appointments; Qualifications; Compensation

The council shall appoint a Town Manager for an indefinite term unless otherwise specified by Contract, and fix his/her executive and administrative qualifications. He/she need not be a resident of the Town or State at the time of his/her appointment, but may reside outside the Town while in office only with the approval of the Council.

### Section 2: Removal

The Town Manager may be removed for cause by the Council in accordance with the provisions of the revised statutes of the State of Maine relating to the removal of a Town Manager.

### Section 3: Acting Town Manager

The Town Manager shall:

- a. Be the chief administrative official of the municipality;
- b. Be responsible to the Council for the administration of all departments and offices over which the Council has control;
- c. Serve as Road Commissioner, Town Clerk, Town Treasurer, Tax Collector, General Assistance Administrator, and Registrar of Voters, unless otherwise directed by the Town Council;
- d. Execute all laws and ordinances of the municipality;
- e. Serve as head of any department under the control of the Council when so directed;
- f. Appoint, subject to the confirmation by the Council when the department is not headed by the Town Manager under Paragraph (e);
- ✓ g. Appoint, supervise, control and remove all other officials, subordinates and assistants, except that he/she may delegate this authority to a head of a department, and report all appointments and removals to the Council;
- h. Act as purchasing agent for all departments, except for the School Department, provided that the Town or the Council may require that all purchases above a designated amount shall be subject to Council approval. The Town or Council may also require that any purchase greater than a designated amount shall be by sealed bid;
- i. Attend all meetings of the Council;
- j. Attend such meetings and hearings of the municipality as the Council may require;



- k. Make recommendations to the Council for the more efficient operation of the municipality;
- l. Keep the Council and the residents of the municipality informed as to the financial condition of the Town;
- m. Collect data necessary for and prepare the annual budget and Capital Improvement Budget;
- n. Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governing practices.

## ARTICLE VI: PERSONNEL ADMINISTRATION

### Section 1: Merit Principle

All appointments and promotions of town officials and employees shall be made solely on the basis of qualification.

### Section 2: Personnel Director

The Town Manager or person appointed by him/her shall be designated Personnel Director. The Personnel Director shall administer the personnel system of the Town.

### Section 3: Personnel Rules

The Personnel Director shall prepare personnel rules. These personnel rules shall not apply to any school administrator or school employee. When approved by the Manager, the rules shall be proposed to the Council for adoption. The Council may adopt them with or without amendment. These rules shall provide for:

- a. The classification of all town positions based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances. For purposes of this section, town positions shall include all town employees;
- b. A pay plan for all town positions;
- c. Methods for determining the qualifications of candidates for appointment or promotion;
- d. The policies and procedures regulating reduction in force;
- e. The policies governing disciplinary measures such as suspension, demotion or discharge, with provisions for presentation of charges, hearing rights, and appeals;
- f. The hours of work, attendance regulations and provisions for sick and vacation leaves;

- g. The policies and procedures governing persons holding provisional or part-time appointments;
- h. The policies and procedures governing relationships with employee organizations not consistent with law;
- i. Policies regarding in-service training programs;
- j. Grievance procedures, and;
- k. Other practices and procedures necessary to the administration of the town personnel system.
- l. No person shall hold more than one compensated position in the town at one time.

## ARTICLE VII: THE FIRE CHIEF

### Section 1: Composition, Eligibility, Appointment and Term

- a. Composition. There shall be a Fire Chief appointed by the Town Manager, subject to confirmation by the Town Council.
- b. Eligibility. Only qualified voters of the Town of Bradley shall be eligible to hold the office of Fire Chief.
- c. Appointment and Term. The incumbent Fire Chief serving at the time of the adoption of this Charter shall continue to serve as Fire Chief for the remainder of his/her term or until his/her successor is appointed and confirmed and shall have all of the authority, duties, and responsibilities of Fire Chief as set forth by this Charter.

### Section 2: Salary

The salary of the Fire Chief shall be determined by the Town Council, and shall be reviewed from time to time.

### Section 3: General Authority and Duties

The Fire Chief shall:



- a. Direct and command all municipal and volunteer firefighters in the performance of firefighting operations within the Town of Bradley;
- b. Determine the adequate number of firefighters necessary to compose an effective Bradley fire Department;
- c. Appoint all officers and firefighters; and have authority to remove them for just cause after notice and hearing;
- d. Be authorized, with the approval of the Town council, to promulgate administrative rules and regulations relating to municipal fire protection consistent with this Charter, Municipal Ordinances and the Maine Revised Statutes Annotated;
- e. Provide a training program for firefighters within the municipality in cooperation with the appropriate governmental agencies;
- f. Provide for the maintenance of all Town owned fire equipment used by the Municipal Fire Department;
- g. Prepare and annually submit to the Town Manager a budget relating to fire protection activities;
- h. Be authorized to obtain assistance from persons at the scene of a fire to extinguish the fire and protect persons and property from injury or damage;
- I. Be responsible for the acquisition of all necessary fire protection commodities, related services, and equipment by ordering said commodities, services and equipment as per established purchasing procedures;
- j. Be authorized to pull down and demolish structures and appurtenances if he/she judges it necessary to prevent the spread of fire;
- k. Suppress, disorder and tumult at the scene of a fire, and generally, to direct all operations in order to prevent further destruction and damage.

#### Section 4: Fire Department General Provisions

- a. Firefighter Duties. All firefighters duly appointed by the Fire Chief shall be under a duty to extinguish all fires to which they are called; protect lives and property endangered by fires; and carry out all other related activities as directed by the Fire Chief.
- b. Firefighter Training. All firefighters shall attend training sessions as scheduled by the Fire Chief.

c. Meetings. The members of the Fire Department shall meet regularly at such time and place as the members may prescribe by rule. The Department shall provide for the keeping of a written journal of its proceedings by the Fire Department Clerk. This journal shall be kept for public record.

## ARTICLE VIII: SCHOOL ADMINISTRATION

### Section 1: Superintending School committee; Eligibility; Election and Terms; Compensation

a. Superintending School Committee: There shall be a superintending School Committee, sometimes referred to herein as School Committee, of five members elected by the qualified voters of the Town in accordance with Article X.

b. Eligibility: Only qualified voters of the Town shall be eligible to hold the office of School Committee Member. Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, not town employment while serving as a School Committee Member. This provision shall not apply to persons who are employed by the town on less than a full time annual basis. "Full time employee" means a person employed on a weekly basis regardless of remuneration or the number of hours worked. Volunteer firefighters, with the exception of the Fire Chief, shall not be considered "full time employees:" for the purposes of this section.

c. Election and Terms: Each member shall be elected for a term of three years or until his/her successor is elected and qualified; provided, however, that at the first election after the adoption of this Charter one School Committee Member shall be elected and the four Committee Members presently serving shall be sworn as Committee Members and continue to serve as Committee Members for the remainder of their terms or until successors are elected and qualified.

d. Compensation: The compensation of the School Committee Chairperson and members shall be established at the Annual Town Referendum. The salary established by the Annual Town Referendum shall be paid the School Committee Members annually provided, however, that a member's failure to attend 75% of the regular School Committee Meetings shall result in a forfeiture of payment for that year.

### Section 2: Vacancy; Forfeiture of Office; Filling of Vacancies

The office of School Committee Member shall be deemed vacant or forfeited for the same reasons that the office of Councilor shall be deemed vacant or forfeited, as provided in Article III, Section 6 (a) and Section 7 (b) 1-4. If any vacancy occurs, the vacancy shall be filled for the remainder of the unexpired term in the same manner as

provided in Article III, Section 6 (c) for filling of Council vacancies, provided, however, the School Committee shall be the appointing authority for School Committee vacancies.

### Section 3: Powers and Duties

The School Committee shall have all the powers and duties prescribed for Superintending School Committees by the general laws of the State of Maine and as provided by this Charter consistent with said laws. The School Committee shall supervise the school department and for financial purposes shall be governed by Article IX.

### Section 4: Chairperson; Secretary

The School Committee shall elect by majority vote from among its members Chairperson for the ensuing year. The Chairperson shall preside at all meetings of the School Committee and shall have a vote as other members of said committee.

The Superintendent of Schools shall act as recording secretary for the School Committee. The Superintendent of Schools shall give notice of School Committee Meetings to its members and to the public in such manner as deemed suitable by the Committee and keep a journal of the votes and proceedings of the School Committee.

### Section 5: Procedure

a. Meetings. The School committee shall meet regularly at least once in every money, except during the months when school is not in session, at such time and place as the School Committee may prescribe by rule. Special meetings may be held on the call of the Chairperson, Superintendent of Schools, or if any two or more Committee Members by causing a notification to be given or left at the usual dwelling place of each Committee Member. All meetings shall be public, however, the Committee may recess to a closed or executive session for any purpose permitted bylaw, provided that the general subject matter for consideration is expressed in the motion calling such session and that final action thereon not be taken by the Committee except in public meeting.

b. Rules and Journal: The Committee shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. The journal shall be kept for public record.

c. Voting: Voting, except on procedural motion, shall be by roll call and ayes and nays shall be recorded in the journal. Three members of the Committee shall constitute a quorum, but a smaller number may adjourn from time to time and may compel to the penalties prescribed by the rules of the Committee. Each Committee Member shall vote on all issues and questions presented for vote except when a valid conflict of interest clearly exists.

## ARTICLE IX: FINANCIAL PROCEDURES

### Section 1: Fiscal Year

The fiscal year of the Town government shall begin the first day of July and shall end on the thirtieth day of June of each year. Such fiscal year shall constitute the budget and accounting year as used in this Charter. The term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.

### Section 2: Preparation and Submission of the Budget

The Town Manager shall submit a projected Municipal Budget and an explanatory budget message to the Town Council on or before February 1st.

The Superintendent of Schools shall submit a projected Education Budget and an explanatory message to the School Committee on or before February 1st.

The budgets prepared by the Town Manager and the Superintendent of Schools shall be compiled from detailed information furnished by the administrative officers, the Superintending School Committee, and other boards, on forms which shall be designated by the Town Manager for the Municipal budget, and by the Superintendent of Schools for the Education Budget.

The projected budgets, as prepared by the Town Manager and the Superintendent of Schools shall contain the following:

- a. An itemized statement of appropriations recommended for current expenses with comparative statements in parallel columns of estimated expenditures for the current year and actual expenditures for the next preceding fiscal year. An increase or decrease in any item shall be indicated and explained.
- b. An itemized statement of estimated revenue from all sources, other than local taxation, and a statement of taxes required, comparative figures from current and next preceding year.
- c. At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax and shall be itemized also by departments and kinds of expenditures, in such manner as to present taxpayers a simple and clear summary of the detailed estimates of the budget.
- d. The Town Manager's projected budget shall include a statement of the financial condition of the town.
- e. Such other information as may be required by the Town Council or the School Committee.

The Superintending School Committee shall present a projected education budget to the Town Council on or before April 1st of each year.

The Town Council shall have the authority to recommend amendments to the School Committee, but the actual budget as prepared by the School committee shall be published along with the Municipal Budget as approved by the Town Council. The Town Council shall fix a time and place for holding a Public hearing on the budget, the Town Council shall again review the entire budget. The complete Municipal Budget as approved by the Town Council, and the complete Education Budget as approved by the School Committee and reviewed by the Town Council, shall then be recommended by the Town Council with or without amendments to the Annual Town Referendum.

Provided, however, the projected budget of the School Committee shall be published as it was approved by the School Committee. Should the Town Council wish to recommend amendments to the Education Budget, such recommendations shall be included in the Town Referendum warrant below the recommendations of the School Committee.

### Section 3: Budget and Expenditures

The Town Budget shall have two divisions: Municipal Budget and Education Budget, and each shall include all proposed expenditures for the upcoming year.

### Section 4: Transfer of Appropriations

At the request of the Town Manager and within the last three months of the budget year, the Council may, by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

At the request of the Superintendent of Schools, and within the last three months of the budget year, the School Committee may by resolution, transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures.

### Section 5: Interim Expenses

In the period between the beginning of the fiscal year and the appropriation of funds, the Council may authorize expenditures for current department expenses chargeable to the appropriations for the year, in amounts to cover the necessary expense of the various departments.

### Section 6: Capital Improvement Program

The Town Manager and the Superintending School Committee each shall prepare and submit to the Town Council a five year Capital Improvement Program at least three months prior to the final date for submission of the budget to the Town Council. The Capital Improvement Program shall include:

- a. A clear summary of its contents.

b. A list of all capital improvements which are proposed for the successive five fiscal years, with proper supporting information as to the necessities of such improvements.

c. Cost estimates, methods of financing, and recommended time schedules for such improvements.

d. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired, if any.

The above required information shall be reviewed and extended each year with regard to capital improvements still pending or in the process of construction or acquisition. The current year's portion of the five year Capital Improvement Program, as approved by the Town Council, shall be included as an item with Municipal Budget presented to the Annual Town Meeting.

## ARTICLE X: ELECTION AND NOMINATION

### Section 1: Elections

a. Conduct of Elections. The Annual Municipal Election shall be held on a date in June set by the Town Council. Except as otherwise provided for by this Charter, Title 30, Section 2061, 2062, 2063, 2064, and 2065 of the provisions of the Revised Statutes of the State of Maine shall govern the election of all town officials required by this Charter, and said election shall be conducted by the election officials accordingly. Polls shall be open at specified polling places from at least 9 a.m. to 6 p.m. for Municipal Elections.

b. Qualified Voter. The term "qualified voter" as used in this Charter shall mean any person qualified and registered to vote in the Town of Bradley pursuant to the laws of the State of Maine.

### Section 2: Nominations

a. Petitions. Candidates for election to the Council and the School Committee shall be nominated by petition. Any qualified voter of the town may be nominated for election as a Councilor, or School Committee Member by a petition signed by not less than 25 nor more than 75 of the qualified voters of the Town. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.

b. Filing and Acceptance of Nomination Petitions. All separate papers comprising a nominating petition shall be assembled and filed with the Town Clerk as an instrument on or before the 35th day next prior to the day of elections. This is the final date of filing for nomination petitions. Nomination papers shall be available



to candidates for Municipal Office no earlier than 40 days next prior to the final date of filing nomination petitions. The Clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

c. Procedure After Filing Nomination Petitions. Within five days after the filing of a nominating petition, the Clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Chapter. If a petition is found insufficient, the Clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The Clerk shall keep on file all petitions found to be insufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

### Section 3: Moderator

Whenever the election of a Moderator is required at the annual or special town meeting, the provisions of Title 30, Section 2054 of the Maine Revised Statutes as amended shall govern.

## ARTICLE XI: INITIATIVE AND REFERENDUM

### Section 1: General Authority

a. Initiative. Qualified voters shall have power to propose ordinances to the Council. If the Council fails to adopt an ordinance so proposed without any change in substance, the voters may vote to adopt or reject it in an election, provided that such power shall not extend to the budget or capital improvement program or any ordinance relating to appropriation of money, levy of taxes or salaries of officers or employees.

b. Referendum. The qualified voters of the Town shall have power to require reconsideration by the Council of any adopted ordinance and if the Council fails to repeal an ordinance so reconsidered said voters shall have the power to approve or reject it at a town election, provided that such power shall not extend to the budget or capital program or any emergency ordinance relating to appropriation of money, levy of taxes, or salaries of officers or employees.

### Section 2: Commencement of Proceedings; Petitioners; Petitioners Committee; Affidavit

Any five qualified voters may commence initiative or referendum proceedings by filing with the Clerk an affidavit stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the mailing address to which all notices to the Committee are

to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioners committee filed the Clerk shall issue the appropriate petition blank to the petitioners committee.

### Section 3: Petitions

- a. Number of Signatures. Initiative and referendum petitions must be signed by qualified voters of the town equal to at least 20 percent of the total number of qualified voters registered to vote at the last annual municipal election as certified by the Town Clerk.
- b. Form and Consent. All papers of a petition shall be uniform size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
- c. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he/she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his/her presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signed had a opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- d. Time For Filing Referendum Petitions. Referendum petitions must be filed within 120 days after adoption by the Council of the ordinance sought to be reconsidered.

### Section 4: Procedure After Filing

- a. Certificate of Clerk; Amendment. Within 20 days after the petition is filed, the Clerk shall complete a certificate as to its sufficiency, specifying if it is insufficient the particulars wherein it is defective and shall promptly send a copy of the certificate to the petitioners committee by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners committee files a notice of intention to amend it with the Clerk within five days after receiving the copy of his/her certificate and files a supplementary petition upon additional papers within ten days after receiving the copy of such certificate. Such supplementary petition shall comply with the requirements of subsection (b) and (c) of Section 3, Article XI, and within five days after it is filed, the clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners committee by registered mail as in the case of an original petition. If a petition or



amended petition is certified sufficient, or if a petition or amended petitions certified insufficient and the petitioners committee does not elect to amend or request Council review in subsection (b) of this section within the required time, the Clerk shall promptly present his/her certificate to the Council and the certificate shall then be a final determination as to the sufficiency of the petition.

b. Council Review. If a petition has been certified insufficient and the petitioners committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within five days after receiving a copy of such certificate, file a request that it be reviewed by the Council. The Council shall review the certificate and its next meeting following the filing of such request and approve or disapprove it, and the Council's determination shall then be a final determination as to the sufficiency of the petition.

c. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review. A final determination of insufficiency, even if sustained upon court review, shall not prejudice the filing of a new petition for the same purpose.

#### Section 5: Referendum Petitions; Suspensions of Effect of Ordinance

When a petition is filed with the Town Clerk, the ordinance to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when:

- a. There is final determination of insufficiency of the petition, or
- b. The petitioners Committee withdraws the petition, or
- c. The Council repeals the ordinance.

#### Section 6: Action on Petitions

a. Action by Council. When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting repeal. If the Council fails to adopt a proposed initiative ordinance or reconsider the referred ordinance by voting it repeal. If the Council fails to adopt a proposed initiative ordinance without any change in substance within 60 days or fails to repeal the referred ordinance within 30 days after the date the petition was finally determined sufficient, it shall submit the proposed or referred ordinance to the voters.

b. Submission to Voters. The vote on a proposed or referred ordinance shall be held not less than 30 days and not later than one year from the date of final Council vote thereon. If no annual election is to be held within the period prescribed in the subsection, the Council shall provide for a special election; otherwise, the vote shall be held at the same time as the annual election, except that the Council may, in its discretion, provide for a special election at an earlier date within the

prescribed period. Copies of the proposed or referred ordinance shall be made available at the polls.

An ordinance to be voted on shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title "shall appear the above described ordinance be adopted?" In the case of a referendum, the question shall be:

"Shall the above described ordinance be repealed?" Immediately below such question shall appear the following order the words "yes" and "no" and to the right of each a square in which the voter may cast his/her vote.

#### Section 7: Results of Election

a. Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Council.

b. Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

c. Reconsideration. Upon the certification of the election results, if a proposed ordinance fails, or a referred ordinance is upheld by the voters, then a new petition proposing or attempting to repeal the same ordinance that was considered by the voters shall not be reconsidered for a period of twelve months from the date of the election at which the proposed or referred ordinance was defeated or upheld.

### ARTICLE XII: RECALL

#### Section 1: Recall Provisions

Any member of the Town Council, or School committee may be recalled and removed from office by the qualified voters of the Town as herein provided.

Any five qualified voters may begin at any time proceedings to recall a member of the Town Council or School Committee by requesting in writing to the Town Clerk for the appropriate petition blanks. Provided, however, that if the term of any person whose recall is sought expires within 90 days of the date of the acceptance of the request for the appropriate petition blanks by the Town Clerk, then said person may not be recalled. The five registered voters requesting the petition blanks shall be referred to as the Recall committee.

The recall committee shall have 30 days from the date of the acceptance of the request by the Town Clerk to cause the petition to be signed by 10% of the qualified

voters of the Town. The petition shall be signed by qualified voters in the presence of the Town Clerk or his/her deputy. Each voter's signature shall be followed by his/her address.

Within seven days after the petition circulation period ends, the Town Clerk shall certify to the Town Council that the petition has been signed by not less than 25 percent of the qualified voters of the Town, that all signatures were affixed in his/her presence or his/her deputy's presence, that he/she believes them to be the genuine signatures of the persons whose name they support to be and that each signer had an opportunity to read the statement detailing the reason or reasons for recall.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same Councilor, or School Committee Member will not be accepted by the Town Clerk until 180 days after the expiration of the previous filing period.

Upon receipt of the certification, the Council shall within 30 days hold a special election for the purpose of submitting the vote the question of recall. A Councilor or School Committee Member shall be recalled when a majority of those voting thereon have voted in the affirmative. The Councilor shall within 30 days after the voters have recalled a Councilor or School Committee Member hold a special election to fill the vacancy.

A Councilor or School Committee Member who is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy his/her name appear on the ballot, no later than the fifteenth day preceding the election to file with the Town Clerk a petition as required by the Charter for an annual municipal election.

Pending action by the voters of the Town, the Councilor or School Committee Member that recall proceedings have been initiated against, shall continue to exercise all the privileges of his/her office.

The ballot for recall shall contain the following question: "Shall (name of person subjected to recall) be recalled from the office of (name of office)?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his/her vote.

### ARTICLE XIII: GENERAL PROVISIONS

#### Section 1: Elected Officers; Terms

The term of any elected official shall begin the first day of the next fiscal year following the election of said officer. Provided, however, that any officer elected to fill a vacancy in office shall assume the responsibility of that office the first day following his/her election. Any officer shall serve for his/her prescribed term or until his/her successor is elected and qualified.

## Section 2: Swearing in Officers

Every town officer or official shall be sworn to the faithful discharge of the duties incumbent upon his/her according to the Constitution and laws of the State of Maine, and the Charter and ordinances of the Town, and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

## Section 3: Organizational Matters

The Town Council and the Superintending School Committee shall each convene during the first full week of the new fiscal year following the Annual Election for the purpose of organizing as provided by Statute and this Charter.

## Section 4: Prohibitions

### a. Activities Prohibited:

1. No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, sex, political or religious opinions or affiliations.
2. No person who holds a compensated appointive town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

b. Penalties. Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the Council acting in juridical capacity, shall be ineligible for a period of five years thereafter to hold any town office or employment and shall immediately forfeit his/her position or office.

## Section 5: Separability

If any provisions of this Charter are held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby. If any provisions of this Charter is held invalid by reason of any conflict with State or Federal Law, the provisions of the applicable State and Federal Law shall automatically become incorporated in this Charter in place of invalid Charter provisions.

## ARTICLE XIV: TRANSITIONAL PROVISIONS

### Section 1: Time of Taking Full Effect - Charter

This Charter shall be in effect for all purposes on and after the first day of the next succeeding municipal year after adoption. As used in this Charter, municipal year is defined as being from July 1 to June 30.

### Section 2: Incumbent Council

As of the effective date of this Charter the five Selectmen incumbent as of said effective date shall continue as interim Councilors under this Charter until the next annual municipal election at which time Councilors will be elected as provided by Article III, Section 1(c).

During said interim period three shall be considered a majority of the Council.

### Section 3: Staggering Terms Council

Those Selectmen incumbent as of the effective date of this Charter shall continue as Councilors until the expirations of their terms.

One new Councilor shall be elected at the first annual municipal election following the effective date of this Charter to serve for three years in accordance with Article III, Section 1(c).

### Section 4: Incumbent Superintending School Committee

As of the effective date of this Charter, the five School Committee Members incumbent as of said effective date shall continue as interim School committee Members under this Charter until the next annual municipal election at which time one School Committee Member will be elected as provided for by Article VIII, Section 1 (c).

During said interim period three shall be considered a majority of the School Committee.

### Section 5: Staggering Terms - School Committee

Those School Committee Members incumbent as of the effective date of this Charter shall continue as School Committee Members until the expiration of their terms.

At the first annual municipal election following the effective date of this Charter one School Committee Member shall be elected for three years.

### Section 6: Officers and Employees

a. Rights and Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall effect or impair the rights or privileges of persons who are town officers or employees at the time of its adoption.

b. Continuance of Office or Employment. Except as specifically provided by this Charter, if at any time this Charter takes full effect, a town administrative officer or employee holds any office or position which is or can be abolished under the authority of this Charter, he/she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he/she vacate the office or position.

c. An employee holding a town position at the time the personnel policies required by this Charter takes effect shall not be subject to competitive tests a condition of continuance in the same position, but in all other respects shall be subject to the rules and procedures provided for by the personnel policies.

#### Section 7: Pending Matters

All rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter, and in each case shall be maintained, carried on or dealt with by the town department, office or agency appropriate under this Charter.

#### Section 8: State and Municipal Laws

a. In General. All town ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting this town or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

CHARTER REVISED WITH CHANGES PURSUANT TO NOVEMBER 1996  
ELECTION. APPROVED BY A MAJORITY OF REGISTERED VOTERS VOTING



The purpose of this amendment is to limit the increases to the net budget by the COLA.

**DEFINITIONS:**

**COLA:** Cost of Living Allowance, determined by the Social Security Administration.

**GROSS BUDGET:** Total amount proposed to expend.

**REVENUES:** All forms of revenues, not including property/personal taxes.

**NET BUDGET:** Gross budget minus revenues.

**SECTION 1.**

The Bradley Town Council/School Board may not propose a net budget to the Town Meeting/Referendum that (except as provided for) exceeds the previous year's net budget by the most recent COLA as determined by the Social Security Administration.

**SECTION 2.**

The Bradley Town Council may not commit tax moneys for a net budget (reserving section 4) exceeding the previous year's net budget by the COLA.

**SECTION 3.**

Repeal of this section shall follow the procedures set forth in this charter.

**SECTION 4.**

The Town Council may exceed this budget cap by a 4/5 vote of the town Council. If the School Board wishes to exceed the budget cap, a written request must be delivered to the Town Clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter.

**BUDGET CAP  
(CHARTER AMENDMENT)**

The purpose of this amendment is to limit the increases to the net budget by the COLA.

**DEFINITIONS:**

**COLA:** ————— Cost of Living Allowance, determined by the Social Security Administration.  
**GROSS BUDGET:** Total amount proposed to expend.  
**REVENUES:** All forms of revenues, not including property/personal taxes.  
**NET BUDGET:** Gross budget minus revenues.

**SECTION 1.**

The Bradley Town Council/School Board may not propose a net budget to the Town Meeting/Referendum that (except as provided for) exceeds the previous year's net budget by the most recent COLA as determined by the Social Security Administration.

**SECTION 2.**

The Bradley Town Council may not commit tax moneys for a net budget (reserving section 4) exceeding the previous year's net budget by the COLA.

**SECTION 3.**

Repeal of this section shall follow the procedures set forth in this charter.

**SECTION 4.**

The Town Council may exceed this budget cap by a 4/5 vote of the town Council. If the School Board wishes to exceed the budget cap, a written request must be delivered to the Town Clerk with a recommendation and a 4/5 vote at a duly called School Board Meeting. The recommendation must be before the final budget hearing as specified by this Charter.



# Chapter 2

## Codification

TOWN OF BRADLEY  
CODIFICATION ORDINANCE

Approved by the Bradley Town Council at a duly called meeting on May 19, 2015

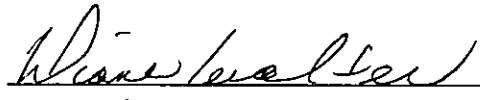
  
Sally Strout, Chairperson

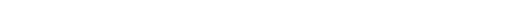
A True Copy Attest:

  
Mark Ketch

  
Melissa L. Doane, Bradley Town Clerk

  
Duane Lugdon

  
Diane Walter

  
Amanda Lankist

THE TOWN OF BRADLEY HEREBY ORDAINS that the following ordinance shall be adopted to revise and codify ordinances.

## **CODIFICATION**

### **A. TITLE AND SCOPE OF ORDINANCE**

This compilation, consisting of Ordinances of the Town of Bradley, is hereby adopted and shall be known as the Town of Bradley Code, and shall be treated and considered as a new and comprehensive ordinance. All ordinances of a general and permanent nature enacted on or before the date of enactment and not included in the Town of Bradley Code or recognized and continued in force by reference therein are repealed.

1. Charter of the Town of Bradley – as amended and any amendments thereto
2. Codification – approved 5/19/15
3. Land Use Ordinance – approved 11/9/2010, amendments 6/24/2011, 5/25/2012 and 7/10/2014
4. Shoreland Zoning Ordinance – 11/1/2006
5. Floodplain Management Ordinance – approved 5/1/2007
6. Subdivision Ordinance – approved 2/20/2008
7. Addressing Ordinance - as amended and any amendments thereto
8. Pawnbrokers Ordinance – as amended and any amendments thereto
9. Dog Ordinance – approved 2/20/2008
10. Holding Tank Ordinance – approved 2/27/1996
11. Culvert and Driveway Entrance Ordinance – approved 5/19/15
12. Special Amusement Ordinance – approved 5/19/15
13. Ordinance Restricting Vehicle Weight on Posted Way – approved 11/1/2006
14. Property Assessed Clean Energy Ordinance – approved 10/26/2010
15. General Assistance Ordinance – approved 10/4/2005

### **B. ADDITIONS OR AMENDMENTS**

Any future additions or amendment to this Code when passed, shall be deemed to be incorporated in this Code.

### **C. OFFICIAL COPIES**

The Town Clerk shall keep a copy of this Code in a binder in loose-leaf form, so that all amendments thereto and all ordinances hereafter passed may be inserted in their appropriate place and all deletions may be extracted. The Code will be available for examination by the public. If an ordinance is adopted, a copy shall be certified by the Town Clerk of the Town of Bradley by impressing thereon the Seal of the Town.

ARTICLE II  
General Penalty

[Adopted on December 14, 1999 by the Town Council at the Town of Bradley Town Council Meeting.]

1-15. Violations and Penalties.

Unless otherwise provided, any person, firm, or corporation who or which shall violate any provisions of this Code shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than two thousand five hundred dollars (\$2,500). Each day that a violation continues shall be considered a separate offense.

ENACTED AND ORDAINED, Councilors into an ordinance this 14<sup>th</sup> day of December A.D., 1999 of the Town of Bradley of Penobscot County in lawful session duly assembled.

Councilors of the Town of Bradley

Bonnie M. Côté  
Andrew Wilcox  
Sally A. Stout  
\_\_\_\_\_  
\_\_\_\_\_

A TRUE COPY

Michael R. Crooker

Attest: Town Clerk

Michael R. Crooker

A TRUE COPY

Michael R. Crooker

ATTEST: TOWN CLERK

MICHAEL R. CROOKER

DATE: DECEMBER 7, 1999

Notice is hereby given that the Municipal Officers of the Town of Bradley held a public hearing on May 5, 2015 at 6:15 p.m. in The Municipal Building 165B Main Rd Bradley to hear public comment on the following:

**2015-2016 Municipal Budget Presented to the Voters June 9, 2015**

Notice is hereby given that the Municipal Officers of the Town of Bradley held a public hearing on May 19, 2015 at 6:15 p.m. in The Municipal Building 165B Main Rd Bradley to hear public comment on the following:

**Town of Bradley Articles for Annual Referendum June 9, 2015  
Culvert and Driveway Ordinance  
Special Amusement Ordinance  
Town of Bradley Codification Ordinance**

**RETURN ON THE NOTICE**

Bradley Maine  
May 19, 2015

Pursuant to 30-A M.R.S.A § 2528 (5), we have notified the inhabitants of said Town of Bradley of a public hearing, to be held at said time and place, and for the purposes herein named, by posting a copy of said notice in said Town, being a public and conspicuous place (s) in said Town on the 9<sup>th</sup> day of April 2015 and the 28<sup>th</sup> day of April 2015 being at least seven days before the hearing.

Municipal Officers of Bradley

Sally Strout  
Mark H. Ketch  
Diane Walter  
Duane Lugdon

State of Maine

Penobscot, ss

Then personally appeared before me the above-name ~~Amanda Lankist~~, Duane Lugdon, Sally Strout, Diane Walter and Mark Ketch, known to me (or, who satisfactorily identified him/herself to me) and swore that the representations set forth in the above Return of Notice are true of their own knowledge; and acknowledged the signatures appearing thereon to be theirs and that they executed the Return of their own free will (and who signed the above Return in my presence).

Date 5/19/15

Melissa L. Doane  
Notary Public

Melissa L. Doane  
Printed name of Notary Public  
Commission Expires

Notice is hereby given that the Municipal Officers of the Town of Bradley will hold a public hearing on May 19, 2015 at 6:15 p.m. at The Bradley Municipal Building 165B Main Rd Bradley to hear public comment on the following:

**Town of Bradley Articles for Annual Referendum June 9, 2015**

**Culvert and Driveway Ordinance**

**Special Amusement Ordinance**

**Town of Bradley Codification Ordinance . .**

This Appendix is available at the Bradley Municipal Building or by visiting [TownofBradley.net](http://TownofBradley.net). The Public is encouraged to attend and comment. Written comments will be accepted until 5 P.M. of the day of the hearing. Written comments should be mailed to the Bradley Municipal Building PO Box 517 Bradley Me 04411 or e-mailed to [mldoane@roadrunner.com](mailto:mldoane@roadrunner.com).

A True Copy Attest: Melissa L. Doane Town Clerk

Notice is hereby given that the Municipal Officers of the Town of Bradley will hold a public hearing on May 5, 2015 at 6:30 p.m. at The Bradley Municipal Building 165B Main Rd Bradley to hear public comment on the following:

**2015-2016 Municipal Budget  
Presented to voters June 9, 2015**

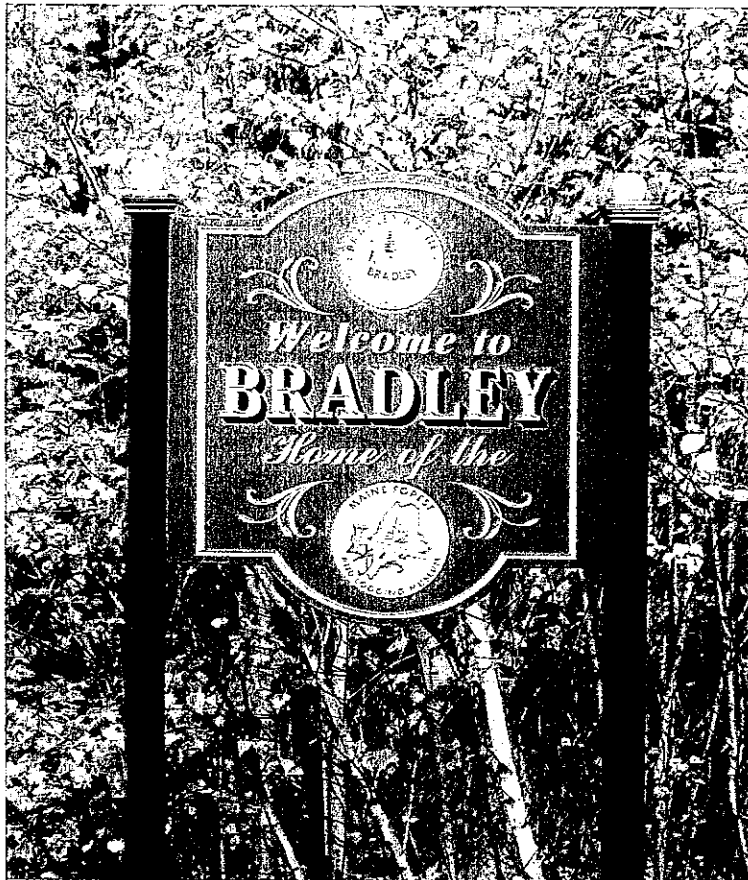
The Public is encouraged to attend and comment. Written comments will be accepted until 4:00 p.m. of the day of the hearing. Written comments should be mailed to the Bradley Municipal Building PO Box 517 Bradley Me 04411 or e-mailed to [mldoane@roadurnner.com](mailto:mldoane@roadurnner.com).

A True Copy Attest: Melissa L. Doane Town Clerk

# Chapter 3

## Land Use Ordinance





**Adopted 11/09/10**

Amended	5/24/11
	5/24/12
	6/10/14
	5/03/16
	8/08/16



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**SECTION I: GENERAL PROVISION**

**A. TITLE**

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

**B. 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.

**C. PURPOSES**

The purposes of the Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION:** To implement the policies and recommendations of the Bradley 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 Bradley;
3. **PRESERVATION OF THE TOWN CHARACTER:** To preserve and protect the character of Bradley 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 CONGESTION:** To lessen the danger and congestion 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;

**SECTION I: GENERAL PROVISION (Cont.)**

**C. PURPOSES (Cont.)**

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.

**D. APPLICABILITY**

This Ordinance shall apply to all land areas within the Town of Bradley. This Ordinance does not apply to the shoreland zones of the Town of Bradley. 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.

**E. 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 which imposes the more restrictive or higher standards shall govern.

**F. 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.

**G. AMENDMENTS**

**1. INITIATION**

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

- a. The Planning Board, provided a majority of the board has so voted.
- b. Request of the Town Council to the Planning Board.



**SECTION I: GENERAL PROVISION (Cont.)**

**G. AMENDMENTS (Cont.)**

- c. Written petition of 10% of the number of registered voters who voted in the most 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 Town Council.

**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 Town Council.

**H. ANNUAL ADMINISTRATIVE REVIEW**

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually to the Town Manager and the Town Council on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Manager and Town Council 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.

**I. EFFECTIVE DATE**

The effective date of this Ordinance, when adopted, and any amendments thereto, shall be effective in 30 days following its/their adoption or approval at a Town Council Meeting. A copy of this Ordinance, certified by the Town Clerk shall be filed with the Town Clerk, the Penobscot County Registry of Deeds, and the Maine Municipal Association.

**J. REPEAL OF PRIOR ORDINANCE**

The Bradley Land Use Ordinance of September 25, 2001 and the Building Permit Ordinance of April 1, 1991, with all amendments thereto will be repealed with the adoption of this Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future

**SECTION I: GENERAL PROVISION (Cont.)**

**J. REPEAL OF PRIOR ORDINANCE (Cont.)**

prosecution of or action to abate any violation of the Ordinance repealed by this Section if the violation is also a violation of the provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is held to be invalid or void in its entirety, then the Ordinance repealed by this Section shall be automatically revived.

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**SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS**

**A. BURDEN OF PROOF**

The burden of establishing that any non-conforming structure, use or lot is a lawfully existing non-conforming structure, use or 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 Bradley.

**B. CONVERSION TO CONFORMANCE ENCOURAGED**

Owners of all existing non-conforming structures and uses shall be encouraged to 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.

**C. CONTINUANCE**

The use of any building, structure, or parcel 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:

**1. EXISTING NON-CONFORMING USES OF LAND**

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

- a. 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;
- b. 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
- c. 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:
  - 1) Location and character;
  - 2) Fencing and screening;
  - 3) Landscaping, topography, and natural features;
  - 4) Traffic and access;
  - 5) Signs and lighting; and
  - 6) Potential nuisance.

**2. EXISTING NON-CONFORMING STRUCTURES**

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

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

**SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Cont.)**

**C. CONTINUANCE (Cont.)**

- b. 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 (1) year; and
- c. 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:
  - 1) Location and character;
  - 2) Fencing and screening;
  - 3) Landscaping, topography, and natural features;
  - 4) Traffic and access;
  - 5) Signs and lighting; and
  - 6) Potential nuisance.

**3. EXISTING NON-CONFORMING USE OF STRUCTURES**

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

- a. No structure devoted to a non-conforming use shall be enlarged or extended;
- b. 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;
- c. 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;
- d. 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;
- e. 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
- f. 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:
  - 1) Location and character;
  - 2) Fencing and screening;



**SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Cont.)**

**C. CONTINUANCE (Cont.)**

- 3) Landscaping, topography, and natural features;
- 4) Traffic and access;
- 5) Signs and lighting; and
- 6) 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.

**D. 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 another lot in the same ownership, provided that all other provisions of this Ordinance are met.

**E. CONTINUANCE OF NON-CONFORMING SETBACK ALLOWED FOR EXPANSION**

Application for expansion along non-conforming side, front and rear line setbacks may be approved as long as the proposed expansion does not increase the non-conformity of that existing dimensional setback measurement.

**F. 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.

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**SECTION III: ESTABLISHMENT OF DISTRICTS**

**A. DISTRICTS ESTABLISHED**

For the purposes of this Ordinance, the Town of Bradley is hereby divided into the following districts:

**Growth Areas:**

Village District  
Residential District  
Mixed District

**Rural Areas:**

Rural Resource District

**B. STANDARDS ESTABLISHING DISTRICTS AND DISTRICT DESCRIPTIONS**

**1. Village District**

- a. Purpose: This District is designed and intended to provide for a broad range of residential, commercial, home occupation, public and institutional development.
- b. Areas Include: The location of the Village District is illustrated on the "Official Land Use Map of the Town of Bradley".

**2. Residential District**

- a. Purpose: This District is designed and intended to provide for a range of residential and home occupation development.
- b. Areas Include: The location of the Residential District is illustrated on the "Official Land Use Map of the Town of Bradley".

**3. Mixed District**

- a. Purpose: This District is designed and intended to provide for a mix of residential and commercial use development.
- b. Areas Include: The location of the Mixed District is illustrated on the "Official Land Use Map of the Town of Bradley".

**4. Rural Resource District**

- a. Purpose: This District is designed and intended to provide for resource based, open space and recreational uses. In addition, low density residential development and home occupations will be permitted.
- b. Areas Include: The location of the Rural Resource District is illustrated on the "Official Land Use Map of the Town of Bradley".

**SECTION III: ESTABLISHMENT OF DISTRICTS (Cont.)**

**C. OFFICIAL DISTRICT BOUNDARY MAP**

Districts established by this Ordinance are bounded and defined as shown on the official "Zoning Map of the Bradley, Maine". The following rules of interpretation shall apply:

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.

**D. INTERPRETATION OF DISTRICT BOUNDARIES**

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

1. 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;
2. Boundaries indicated as being approximately following shorelines of any lake or pond shall be construed as following the normal high water mark;
3. Boundaries indicated as being the extension of centerlines of streets shall be construed to be the extension of such centerlines;
4. Boundaries indicated as approximately following the centerlines of streams, rivers or other continuous flowing watercourses shall be construed as following the channel center line of such watercourses;
5. 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;
6. 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.

**E. AMENDMENTS TO DISTRICT BOUNDARIES**

The Town Council, 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 District boundary shall be approved without a duly authorized majority vote at a Town Council Meeting.

Such an action shall not be presented for consideration without written finding of fact from the Planning Board upon substantial evidence that:

**SECTION III: ESTABLISHMENT OF DISTRICTS (Cont.)**

**E. AMENDMENTS TO DISTRICT BOUNDARIES (Cont.)**

1. The change would be consistent with: the standards of District boundaries in effect at the time; the Comprehensive Plan; and the purpose, intent, and provisions of this Ordinance; and
2. 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 Planning Board 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 1000 feet of the parcel for which a change in boundaries is sought. The Planning Board 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.

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**SECTION IV: SCHEDULE OF USES**

**A. ACTIVITIES DESCRIBED**

A matrix listing the uses permitted in the various Districts, under this Ordinance begins on page 14.

The various land uses contained in the matrix are organized according to the following seven (7) activity classifications:

1. Resource Management Activities
2. Resource Extraction Activities
3. Residential Activities
4. Institutional Activities
5. Commercial Activities
6. Industrial Activities
  - a. Transportation Activities

**B. SYMBOLS USED IN SCHEDULE OF USES**

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

**1. DISTRICT SYMBOLS**

<u>SYMBOL</u>	<u>DESCRIPTION</u>
VD	Village District
RD	Residential District
MD	Mixed District
RRD	Rural Resource District

**2. PERMIT SYMBOLS**

<u>SYMBOL</u>	<u>DESCRIPTION</u>
Y	Uses Allowed Without a Permit
N	Uses Prohibited Within District
C	Use Requires a Code Enforcement Permit
P	Use Requires a Planning Board Permit

**SECTION IV: SCHEDULE OF USES (Cont.)**

**C. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED**

1. **USES ALLOWED WITHOUT A PERMIT:** Uses substantially similar to those allowed without a permit, but that are not listed in the Schedule of Uses, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to uses listed in the schedule.
2. **USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT:** Uses substantially similar to those requiring a Code Enforcement Officer Permit, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.
3. **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board Permit, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

**D. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED**

Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses shall be prohibited.

**E. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED**

All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.



**SECTION IV: SCHEDULE OF USES (Cont.)**

**F. SCHEDULE OF USES**

<b><u>ACTIVITIES</u></b>	<b><u>DISTRICTS</u></b>			
<b>1. RESOURCE MANAGEMENT</b>	VD	RD	MD	RRD
a) Wildlife/fishery management practices;	Y	Y	Y	Y
b) Emergency operations conducted for the public health, safety, or general welfare, such as resource protection, law enforcement, and search and rescue operations;	Y	Y	Y	Y
c) Surveying and other resource analysis;	Y	Y	Y	Y
d) Forest management activities <u>not including</u> timber harvesting, pesticide and fertilizer application;	Y	Y	Y	Y
e) Agricultural management activities, <u>not including</u> pesticide and fertilizer application;	Y	Y	Y	Y
f) Animal Husbandry/Keeping of Livestock (Farm Animals);	C	C	C	C
g) Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;	Y	Y	Y	Y
h) 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
i) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	C

Town of Bradley  
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**SECTION IV: SCHEDULE OF USES (Cont.)**

<b><u>ACTIVITIES</u></b>	<b><u>DISTRICTS</u></b>			
<b>2. RESOURCE EXTRACTION</b>	VD	RD	MD	RRD
a) Commercial timber harvesting;	C	P	C	Y
b) Production of commercial agricultural products;	P	P	P	Y
c) Mineral extraction for road purposes only, affecting an area of less than 2 acres in size;	C	C	C	C
d) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size;	P	P	P	P
e) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells;	P	P	P	C
f) Accessory use and structures that are essential for the exercise of uses listed above.	C	C	C	C

**SECTION IV: SCHEDULE OF USES (Cont.)**

<u><b>ACTIVITIES</b></u>	<u><b>DISTRICTS</b></u>			
<b>3. RESIDENTIAL</b>	VD	RD	MD	RRD
a) Single-Family Detached Dwelling;	C	C	C	C
b) Single-Family Mobile Home, in Park;	C	C	C	N
c) Single-Family Mobile Home;	C	C	C	C
d) Multi-Family Dwelling: Two Unit or Duplex;	C	C	C	N
e) Multi-Family Dwelling: 3 or more families, including apartments;	P	P	P	N
f) Mobile Home Park;	P	P	P	N
g) Nursing Home/Boarding Care;	P	P	P	N
h) Home Occupation;	C	C	C	C
i) In-Law Apartment;	C	C	C	C
j) Accessory uses or structures that are essential for the exercises of uses listed above.	C	C	C	C

Town of Bradley  
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**SECTION IV: SCHEDULE OF USES (Cont.)**

<u>ACTIVITIES</u>	<u>DISTRICTS</u>			
4. INSTITUTIONAL	VD	RD	MD	RRD
a) Hospital and Medical Clinic;	P	N	P	N
b) Government Facilities and Services;	P	P	P	P
c) Public Schools;	P	P	P	N
d) Private Schools;	P	P	P	N
e) Day Care Centers;	P	P	P	N
f) Churches;	P	P	P	N
g) Cemeteries;	P	P	P	P
h) Fraternal Orders and Service Clubs;	P	N	P	N
i) Post-Secondary Education Facilities;	P	P	P	N
j) Municipal Fire Stations;	P	P	P	P
k) Fish & Game/Recreation based facilities;	N	N	P	P
l) Accessory uses and structures that are essential for the exercise of uses listed above.	P	P	P	P

**SECTION IV: SCHEDULE OF USES (Cont.)**

<u>ACTIVITIES</u>	<u>DISTRICTS</u>			
5. COMMERCIAL	VD	RD	MD	RRD
a) Adult Entertainment;	N	N	N	P
b) Automobile Body Repair;	N	N	P	N
c) Automobile Recycling Facility;	N	N	P	P
d) Automobile Repair/Service;	N	N	P	N  (P, when associated with e) Automobile Sales)
e) Automobile Sales;	N	N	P	P
f) Automobile Supplies;	P	N	P	N
g) Banks/Credit Unions;	P	N	P	N
h) Bar/Pub;	N	N	P	N
i) Beauty Shops;	P	N	P	N
j) Bed and Breakfast;	P	P	P	P
k) Boarding Kennels;	N	P	P	P
l) Campgrounds;	N	N	N	P
m) Clothing Store;	P	N	P	N
n) Florist Shop/Craft Shop;	P	N	P	N
o) Fuel Oil Sales;	P	N	P	N
p) Funeral Home;	P	N	P	N
q) Greenhouse;	P	N	P	N
r) Grocery Store;	P	N	P	N

Town of Bradley  
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**SECTION IV: SCHEDULE OF USES (Cont.)**

ACTIVITIES	DISTRICTS			
5. COMMERCIAL	VD	RD	MD	RRD
s) Hardware Store;	P	N	P	P
t) Motel, Hotel and Inns, Maximum 10 rooms;	P	N	P	N
u) Motel, Hotel and Inns, More than 10 rooms;	P	N	P	N
v) Professional Offices;	P	N	P	N
w) Professional Office Complex;	P	N	P	N
x) Pharmacy;	P	N	P	N
y) Radio Station;	P	N	P	N
z) Restaurant;	P	N	P	N
aa) Recreation Vehicles Sales and Service;	N	N	P	P
bb) Redemption Center;	P	N	P	P
cc) Retail Establishments of more than 5,000 square feet;	P	N	P	N
dd) Retail Establishments of less than or equal to 5,000 square feet (if not listed above)	P	N	P	N
ee) Sporting Cabins;	N	N	P	P
ff) Sporting Goods Store;	P	N	N	P
gg) Take Out Restaurant (No interior seating);	P	N	P	N
hh) Towers 195 feet in height and under;	N	N	P	P
ii) Towers taller than 195 feet;	N	N	N	P
jj) Veterinary Clinic/Hospital;	P	N	N	P
kk) Video Rentals;	P	N	P	P
ll) Warehouse/Storage Facility/Self Storage;	N	N	P	P
mm) Accessory uses and structures that are essential for the exercise of uses listed above.	C	C	C	P

**SECTION IV: SCHEDULE OF USES (Cont.)**

<b><u>ACTIVITIES</u></b>	<b><u>DISTRICTS</u></b>			
<b>6. INDUSTRIAL</b>	VD	RD	MD	RRD
a) Automobile Junk/Salvage yard;	N	N	P	P
b) Bulk Oil and Fuel Tank Storage in excess of 50 gallons except for on-site heating and cooking purposes;	N	N	N	P
c) Concrete Plant;	N	N	N	P
d) Disposal of Hazardous/Leachable Materials;	N	N	N	N
e) Disposal of Solid Waste other than agriculture;	N	N	N	N
f) Light Manufacturing Assembly Plant;	N	N	P	P
g) Lumber Yard/Sawmill;	N	N	P	P
h) Pulp Mill;	N	N	P	P
i) Sewage Treatment Facility;	N	N	P	P
j) Transportation Facility and Terminal Yard;	N	N	N	P
k) Wholesale Business Facility;	N	N	P	N
l) Sewage Disposal;	N	N	N	P
m) Septage Disposal;	N	N	N	P
n) Accessory uses and structures that are essential for the exercise of uses listed above.	C	N	C	C

**SECTION IV: SCHEDULE OF USES (Cont.)**

<b><u>ACTIVITIES</u></b>	<b><u>DISTRICTS</u></b>			
<b>7. TRANSPORTATION AND UTILITIES</b>	VD	RD	MD	RRD
a) Airport terminal building and airport uses;	N	N	N	P
b) Land management roads and water crossings of minor flowing waters;	P	P	P	P
c) Land management roads and water crossings of standing waters and of major flowing waters;	P	P	P	P
d) Major utility facilities, such as transmission lines, water supply and sewage treatment facilities, but not including service drops;	P	P	P	P
e) Road construction projects, other than land management roads;	P	P	P	P
f) Road construction projects, other than land management roads, which are part of projects requiring Planning Board review;	P	P	P	P
g) Accessory uses and structures that are essential for the exercise of uses listed above.	P	P	P	P



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**SECTION V: LAND USE STANDARDS**

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

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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 Bradley 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.

**A. GENERAL STANDARDS**

**1. ACCESSORY USES**

An accessory use shall not include any use injurious or offensive 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.

Guidelines: Development shall employ the following guidelines to the extent possible in designing access points:

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- a. Where a residential lot will front on two or more streets, access shall be to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
- b. All access points should be located so as to provide adequate sight distance for vehicular movement. Adequate sight distance means an unobstructed view of the road in each direction for at least 100 feet for every 10 MPH of speed limit. (E.g., for access to a 25 MPH road, an access point shall have a clear view of 250 feet in each direction).
- c. Every effort shall be made to reduce the number of access points onto the public road. Measures to be taken may include shared driveways and frontage roads.
- d. All entry and exit points shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of twenty-five (25) feet from the edge of the traveled way in order to provide visibility for entering and leaving vehicles.
- e. Driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, Section 754, must conform to Title 23, Section 704 and any rules adopted under that section.

**3. ADULT BUSINESS / ENTERTAINMENT**

- a. No adult business/entertainment shall be in any location that is closer than 1000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is owned or used by/for: any religious institutions, K-12 educational institutions, parks and playgrounds, libraries, colleges and universities, day-care centers, government buildings, residence, gateway to the community, pool or billiard halls or other adult entertainment business.
- b. No materials or devices displaying or exhibiting sexually explicit activities shall be visible from the exterior of the building in which the adult business is located.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**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.

NOTE: Phosphorous allocation is addressed through implementation of the Town of Bradley Subdivision Regulations.

**5. AIR POLLUTION**

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

**6. ANIMAL HUSBANDRY**

The keeping, breeding and raising of farm animals shall be carried on in accordance with the guidelines specific to each District, indicated as follows:

Animal Husbandry – Minimum Pasturage Required per Animal & Max. Number of Animals Allowed.

District	Village	Mixed	Residential	Rural Resource
Small Farm Animals	-----No Minimum Acreage Required-----			
Max. Number Allowed	6	6	6	No Max. No.*
Horses, Sheep, Goats & similar	1 Acre/ea.	1 Ac.	2 Ac.	1 Ac.*
Cattle	2 Acres/ea.	2 Ac.	4 Ac.	2 Ac.*
Roosters	Not Allowed	Not Allowed	Not Allowed	No Min. Acres*
Pigs	Not Allowed	Not Allowed	Not Allowed	500' from P/Ls*

*\*Code Enforcement Officer may designate Planning Board Review*

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**7. BUFFERS**

All commercial and industrial development adjacent to residential dwellings must provide landscaped buffer strips in the form of evergreen vegetation or fencing. The buffering shall be sufficient to minimize the impacts of expected uses such as exposed machinery, excessive noise, outdoor storage areas, vehicle loading and parking, mineral extraction and waste collection and disposal areas.

**8. BUILDING/STRUCTURE/PREMISES-YARD MAINTENANCE STANDARDS**

All buildings, structures and parts thereof permitted under this ordinance shall be required to be maintained as indicated below:

- a. Each property owner, of rental property, shall keep all exterior components of every principal and accessory structure in good repair, including but not limited to, walls, roofs, chimneys, cornices, gutters, down spouts, drains, porches, steps, hand rails & guards, landings, fire escapes, exterior stairs, windows, shutters, doors and storefronts.
- b. All premises and yard areas shall be maintained in a safe and sanitary condition, including but not limited to, steps, walks, driveways, fences, retaining walls, trees, shrubs, grass and weeds. If any such area or object constitutes a danger to health or safety, it shall be repaired, replaced or removed.
- c. The exterior of principal and accessory structures shall not be left in an unfinished state, but must have finished siding and roofing, suitable to the structure involved, applied within one (1) year of the permit issue date.

**9. CONFORMANCE WITH COMPREHENSIVE PLAN**

All proposed development shall be in conformity with the Comprehensive Plan and Policy Statements of the Town contained within the Plan and with the provisions of all pertinent local ordinances and regulations, State laws and Federal regulations.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**10. CONSTRUCTION IN 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 Town of Bradley 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 (1) foot above the 100-year flood elevation.

**11. CONVERSIONS**

a. Conversions of existing structures into multi-family units, in Districts permitting multi-family dwellings, may be permitted provided that:

- 1) Off-street parking for two (2) vehicles per dwelling unit plus maneuvering space will be provided;
- 2) Approval of conversion plans by the Code Enforcement Officer, Fire Chief, Local Plumbing Inspector, and electrical inspector(s) is required prior to issuance of a land use permit;
- 3) Each dwelling unit shall be at least three-hundred fifty (350) square feet in area for one (1) bedroom units plus one-hundred fifty (150) square feet for each additional bedroom;
- 4) Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit; and
- 5) Each unit shall be provided with adequate rubbish disposal facilities.

b. Conversions of Mobile Home Parks

- 1) No lot or lots in a mobile home park may be sold or conveyed without:
  - i. The prior approval of the Planning Board; and
- 2) The following conveyance is exempt from the conversion provisions of this section:
  - i. Sale or conveyance of the mobile home park in its entirety to one entity provided no change in use occurs.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**12. DUST, FUMES, VAPORS, GASES, ODORS, GLARE AND EXPLOSIVE MATERIALS**

- a. Emissions of odors, dust, dirt fly ash, fumes, vapors or gases which could damage: human health, animals, vegetation, or property, must comply with State and Federal standards.

**13. EROSION AND SEDIMENTATION CONTROLS**

The following measures relating to conservation, erosion, and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages.

- a. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
  - 1) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;
  - 2) Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
  - 3) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
  - 4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - 5) The disturbed area and the duration of exposure shall be kept to a practical minimum;
  - 6) Disturbed soils shall be stabilized as quickly as practicable;
  - 7) Temporary vegetation or mulching shall be used to protect disturbed areas during development;
  - 8) Permanent (final) vegetation and mechanical erosion control measures in accordance with the provisions of the Department of Environmental Protection's Best Management Practices for Erosion and Sedimentation Control or the Maine Soil and Water Conservation

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- Commission shall be installed as soon as practicable after construction ends;
- 9) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, silt traps or other acceptable methods;
  - 10) The top of the cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjacent property, unless otherwise specified by the Planning Board;
  - 11) During grading operations, approved methods of dust control shall be employed wherever practicable;
  - 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. GARAGE/YARD SALES**

A land use permit for a garage/yard sale shall be issued for a single sale or for a one-year period. The permit shall cover no more than three (3) separate sales during the period. Duration of any one sale shall be three (3) days. No more than three (3) sales shall be held at the same location in any given year. Items shall be stored and not visible from the roadway or neighboring properties between sale dates.

**15. HOME OCCUPATIONS**

- a. The purpose of the Home Occupation provision is to permit the conduct of those businesses that 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 which is accessory to and compatible with a residential use may be permitted if:



**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- 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 (1) employee;
  - 3) It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.
- c. All home occupation shall conform with the following conditions:
- 1) The home occupation shall be carried on wholly within the dwelling or accessory structure;
  - 2) The home occupation shall be conducted only by a member or members of the family residing in the dwelling unit, and/or not more than one (1) employee;
  - 3) Exterior signs shall be no greater than 2 square feet per side. There shall be no more than one (1) sign per property. There shall be no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building;
  - 4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;
  - 5) The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood;
  - 6) In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of the maximum number of users the home occupation may attract during peak operating hours;
  - 7) The home occupation may utilize:
    - i. Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purposes of this calculation, unfinished basement and attic spaces are not included;
    - ii. Basement spaces;

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- iii. One accessory structure. The floor area utilized in the accessory structure shall not exceed fifty (50%) percent of the total floor area of the dwelling unit.
- iv. Unfinished attic spaces to be used for storage only.
- 8) Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted.
- 9) No case shall the home occupation be open to the public at times earlier than 8:00 A.M. and no later than 9:00 P.M.

**16. INDUSTRIAL PERFORMANCE STANDARDS**

The following provisions shall apply to all permitted industrial uses:

a. Danger

No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, 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 river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial wastewater 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.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**17. 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 comply with MRSA 30-A §3755-A.(3)(A) which requires compliance with *id* §3754-A's screening standards which must be:
  - 1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
  - 2) Well constructed and properly maintained at a minimum of six (6) feet;
  - 3) Placed outside of the highway right-of-way; and
  - 4) Acceptable to the municipal officers or county commissioners; and 30-A MRSA §3754-A. (1).
- b. No vehicle or parts thereof shall be stored within 300 feet of any water-body or inland wetland;
- c. No vehicle shall be stored within 100 feet of a public or private well (excluding owner's well), 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 or motorized equipment, the battery shall be removed, and all lubricants and fluids (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;

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- 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 (1) year shall be considered as junk metal to be recycled;
- i. No more than four (4) 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, use and size of the junkyard prior to the Planning Board's issuance of the permit including an annual inventory.

**18. LANDSCAPING**

Development proposed within any 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.

**19. LIGHTING DESIGN STANDARDS**

All exterior lighting shall be designed to minimize adverse impact on neighboring properties and the night skies. Lighting shall be focused in a downward manner.

Backlit signs may be located no closer than fifteen (15) feet from the from property line.

**20. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS**

See B. Dimensional Requirement in this Section.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**21. MANUFACTURING HOUSING**

- a. Minimum Safety Standards: All manufactured housing as defined in this Ordinance, regardless of date of manufacture, and sited within the Town of Bradley 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. J. of this Ordinance.

- 1) 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.

- 2) 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:

- a) 100 Ampere Entrance required;
- b) Copper wiring required;
- c) Two means of grounding required;
- d) 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 certified electrical inspector.

- 3) 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)

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- a) All homes shall contain at least one (1) operable fire extinguisher which is readily accessible at all times;
  - b) All homes shall have at least one (1) operable AC smoke detector centrally located within the home (with battery back-up) and one (1) operable smoke detector in each of the bedrooms;
  - c) 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 and NFPA 31 as applicable. In addition, no wood stove shall be used for heating purposes in a manufactured home in the Town of Bradley without first being inspected and approved by the Bradley Fire Department for safe installation;
  - d) 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
  - e) 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 (2) 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.
- 4) Minimum Plumbing Standards: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code as amended.
- 5) Minimum Design Standards: All manufactured housing will be sited and maintained in such a manner as to blend harmoniously with other residential structures in close proximity, to this end all manufactured housing located with the Town of Bradley after the effective date of this Ordinance shall:
- a) 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;
  - b) Be located on a permanent foundation in accordance with Appendix C. of the Manufactured Home Installation Standards or as amended;

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- c) Permanent skirting shall be installed within thirty (30) days of siting;
- d) Provide a safe means of egress from and ingress to the manufactured home including stairs with handrails when applicable.

**22. MINERAL EXPLORATION AND EXTRACTION**

The following requirements for mineral exploration and extraction activities, including the removal of topsoil, shall apply in all Districts. Mineral exploration and extraction shall be subject to the requirements of all other sections and provisions of this Ordinance and other applicable Ordinances and Laws, Local and State:

- a. All exploration/extraction activities, including test pits and holes, shall be promptly 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 fifty (50) 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 sub water body;
- d. A natural vegetation screen of not less than fifty (50) feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads;
- e. If any mineral extraction operation located within seventy-five (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 (1) year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter;

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- 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 property owners. In no event shall extraction be permitted closer than twenty-five (25) feet to any property line unless there is another mineral extraction operation on the other side of the property line in question. In this case, excavation may extend to the property line and the wall may be breached to the satisfaction of both parties. The distance from a cemetery may not be reduced to less than twenty-five (25) feet to the top of the slope, and only with the permission of the cemetery officials;
- g. In no case shall a mineral extraction operation be conducted at times earlier than 7:00 A.M. or later than 9:00 P.M.;
- h. At no time shall any mineral extraction operation location be used for the storage or dumping of any substance, including but not limited to hazardous materials or petroleum products that could produce a harmful leachate, both during the extraction operation and following its termination. Vehicles and other equipment shall not be drained or filled in any gravel pit; and
- i. Gravel extraction shall be prohibited below the average seasonal high water table. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions.

**23. OFF-STREET PARKING**

- a. 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;
- b. Required off-street parking spaces shall be provided;



**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- c. 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) parking spaces plus one space for each guest room; and
    - b) Motels, hotels, boarding houses, and inns with more than 10 rooms -- One (1) parking space for each guest room 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 three hundred (300) square feet of retail area, plus one (1) for every two (2) employees;
  - 7) Restaurants, eating and drinking establishments – One (1) parking space for every four (4) seats, plus one (1) for every two (2) employees;
  - 8) Professional Offices and Public Buildings – One (1) parking space for every three hundred (300) square feet of gross leasable area, exclusive of cellar and bulk storage areas;
  - 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.

**24. 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.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**25. OIL AND CHEMICAL STORAGE**

- a. All storage of petroleum or liquid products shall be in conformance with the provisions of Title 38 MRSA, Section 560 et.seq., which among other things establishes a ten (10) 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 Bradley.
- 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.

**26. PROPERTY MAINTENANCE STANDARDS**

All property, within the Town of Bradley and regulated by this Ordinance, whether occupied or unoccupied, shall meet or exceed the following standards:

- a. **Outdoor Storage**  
Materials of value shall be stored in a safe and sanitary manner, shall not be scattered about and shall not have openings or stacked in a manner which may provide harborage for vermin. Vermin includes, but is not restricted to: rodents, birds and insects that are destructive to real or personal property or injurious to health.
- b. **Trees and Shrubs**  
No tree, shrub or other vegetation shall block safe visions of sidewalk, drive or street. No dead trees, dead parts thereof, fallen trees, or fallen parts thereof that threaten adjacent structures of people or property in the public right of way shall be permitted to remain on any property.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

c. Health and Sanitation

All exterior areas shall be sanitary and free of trash and garbage. Composting of vegetative materials is allowed provided that it does not create odors, health hazards or nuisances. Trash includes materials or items which are not in good repair or are discarded and which are of little or no value, including plaster, paper, wrappings, plant cuttings, household furnishings, used or salvaged building materials, packing or clothing, appliances, equipment, machinery or parts thereof, scrap metal, scrap lumber, masonry block, disassembled vehicle parts or dismantled portions of vehicles. Garbage includes any spoiled or discarded animal or vegetative material resulting from the handling, preparation, cooking or consumption of food for humans or animals as well as other organic waste material subject to rapid decomposition, including trash to which such material has adhered.

**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 landowner shall be responsible for the cost of all remedial actions.

**28. 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.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**29. 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.
- b. 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.

**30. SIGNS**

a. Permit Required

Any person, firm, association or corporation that erects any sign in the Town of Bradley must do so in accordance with this section and only after obtaining a permit to do so from the Code Enforcement Officer, except as otherwise provided herein.

1) Application for sign permit.

- i. Application for a sign permit shall be made and signed by an applicant or his or her agent using a form provided by the Code Enforcement Officer. When the applicant is any person other than the owner, tenant or agent thereof, of the property where the sign is to be located, the application shall also be signed by the owner, tenant or his or her agent of that property. The application shall be accompanied by the required application fee; plans drawn to scale showing the dimensions of the sign,

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

the location where the sign is to be erected, and the method and direction of illumination, if any.

- ii. The application fee shall be set by the Town Council.

2) Expiration.

- i. If the work authorized by the permit is not completed within six (6) months from the date of issuance, the permit shall be null and void. Any new application shall meet all new requirements and restrictions.

b. Conformance of Signs

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

c. Signs Prohibited

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

d. Exemptions

1) Temporary Signs

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

- i. Temporary Signs Giving Notice

Signs of a temporary nature, such as advertisements for charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed ninety (90) days, provided that the persons who posted the signs shall be responsible for their removal.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

ii. Temporary Yard Sale Signs

Temporary yard sales signs are permitted provided they do not exceed the size standards of Subsection (e) and provided they are removed with 24 hours of the completion of the sale. Yard sales which extend for more than three (3) consecutive days are not allowed.

iii. Political Signs & Posters

Signs bearing political messages are allowed provided they comply with State law, e.g.:

- May not be larger than fifty (50) square feet;
- Must not obstruct views of traffic or traffic signs;
- Must not be placed on utility poles;
- If placed within the right of way, they may only be placed within six (6) weeks before the election and removed within one (1) week after the election.

iv. Directional & Emergency Signs Allowed

- Directional arrows and parking signs no larger than two (2) square feet.
- Municipal and State highway and emergency signs and traffic control signs, signals and/or other devices regulating or enhancing public safety.

- 2) One sign, no larger than four (4) square feet, shall be allowed per property without a permit being required. This includes permanent signs identifying the property, such as, but not limited to, "Jones Homestead", "Smith Farm 1843", etc. These may be free-standing or affixed to the house or a fence.

e. Sign Requirements.

- 1) All signs within the limits of the Town of Bradley shall meet the following requirements unless otherwise exempted by ordinance or State statute:
- No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicle traffic.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- All free standing signs shall be set back a minimum of eight (8) feet from property lines in all Districts.
- Signs attached flat on building shall not extend more than six (6) inches from the face of the building, or if projecting perpendicularly from the building, the sign shall not extend more than three (3) feet from the face of the building and there shall be a minimum clearance of ten (10) feet between the bottom of the sign and the original or final grade, whichever is greater, directly below the sign.
- No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights; Signs may be illuminated only by 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.
- No sign shall exceed twenty-five (25) feet in height above the grade at sign location.
- Roof signs shall not extend more than six (6) feet above the roof line nor extend beyond the edges of the roof.
- One freestanding sign is allowed per lot. Maximum size for commercial or institutional purposes is thirty-two (32) square feet per side. Multi businesses on the same lot shall be allowed a combined maximum aggregate total of fifty (50) square feet per side. Maximum size for residential use is four (4) square feet per side. Supports are not considered part of the sign when computing size.
- All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling or similar deterioration.
- Wall signs shall not be attached to or obstruct any window, door, stairway or other opening intended for ingress, egress or for ventilation or light.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- Any sign which advertises a business, activity or campaign no longer conducted or product no longer sold on the premises shall be taken down and removed within thirty (30) days by the owner, agent or person having control of the premises or land upon which sign is erected. This requirement does not pertain to seasonal businesses.
- Any existing sign that is deemed a danger because of its placement or lighting shall be moved, removed or otherwise corrected to the greatest extent practical in the opinion of the Planning Board.

**f. Off Premise Signs**

No off premise sign shall be erected or maintained in the Town of Bradley except in conformity with 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 Bradley 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.

**g. Non-Conforming Signs**

- 1) Legally pre-existing non-conforming signs shall be allowed to exist unless they present a hazard to life and property or are deemed a nuisance. See Sub§ 30.c.
- 2) Pre-existing non-conforming sign locations do not have legally non-conforming status. New or replacement signs shall meet all present requirements unless replaced or plans for replacement are received by the CEO within thirty (30) days of the previous sign's removal.
- 3) A temporarily closed business may retain its non-conforming sign location if it is located on a permanent base or one that would be difficult to move, such as a poured concrete platform.
- 4) Non-conforming signs that are destroyed or discontinued for more than fourteen (14) days must be removed by the owner or agent within thirty (30) days of the destruction or discontinuance.



**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**31. 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 provisions 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 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 of 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.

**32. 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.

**33. TEMPORARY STORAGE**

Portable or mobile trailers, vans, and similar vehicles or temporary buildings, including boxcars, may be used for storage, only upon approval of the Code Enforcement Officer and only for temporary period not to exceed six (6) months. Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of six (6) months each, if a finding can be made that the use:

SECTION V: LAND USE STANDARDS (Cont.)

A. GENERAL STANDARDS (Cont.)

- a. Does not diminish area requirements as 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 including aesthetic appearance;
- 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 prolongs the use of facilities that 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 contractor's name shall be permitted and that such signs meet the sign requirements of this Ordinance.

34. 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, or 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.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**35. TOWERS**

No tower shall be hereinafter erected, altered or maintained, within the limits of the Town of Bradley, Maine except in conformance with the provisions of this section. The Town may elect to require a surety prior to the construction of any tower.

a. Tower Requirement: All towers within the limits of the Town of Bradley shall meet the following requirements:

- 1) Priority of Location: New wireless telecommunications facilities must be located according to the priorities listed below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.
  - Priority 1: Co-location on an existing wireless telecommunications facility or other existing structure within any District.
  - Priority 2: A new facility on public or private property in the Rural Resource District or permitted as a commercial use.
  - Priority 3: A new facility on public or private property in the Mixed District.
  - Priority 4: A new facility on public or private property in the Residential District.
- 2) 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:
  - a) The proposed location complies with applicable municipal policies and ordinances.
  - b) The proposed facility will not interfere with the intended purpose of the property.
  - c) 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.
- 3) Structural Standards: A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures".

- 4) 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.
- 5) Color and Materials: A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surroundings natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- 6) 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 to the surrounding area.
- 7) 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 to reduce the potential for trespass and injury.
- 8) 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:
  - a) A tree line elevation drawing depicting vegetation within two-hundred (200) feet of the proposed facility;
  - b) 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;
  - c) Details or drawings indicating the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) of others such as passing motorists;

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

- d) A description of the amount and location of proposed vegetative screening;
  - e) The distance of the proposed facility from scenic areas and scenic views, the viewpoint and the facility's location within the designed scenic resource; and
  - f) A narrative regarding the presence of reasonable alternatives that would allow the facility to function consistently with its purpose.
- 9) Setbacks: The center of the base of any proposed telecommunications tower must be setback a minimum of 125% of the tower's height, or the nearest property line 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.
- 10) 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.
- b. 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, and/or landowner 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. 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. If a surety has been required by the Planning

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

Board and 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.

c. Exempt Towers: The following towers are exempt from the provisions of this section:

- 1) Emergency wireless telecommunications facilities.
- 2) Amateur (ham) radio stations.
- 3) Parabolic Antenna. Parabolic antennas (Satellite Dishes) 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.

**36. 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 per side is permitted on the premises.

**37. TRANSIENT ACCOMMODATIONS: "MOTELS AND HOTELS"**

"Motel and Hotel" accommodations include buildings where rooms are provided for Compensation and may include accessory uses such as restaurants, lounges, gift shops, Conference rooms, and recreational facilities such as swimming pools and game rooms.

**SECTION V: LAND USE STANDARDS (Cont.)**

**A. GENERAL STANDARDS (Cont.)**

**38. TRANSIENT ACCOMMODATIONS: "RENTAL CABINS AND COTTAGES"**

To insure the health, safety, and welfare of guests and the occupants of neighboring properties, the following requirements shall be met:

- a. Each cabin or cottage site shall meet the minimum lot size requirements of a single family detached dwelling in the applicable District;
- b. A minimum of two hundred (200) square feet of street parking plus maneuvering space shall be provided for each cabin or cottage;
- c. Each cabin or cottage shall be set back a minimum of fifty (50) feet from the exterior lot lines;
- d. Each cabin or cottage shall be provided with a safe and adequate means of sewage, garbage and rubbish disposal, and water supply and fire protection;
- e. Adequate storm water drainage shall be provided for each cabin or cottage site; and
- f. Each cabin or cottage site shall be appropriately landscaped.

**SECTION V: LAND USE STANDARDS (Cont.)**

**B. DIMENSIONAL REQUIREMENTS**

All structures and uses shall conform to the following dimensional requirements:

Village District (VD)

Dimensional Requirements

	<u>Public Sewer or Water</u>	<u>Septic &amp; Well</u>
Minimum Lot Size	½ Acre	1 Acre
Minimum Lot Size Per Dwelling Unit	½ Acre	1 Acre
Minimum Road Frontage	50 Feet	50 Feet
Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:		
Front Yard	30 Feet	50 Feet
Side & Rear Yard		
Principal Structure	15 Feet	20 Feet
Accessory Structure	10 Feet	10 Feet
Maximum Building Height	35 Feet	35 Feet



**SECTION V: LAND USE STANDARDS (Cont.)**

**B. DIMENSIONAL REQUIREMENTS (Cont.)**

All structures and uses shall conform to the following dimensional requirements:

Residential District (RD)

Dimensional Requirements

Minimum Lot Size	1 Acre
Minimum Lot Size Per Unit	1 Acre
Minimum Road Frontage	150 Feet

Minimum Setback from Property Line  
to Nearest Point of any Structure,  
including eaves, porches, decks, steps,  
ramps, etc., but not including patios or  
patio-like structures at ground levels:

Front Yard	50 Feet
Side & Rear Yard	
Principal Structure	20 Feet
Accessory Structure	10 Feet
Maximum Building Height	35 Feet

**SECTION V: LAND USE STANDARDS (Cont.)**

**B. DIMENSIONAL REQUIREMENTS (Cont.)**

All structures and uses shall conform to the following dimensional requirements:

Mixed District (MD)

Dimensional Requirements

Minimum Lot Size	1 Acre
Minimum Lot Size Per Dwelling Unit	1 Acre
Minimum Road Frontage	150 Feet
Minimum Setback from Property Line to Nearest Point of any Structure, including eaves, porches, decks, steps, ramps, etc., but not including patios or patio-like structures at ground levels:	
Front Yard	50 Feet
Side & Rear Yard	
Principal Structure	20 Feet
Accessory Structure	10 Feet
Maximum Building Height	35 Feet

**SECTION V: LAND USE STANDARDS (Cont.)**

**B. DIMENSIONAL REQUIREMENTS (Cont.)**

All structures and uses shall conform to the following dimensional requirements:

Rural Resource District (RRD)

Dimensional Requirements

Minimum Lot Size	10 Acres
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Minimum Lot Size Per Dwelling Unit	10 Acres
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Minimum Road Frontage	250 Feet
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Minimum Setback from Property Line  
to Nearest Point of any Structure,  
including eaves, porches, decks, steps,  
ramps, etc., but not including patios or  
patio-like structures at ground levels:

Front Yard	50 Feet
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Side & Rear Yard

Principal Structure	20 Feet
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Accessory Structure	10 Feet
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Maximum Building Height	35 Feet
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**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

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**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.

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**A. 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 Bradley is hereby designated as "the Planning Board", heretofore established in accordance with Article VIII, Pt.2, § 1, of the Maine Constitution and Title 30-A MRSA, § 3001. The members of the Planning Board shall be appointed by the Town Council of Bradley.

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 Bradley is hereby designated as "the Board of Appeals", heretofore established in accordance with Article VIII, Pt.2, and § 1 of the Maine Constitution and with Title 30-A MRSA, § 4353. The members of the Board of Appeals shall be appointed by the Town Council of Bradley.

**B. 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.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**C. 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.

**D. CODE ENFORCEMENT OFFICER PERMIT**

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

**1. ACTIVITIES REQUIRING PERMIT**

- a. **FLOOD HAZARD AREAS:** All construction or earth moving activities or other improvements or changes within the 100-year flood plain designated on the Flood Insurance Rate Maps published by the Federal Emergency Management Agency.
- b. **NEW CONSTRUCTION:** New construction of buildings or structures, including additions.
- c. **ALTERATION:** Alteration of a building, structure, or land, or parts thereof, including, but not limited to:
  - 1) Interior renovations for change in use;
  - 2) Removal of interior walls to create new rooms;
  - 3) Enclosing open frame porches, for the creation of additional living space, sleeping space or any activity which increases the daily water usage.
- d. **PLACEMENT OF SIGNS:** Placement of signs except temporary signs.
- e. **MOVING OR DEMOLITION:** All buildings or structures which are removed from, moved onto, or moved around within a lot, or demolished.
- f. **CHANGE OF USE:** The change of any premises from one category of land use to any other land use.
- g. **GARAGE SALE/YARD SALE**
- h. **SECTION IV: F. SCHEDULE OF USES:** Any activity requiring a Land Use Permit in accordance with the Land Use Ordinance Schedule of Uses.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**D. CODE ENFORCEMENT OFFICER PERMIT (Cont.)**

- i. CONVERSION of single/two-family into multiple units.
- j. SHORELAND ZONE: See the Shoreland Zoning Ordinance.

**2. PROCEDURE**

- a. 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, and signed by the owner or owner's agent.
- b. 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, including:
  - 1) The actual shape and dimensions of the lot for which a permit is sought;
  - 2) The location and size of all buildings, structures, and other significant features currently existing on the lot, as well as all water bodies and wetlands within two hundred fifty (250) feet of the property lines;
  - 3) 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;
  - 4) The existing and intended use of each building or structure;
  - 5) Where applicable, the location of soil test pits, subsurface sewage disposal system, parking lots and driveways, signs, buffers, private wells; and
  - 6) Such other information as may be reasonably required by the Code Enforcement Officer to provide for the administration and enforcement of this Ordinance.
- c. TO WHOM ISSUED: No permit shall be issued except to the owner of record or his authorized agent. Written proof of authorization may be required.
- d. 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.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**D. CODE ENFORCEMENT OFFICER PERMIT (Cont.)**

- e. **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.
- f. **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.
- g. **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.
- h. **COMMENCEMENT AND COMPLETION OF WORK:** Construction and alteration activities on projects for which a permit has been granted under this Section shall commence with 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 new 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 prior to the expiration of the prior permit.

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

**E. PLANNING BOARD PERMIT REVIEW**

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

- 1. **APPLICATOIN:** All applications for a Planning Board Permit shall be submitted in writing, with the applicable fee, to the Code Enforcement Officer on forms provided.



**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**E. PLANNING BOARD PERMIT REVIEW (Cont.)**

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.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**E. PLANNING BOARD PERMIT REVIEW (Cont.)**

- n. Location and type of existing and proposed fences, hedges, and trees of 12 inch diameter and over, at a point 4.5 feet above ground level or filled area.
  - 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. 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 may 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.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**E. PLANNING BOARD PERMIT REVIEW (Cont.)**

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 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 prior to the expiration of the pertinent permit.

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

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**F. 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.

**G. 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:

1. Is a permitted use in the district in which it is proposed to be located;
2. Is in conformance with the applicable performance standards of Section V of this Ordinance;
3. Will not result in unsafe or unhealthful conditions;
4. Will not result in undue land, water or air pollution;
5. Will not result in undue erosion or sedimentation;
6. Will avoid problems associated with development in flood hazard areas;
7. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
8. Will conserve significant natural, archaeological and historical resources;
9. Will not adversely impact the proposed use on public infrastructure;
10. 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.

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**H. VIOLATIONS**

If the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he/she shall issue a written Notice of Violation to the person responsible for such violation, and the property owner (if different). The Notice of Violation will be mailed certified mail, then if unclaimed for 7 business days, the notice will be served by use of the Penobscot County Sheriff's Department.

The Notice of Violation shall include the name and address of the violator, the location of the violation, a brief description of the violation along with a citation to the Ordinance provision or other law being violated, the time and date that the violation was first observed, an order describing the actions necessary to correct the violation (such as discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions), a deadline for abating the violation, a statement of appeal rights to the Board of Appeals, and the consequences of failure to appeal. The Code Enforcement Officer shall have the discretion to determine an appropriate deadline for correcting a violation. This deadline must be reasonable under the circumstances and generally will not be less than 7 days or more than 30 days. An extension of time not to exceed 30 days may be granted by the Code Enforcement Officer, additional extensions may only be granted by the Town Council.

When the above action does not result in correction or abatement of the violation, the Code Enforcement Officer will notify the Town Manager and the Town may initiate litigation to enforce the ordinance, seeking, inter alia, a compliance order, fines, costs and attorney fees.

**I. 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.

**J. 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 activities granted approval under this Ordinance.

**K. ENFORCEMENT**

**1. NUISANCES**

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

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**K. ENFORCEMENT (Cont.)**

**2. LEGAL ACTIONS**

When the above does not result in the correction or abatement of the violation or nuisance condition, the Council, upon notice from the Code Enforcement Officer, is 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.

**3. 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 to a maximum of \$2,500.00 for each violation. Each day the violation continues shall constitute a separate violation as referenced in Title 30-A, § 4452.

Work commenced prior to the obtaining of a required permit shall be subject to a double permit fee.

**4. 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.

**L. APPEALS**

**A. ADMINISTRATIVE APPEALS**

The Board of Appeals shall hear and decide appeals where it is alleged that there is any erroring 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.

**B. 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

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**L. APPEALS (Cont.)**

- 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:

- a) The land in question cannot yield a reasonable return unless a variance is granted;
  - b) That the need for a variance is due to the circumstances of the property and not to the general conditions in the neighborhood;
  - c) That the granting of a variance will not alter the essential character of the locality; and
  - d) 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 at 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 for a single-family dwelling, that is the principal year-round residence of the petitioner, from a setback requirement only when strict application of the Land Use Ordinance to the petitioner and the petitioner's property would cause undue hardship. A variance under this section may not exceed 20% of a setback 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) or if it would be less than the minimum setback from a water body or wetland required within the shoreland zone. If the petitioner has obtained the written consent of an affected

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**L. APPEALS (Cont.)**

abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:

- 1) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - 2) The granting of a variance will not alter the essential character of the locality;
  - 3) The hardship is not the result of action taken by the applicant or a prior owner;
  - 4) The granting of the variance will not substantially reduce or impair the use of abutting property; and
  - 5) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.
- f. The Board may grant a variance from the dimensional standards of this Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:
- 1) The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
  - 2) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  - 3) The practical difficulty is not the result of action taken by the petitioner or a prior owner;
  - 4) No other feasible alternative to a variance is available to the petitioner;
  - 5) The granting of a variance will not unreasonably adversely affect the natural environment; and
  - 6) The property is not located in whole or in part within shoreland areas as described in Title 38, Section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.



**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

**L. APPEALS (Cont.)**

**C. 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.

**M. VARIANCES REQUIRED**

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 ninety (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.

**N. FEE SCHEDULE**

All application fees for permit applications shall be paid to the Town of Bradley in accordance with the fee schedule as established by the Bradley Town Council. 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.

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**SECTION VII: DEFINITIONS**

**A. CONSTRUCTION OF LANGUAGE**

1. In this Ordinance, certain terms or words should be interpreted as follows:
  - a. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual;
  - b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
  - c. The word "shall" is mandatory;
  - d. The word "may" is permitted;
  - e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
  - f. The word "dwelling" includes the word "residence".
2. Terms not defined shall have the customary dictionary meaning.

**B. 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, right-of-way, easement or stream.

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

**Accessory Structure:** See Structural Terms.

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

**Acreage:** See "Pasturage".

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Adult Entertainment:** Any business in any use category, of which a substantial or significant portion consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which are sexually explicit or appeal to prurient interest and which depict or describe sexual activities.

**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.

**Amateur (ham) Radio Stations:** Amateur (ham) radio stations as licensed by the Federal Communications Commission (FCC).

**Animal Husbandry:** The agricultural practice of breeding and raising livestock (farm animals).

**Antenna, Accessory Use:** An antenna that is an accessory use to a residential dwelling unit.

**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.

**Attic:** That part of a building that is immediately below, and wholly or partly within, the roof framing.

**Automobile graveyard:** A yard, field or other area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, Section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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 MRSA 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:** The line parallel to the front lot line and transecting that point in the building which is closest to the front lot line. This face includes porches whether enclosed or unenclosed.

**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...

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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, etc., as applicable), 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 Town Council 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 District Boundary 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.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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 or resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

**Emergency Wireless Telecommunications Facility:** Temporary wireless communication facilities for emergency communications by public officials.

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

**Fire Station:** A building constructed for the purpose of housing municipal fire-fighting equipment and related items for fire protection and prevention.

**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.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Garage Sales/Yard Sales:** Garage sales shall mean and include all sales entitled "garage sale", "tag sale", "lawn sale", "porch sale", "attic sale", "rummage sale", "yard 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 or 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.

**Hotel:** An establishment that provides lodging and usually meals, entertainment and various personal services for the public.

**Industry:** Use of a premise 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:** A parent or grandparent, child or grandchild, brother or sister related by blood, marriage or adoption.

**In-law Apartments:** See "Structural Terms"

**Inn:** An establishment for lodging and may include entertaining of travelers.



**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Junkyards:** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

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

**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 etc., 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 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.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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 lot width required by the Ordinance shall be provided on at least one street. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the front property line shall be no less than the frontage requirement of that lot. The 100' distance shall be measured perpendicular to the front line or, if the front line is irregular, perpendicular to a line drawn between the two end points of the front line. The minimum width measurement shall be parallel to the front property line.

**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 line, except where the rear lot line 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 that 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 that at the time of its recordation complied with all applicable laws, ordinances, and regulations.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Lot Standards:** The combination of controls that 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:

1. **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;
  - a) This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.;
2. **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”;

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

3. **STATE CERTIFIED MODULAR HOMES:** Those units commonly called 'modular homes' that the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

All Mobile Homes are now referred to as Manufactured Homes.

**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-premises restaurant.

**Medical Clinic:** An office building used by members of the medical profession for the diagnosis and outpatient 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 Bradley for the placement of three (3) or more manufactured homes.

**Motel:** An establishment that provides lodging and parking and in which rooms are accessible from an outdoor parking area.

**Motor Vehicle:** Every vehicle that 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 that is owned by a Public entity and operated under its supervision for a public purpose.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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, change in location, or change of 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 two 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.

**Pasturage:** The land area and structure set aside for the keeping, raising and grazing of farm animals.

**Performance Standards:** 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 Bradley.

**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.

**Radio Station:** An establishment engaged primarily in the use of electromagnetic waves for the wireless transmission of electric impulses into which sound is converted for the purposes of entertainment, education, news or weather.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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:

1. 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
2. A cafeteria or buffet 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 lot line to the nearest part of a structure.

**Sexually Explicit:** The displaying or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A MRSA Section 251.

**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.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Signs:**

**Free Standing:**

A sign supported by one or more uprights or braces permanently affixed into the ground.

**Portable:**

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

**Roof:**

A sign that is attached to a building and is displayed above the eaves of such building.

**Temporary:**

A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: 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 or for sale signs. Signs bearing political messages relating to an election and signs advertising agricultural products shall be regulated by MRSA Title 23 §1913-A.

**Wall:**

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

**Window:**

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.

**Area of a Sign:**

The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but not including supports. The maximum size (area) of any sign is thirty-two (32) square feet on each of two sides, unless otherwise modified in this or other Town Ordinance.

**Sporting Cabin:** One or more cottages or structures that provide lodging for the public typically associated with a sporting or nature activity.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**Structural Terms:**

**Building:** Any 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 building.

**Building, Accessory:** A building 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 building.

**Building, Principal:** A building (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 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 used for residential occupancy by two (2) families living independently of each other.

**Dwelling, Multiple Family:** A building 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.



**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**In-law Apartments:** The portion of a home, with or without separate entrance, plumbing and cooking facilities which serves the purpose of providing living space to In-laws of the people residing in the principal dwelling. For the purpose of this ordinance In-laws is defined previously.

**Structure:** Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land, including a patio or deck. (See Essential Services).

**Temporary Wireless Telecommunications Facility:** A temporary wireless communications facility that is in operation for a maximum period of one hundred (180) days.

**Transient:** A non-resident person residing within the Town of Bradley less than thirty (30) days.

**Tower:** A building or structure typically higher than its diameter and high relative to its surroundings that may stand apart or be attached to a larger structure and that may be fully walled in or of skeleton framework. See Section 5 Land Use Performance Standards.

**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 that 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 that does not disturb the existing state of the land except to restore this land to a natural condition.

**SECTION VII: DEFINITIONS (Cont.)**

**B. DEFINITIONS (Cont.)**

**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.

**Warehouse and Storage Facility:** A commercial structure for the storage of personal items 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:** The area of land on a lot not occupied by buildings.

**Front Yard:** The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

**Rear Yard:** The open, unoccupied space on the same lot as the principal building between a rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

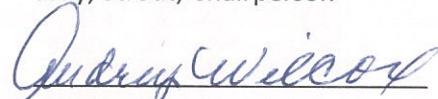
**Side Yard:** The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear yard.



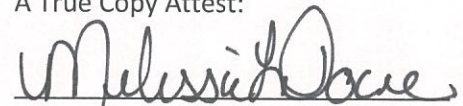
TOWN OF BRADLEY  
LAND USE ORDINANCE

Approved by the Bradley Town Council at a duly called meeting on November 9, 2010

\_\_\_\_\_  
Sally, Strout, Chairperson

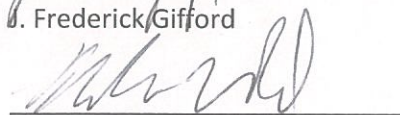
  
Audrey Wilcox


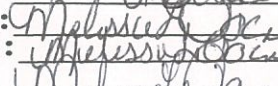
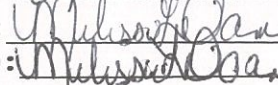
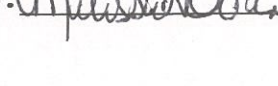

A True Copy Attest:

  
Melissa L. Doane, Bradley Town Clerk

\_\_\_\_\_  
Lillian Coulter

  
L. Frederick Gifford

  
Nicholas Wood

AMENDED: 5/24/11-EFFECTIVE 6/24/11 ATTESTED:  TOWN CLERK  
4/22/12-EFFECTIVE 5/24/12 ATTESTED:  TOWN CLERK  
6/10/14-EFFECTIVE 7/10/14 ATTESTED:  TOWN CLERK  
5/03/16-EFFECTIVE 6/02/16 ATTESTED:  TOWN CLERK  
8/08/16-EFFECTIVE 9/07/16 ATTESTED:  TOWN CLERK

**TOWN OF BRADLEY  
WARRANT ARTICLES JUNE 10, 2014 ANNUAL REFERENDUM  
AMENDMENT TO THE LAND USE ORDINANCE SECTION V SUBSECTION A-30**

Melissa L Doane  
Printed name of Notary Public  
Commission expires 11/3/2013



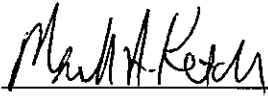
# Chapter 4

## Shoreland Zoning Ordinance

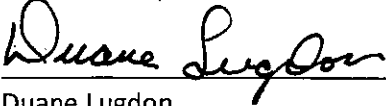
**AN ORDINANCE AMENDING  
THE SHORELAND ZONING ORDINANCE  
THE TOWN OF BRADLEY**

ENACTED AND ORDAINED, Councilors into an ordinance this 17<sup>th</sup> day of December 2017 of the Town of Bradley County of Penobscot County in lawful session duly assembled.

Councilors of the Town of Bradley



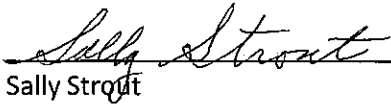
Council Chair, Mark Ketch




Duane Lugdon



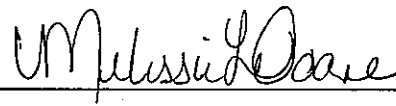
Karen Richard



Sally Strout

  
Harley Carmichael

A True Copy:



Attest: Town Clerk Melissa L. Doane



# Legend

## Shoreland Zones

- Limited Residential
- Resource Protection
- Stream Protection

## Flood Zone

- AE

## Wetlands

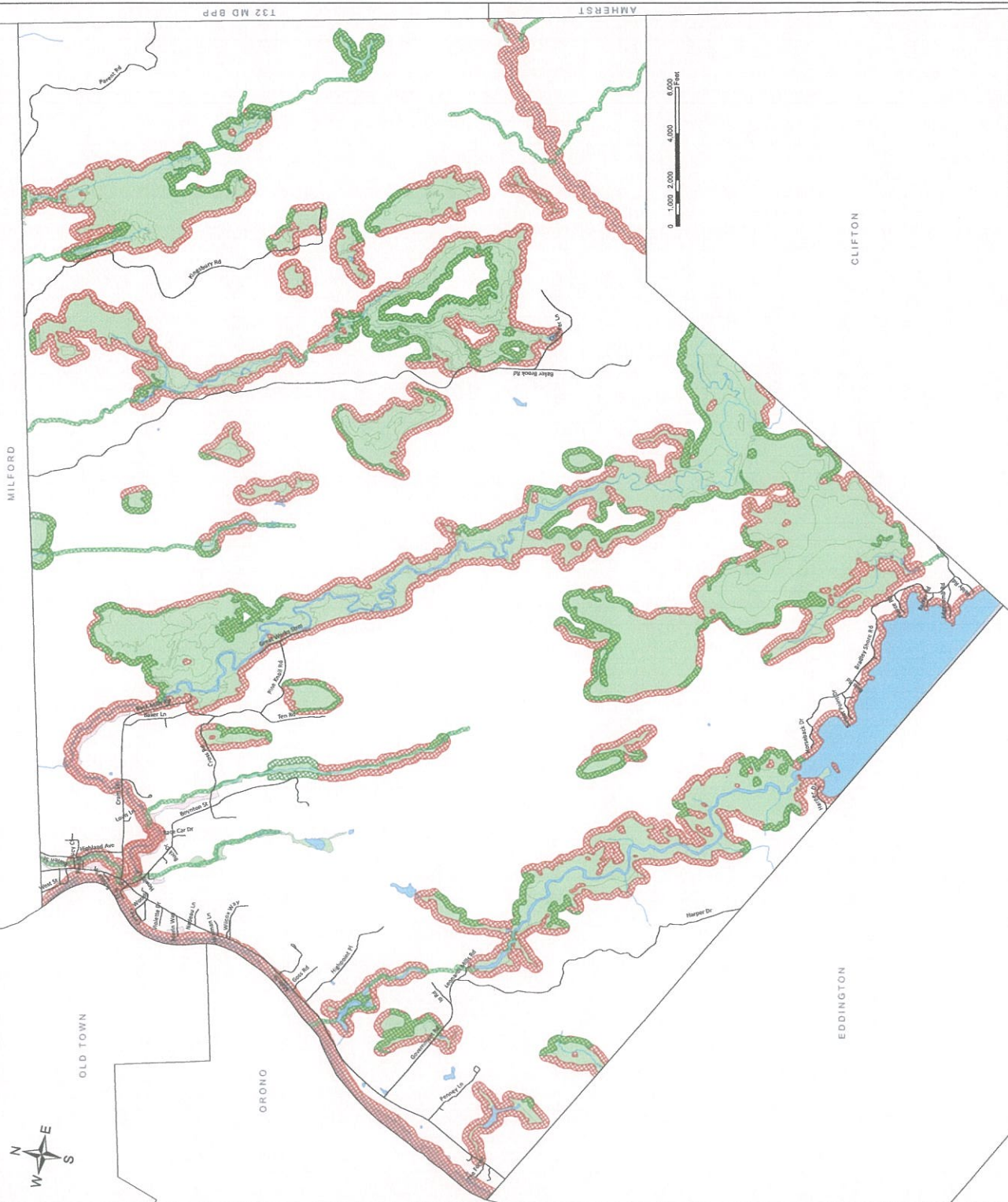
- Non Forested Wetland
- Forested Wetland



CORSON GIS SOLUTIONS

CLIFTON

EDDINGTON



Notes:  
 Map Prepared By: Corson GIS Solutions  
 Date of Preparation: June 2017  
 Projection: UTM Zone 18N  
 Datum: NAD83  
 Source of Data:  
 Flood Zone - FEMA Flood Map Service Center,  
 downloaded 20150908 from <http://msc.fema.gov/portal>  
 Wetlands - National Wetland Inventory,  
 downloaded 20150903 from <http://www.fws.gov/wetlands/>  
 Non Forested Wetland - National Wetland Inventory,  
 downloaded 20150903 from <http://www.fws.gov/wetlands/>  
 Forested Wetland - National Wetland Inventory,  
 downloaded 20150903 from <http://www.fws.gov/wetlands/>  
 Disclaimer: Not a survey. Not to be used for conveyance.  
 For general reference only.

## TOWN OF BRADLEY SHORELAND ZONING ORDINANCE

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1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-448 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of great ponds; within 250 feet, horizontal distance, of the normal high-water line of rivers; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

#### 4. **Effective Date of Ordinance and Ordinance Amendments**

This Ordinance, which was adopted by the municipal legislative body on December 12, 2017, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

- 8. Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
- 9. Districts and Zoning Map**
- A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
- (1) Resource Protection
  - (2) Limited Residential
  - (3) Stream Protection
- B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
- C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
- D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
- 10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.
- 11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

## 12. Nonconformance

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

### B. General

- (1) **Transfer of Ownership.** Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

### C. Nonconforming Structures

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the nonconformity of the structure and is in accordance with Section 12(C)(1), sub sections (a), (b); and (c) below.
  - (a) Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
  - (b) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
  - (c) Notwithstanding Sections 12(C)(1)(b), if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, that structure

may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) above:

- (i) The maximum total footprint of the principal structure may not be expanded to an area greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
  - (ii) The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (d) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as other applicable land use standards of this Ordinance are met and the expansion is not prohibited by Section 12(C)(1) and subsections (a), (b) or (c) above:
- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
  - (ii) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland, the maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - (iii) For structures located less than 100 feet from the normal high-water line of Chemo Pond, the maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater.
  - (iv) For structures located less than 100 feet from the normal high-water line of Chemo Pond, the maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
  - (v) For structures located less than 100 feet from the normal high-water line of Chemo Pond, any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland must meet the footprint and height requirements of Sections 12(C)(1)(d)(i) and (ii).
- (e) In addition to the limitations in Section 12(C)(1) and subsections (a), (b) and (c) above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than 250 feet from the normal high-

water line of a water body or the upland edge of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

- (i) The maximum combined total footprint of all structures may not be expanded to an area greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater.
  - (ii) The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater.
  - (iii) Any portion of the structures located less than 100 feet from the normal high-water line of Chemo Pond, must meet the footprint and height requirements of Sections 12(C)(1)(d)(iii) and (iv).
  - (iv) Any portion of the structures located less than 75 feet from the normal high-water line of a water body, tributary stream or upland edge of a wetland must meet the footprint and height requirements of Sections 12(C)(1)(d)(i) and (ii).
  - (f) The applicant must have plan(s) that are approved by the municipality for expansions under Section 12(C)(1) filed in the registry of deeds of the county in which the property is located within 90 days of approval. The recorded plan(s) must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, and the shoreland zone boundary.
- (2) **Foundations.** Whenever a new, expanded or replacement foundation is constructed under a nonconforming structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) below.
- (3) **Relocation.** A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other



on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

- (4) **Reconstruction or Replacement.** Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with Section 12(C)(3) above. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the nonconforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.

When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

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

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

#### **D. Nonconforming Uses**

- (1) **Expansions.** Expansions of nonconforming uses are prohibited, except that nonconforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a nonconforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing nonconforming use may be changed to another nonconforming use provided that the proposed use has no greater adverse impact on

the subject and adjacent properties and resources, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

#### **E. Nonconforming Lots**

- (1) **Nonconforming Lots:** A nonconforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on March 27, 1992, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

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

- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### 13. Establishment of Districts

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District.

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

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NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

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- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

**B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District.

**C. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of Chemo Pond, or a river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

**14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

Yes - Allowed (no permit required but the use must comply with all applicable land use standards)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<u>LAND USES</u>	<u>DISTRICT</u>		
	<u>SP</u>	<u>RP</u>	<u>LR</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO <sup>1</sup>	yes
4. Fire prevention activities	yes	yes	yes
5. Wildlife management practices	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes
7. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>
8. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB
9. Surveying and resource analysis	yes	yes	yes
10. Emergency operations	yes	yes	yes
11. Agriculture	yes	PB	yes
12. Aquaculture	PB	PB	PB
13. Principal structures and uses			
A. One and two family residential, including driveways	PB <sup>4</sup>	PB <sup>8</sup>	CEO
B. Multi-unit residential	no	no	PB
C. Commercial	No <sup>9</sup>	No <sup>9</sup>	No <sup>9</sup>
D. Industrial	no	no	no
E. Governmental and institutional	no	no	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	CEO
14. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO
15. Piers, docks, wharfs, bridges and other structures and uses extending or located below the normal high-water line or within a wetland			
a. Temporary	CEO <sup>10</sup>	CEO <sup>10</sup>	CEO <sup>10</sup>
b. Permanent	PB	PB	PB
16. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI
17. Home occupations	PB	PB	PB
18. Private sewage disposal systems for allowed uses	LPI	LPI	LPI
19. Essential services			
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>5</sup>	CEO <sup>5</sup>	yes <sup>11</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>5</sup>	PB <sup>5</sup>	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>5</sup>	PB <sup>5</sup>	PB
D. Other essential services	PB <sup>5</sup>	PB <sup>5</sup>	PB
20. Service drops, as defined, to allowed uses	yes	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB	PB
22. Individual private campsites	CEO	CEO	CEO
23. Campgrounds	no	No <sup>6</sup>	PB
24. Road construction	PB	No <sup>7</sup>	PB
25. Parking facilities	no	No <sup>6</sup>	PB
26. Marinas	PB	no	PB
27. Filling and earth moving of <10 cubic yards	CEO	CEO	yes
28. Filling and earth moving of >10 cubic yards	PB	PB	CEO
29. Signs	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB

<sup>1</sup>In RP not allowed within 75 feet horizontal distance, of the normal high-water line of Chemo Pond, except to remove safety hazards.

<sup>2</sup>Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup>In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup>See further restrictions in Section 15(L).

<sup>6</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>7</sup>Except as provided in Section 15(H).

<sup>8</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

<sup>9</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>10</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>11</sup>Permit not required; but must file a written "notice of intent to construct" with CEO.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

(1)	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	43,560	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	43,560	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	43,560	200
(ii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	43,560	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

## **B. Principal and Accessory Structures**

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of Chemo Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

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NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

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### **In addition:**

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- (c) On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable



standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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NOTE: Refer to Section 17 for definitions of coastal wetland and tributary stream.

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- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height.
  - (a) This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
  - (b) The height of a structure shall exclude a nonhabitable feature mounted on a structure roof for observation purposes, such as a cupola, a dome or a widow's walk, provided the following conditions are met:
    - (i) the feature is being added to, or is part of, a conforming structure,
    - (ii) the structure is not located in a Resource Protection or Stream Protection District,
    - (iii) the feature does not extend beyond the exterior walls of the structure,
    - (iv) the feature has a floor area of fifty-three (53) square feet or less, and
    - (v) the feature does not increase the height of the structure, as defined, more than seven (7) feet.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. Accessory structures may be placed in accordance with the standards of the Floodplain Management Ordinance that is consistent with the April 2005 or later version under the National Flood Insurance Program.
- (4) Non-vegetated surfaces shall not exceed twenty (20) percent of the portion of the lot located within the shoreland zone. Non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, patios, decks, retaining walls and access paths. Ledge and rock outcroppings are not counted as non-vegetated surfaces.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;

- (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- (d) The total height of the wall(s), in the aggregate, is no more than 24 inches;
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
  - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer.

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NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access

in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending or Located Below the Normal High-Water Line of a Water Body or Within a Wetland., and Shoreline Stabilization**

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending or located below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending or located below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Structures built on, over or abutting a pier, wharf, dock or other structure extending or located below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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**D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of Chemo Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

**E. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of Chemo Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. Commercial and Industrial Uses.** New commercial and industrial uses are prohibited within the shoreland zone in the Town of Bradley, except for campgrounds and marinas.

**G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of Chemo Pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal

distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

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

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

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**I Signs.** The following provisions shall govern the use of signs in the Resource Protection, Limited Residential, and Stream Protection Districts:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

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

- (3) Residential users may display a single, one- or two-sided sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

Please also see Section V. A. 30. Signs of the Town of Bradley Land Use Ordinance.

#### **J. Storm Water Runoff**

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

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#### **K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:
  - (a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from a the normal high-water line of a water body or the upland edge of a wetland and



(b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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#### **L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Chemo Pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one

hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

- (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

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- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### **N. Agriculture**

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of Chemo Pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

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NOTE: Assistance in preparing a Conservation Plan may be available through the Penobscot County Soil and Water Conservation District office.

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- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of Chemo Pond; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Chemo Pond; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

**O. Timber Harvesting – Repealed as of January 1, 2013**

**P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

- (1) In a Resource Protection District abutting Chemo Pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards as described in Section Q, below.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of Chemo Pond, and/or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
  - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to

Chemo Pond shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 < 4 in.	1
4 < 8 in.	2
8 < 12 in.	4
12 in. or greater	8

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

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NOTE: As an example, adjacent to Chemo Pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

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The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

Section 15(P)(2) does not apply to the following:

Those portions of public recreational facilities adjacent to public swimming areas as long as clearing or removal of vegetation is limited to the minimum area necessary. Cleanup and removal of petroleum contamination or other hazardous waste, if the activity is deemed necessary by the Department's Division of Response Services.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from Chemo Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

**Q. Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
  - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

- (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - (ii) Stumps from the storm-damaged trees may not be removed;
    - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third ( $1/3$ ) of the tree; and
    - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

#### **R. Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;

- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A coastal wetland; or
  - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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**NOTE:** An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: [http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

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- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.



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## **S. Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

- (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
  - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

## **T. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.

- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
  - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
  - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
    - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
    - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
    - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
  - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
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- (6) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil

erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

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- U. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- V. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- W. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

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NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

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## 16. Administration

### A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

(2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

(3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

**B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

(2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application**

(1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

(3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

**D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.
- (4) The total footprint, as defined, is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the

applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## **H. Appeals**

(1) **Powers and Duties of the Board of Appeals.** The Board of Appeals shall have the following powers:

(a) **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) **Variance Appeals.** Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:



- a. That the land in question cannot yield a reasonable return unless a variance is granted;
  - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. That the granting of a variance will not alter the essential character of the locality; and
  - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Code Enforcement Officer if authorized in accordance with 30-A MRS §4353-A, may approve a permit to the owner of a residential dwelling unit for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses that dwelling. The permit is deemed to include the variance, which shall be solely for installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Code Enforcement Officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include ramps and associated railing, and wall or roof systems necessary for the safety or effectiveness of the structure. Such permitting is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### **(3) Administrative Appeals**

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh,

undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

#### **(4) Appeal Procedure**

##### **(a) Making an Appeal**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

##### **(b) Decision by Board of Appeals**

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - (ii) The person filing the appeal shall have the burden of proof.
  - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## **I. Enforcement**

- (1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) **Code Enforcement Officer**
  - (a) 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 or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

- (b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- (3) **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

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NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

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## 17. Definitions.

**Accessory structure or use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal

use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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

**Agriculture** - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy** - the more or less continuous cover formed by tree crowns in a wooded area.

**Chemo Pond** - a great pond as defined.

**Coastal wetland** - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

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

**DBH** – the diameter of a standing tree measured 4.5 feet from ground level.

**Development** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Disruption of shoreline integrity** - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

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

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

**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Excavation contractor** - an individual or firm that either is engaged in a business that causes the disturbance of one or more cubic yards of soil, or is in a business in which the disturbance of one or more cubic yards of soil results from an activity that the individual or

firm is retained to perform. Disturbance includes: grading, filling, and removal. A person or firm engaged in agriculture or timber harvesting activities is not considered an excavation contractor as long as best management practices for erosion and sedimentation control are used. Municipal, state and federal employees engaged in projects associated with that employment are not considered excavation contractors.

**Expansion of a structure** - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of use** - the addition of one or more months to a use's operating season; or the use of more footprint or ground area devoted to a particular use.

**Family** - one or more persons occupying a premises and living as a single housekeeping unit.

**Floodway** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

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

**Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to: cantilevered or similar overhanging extensions, as well as unenclosed structures such as patios and decks.

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

**Great pond** - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,. Chemo Pond is a great pond.

**Ground cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in



the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

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

**Institutional** - a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Licensed Forester** - a forester licensed under 32 M.R.S.A. Chapter 76.

**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

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

**Mineral extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** – indigenous to the local forests.

**Nonconforming condition** – nonconforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Nonconforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Nonconforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

**Non-native invasive species of vegetation** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Normal high-water line (non-tidal waters)** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.”

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

**Piers, docks, wharves, bridges and other structures and uses** extending or located below the normal high-water line or within a wetland.

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Principal structure** - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same lot.

**Principal use** - a use other than one which is wholly incidental or accessory to another use on the same lot.

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

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

**Recreational facility** - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement system** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River** - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

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**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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

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

**Sapling** - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Seedling** - a young tree species that is less than four and one half (4.5) feet in height above ground level.

**Service drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline** - the normal high-water line, or upland edge of a freshwater or coastal wetland.

**Significant River Segments** - See 38 M.R.S.A. section 437.

**Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey, on the website of the United States Geological Survey or the national map, to point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

**Structure** - whether temporary or permanent: anything located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind; anything built, constructed or erected on or in the ground. The term structure includes decks, patios, and satellite dishes. Structure does not include fences; poles; wiring, guy wires, guy anchors and other aerial equipment normally associated with service drops; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; and wells or water wells as defined in Title 32, section 4700-E, subsection 8.

**Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface sewage disposal system** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters** – all waters affected by tidal action during the highest annual tide.

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

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**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

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

**Velocity zone** - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** - any great pond, river or stream.

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a Freshwater Wetland or Coastal Wetland, as defined herein

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.

...

# Chapter 5

## Floodplain Management Ordinance





STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
BUREAU OF RESOURCE INFORMATION & LAND USE PLANNING  
93 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

AMANDA E. BEAL  
COMMISSIONER

December 10, 2020

Melissa Doane, Town Manager  
Town of Bradley  
PO Box 517  
165B Main Street  
Bradley, ME 04411

Dear Ms. Doane,

I would like to take this opportunity to follow-up on a Community Assistance Contact (CAC) I conducted on November 25, 2020. Please express my gratitude to your Code Enforcement Officer, Dean Bennett, for his time and input during the CAC. I appreciated his interest throughout the lengthy conversation and his willingness to continue to improve the administration of your Floodplain Management Ordinance.

- Bradley's current Floodplain Management Ordinance is consistent with the NFIP regulations and state standards.

The Floodplain Management Ordinance we have on file for the Town of Bradley is dated May 1, 2007. There have been many changes in both the federal regulations and the state model ordinance since your last ordinance was adopted. Mr. Bennett knows that FEMA is working on new maps for the Lower Penobscot River Watershed and that the ordinance will need to be updated when the maps are published. We will prepare a new ordinance at that time which will reference the new maps. If the town would like a new ordinance in the meantime, let me know and I will prepare one.

- The community should add a question to its basic building permit application pertaining to whether or not the development being permitted is located in the floodplain.

Mr. Bennett indicated that he reviews all permit applications to determine if they are in the floodplain and permits them as needed. However, a check off on the permit application benefits the town by alerting both the town and the applicant of the need for completing a Flood Hazard Development Permit Application, if the development is in a floodplain, and potentially, an elevation certificate. This also puts a consistent permitting procedure in place so that no matter who is reviewing the permit application, it will serve as a constant reminder that the property must be checked to see if it is in a Special Flood Hazard Area (SFHA).

Mr. Bennett requested an updated model permit and application package which will be sent to him. This package is designed to meet the permitting criteria in your ordinance. You may use this package as is or use it

SUE BAKER, PROGRAM MANAGER  
MAINE FLOODPLAIN MANAGEMENT PROGRAM  
17 ELKINS LANE, WILLIAMS PAVILLION



PHONE: (207) 287-2801  
FAX: 207-287-2353  
WWW.MAINE.GOV/DACF



in your own system. The permit package can also be downloaded from our web site at:  
<http://maine.gov/dacf/flood/ordinances.shtml>.

- All development in the SFHA requires a flood hazard development permit.

Mr. Bennett indicated that a permit is required for any structure on the ground. I am concerned about development that is not a structure. Under the NFIP, "Development" is defined as "any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials." All Minor Development requires a permit. Minor development is development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Please be sure to review and permit all development that occurs in the floodplain.

Mr. Bennett indicated that the Town of Bradley has had several Shoreland Zoning permits and one development in the Floodplain in the last year. With the shoreland zone and the floodplain often over lapping one another, it is important to check the flood map when reviewing shoreland zoning applications to see if the development also needs to be permitted under the floodplain management ordinance. Mr. Bennett understands the differences between the programs and seeks assistance when needed. I believe he is adequately reviewing Shoreland Zoning development.

During the conversation, it was mentioned that the CEO is familiar with floodways. There are mapped floodways in Bradley on the separate Flood Boundary and Floodway Map which was published in 1978 and is referenced in Article I of your ordinance. Floodways are regulated to a higher standard than the flood fringe. To quote from the ordinance definition:

- **"Regulatory Floodway –**
  - a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
  - b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain."

Floodways are discussed in your current ordinance Articles V – Review Standards for Flood Hazard Development Permit Applications, VI – Development Standards, Floodways, VIII – Review of Subdivision and Development Proposals, and IX - Appeals and Variances. Floodways are also discussed in the FEMA-480 manual Floodplain Management Requirements – A Study Guide and Desk Reference for Local Officials, see chapter 5, Section D for an explanation about encroachments in the floodway.

Mr. Bennett indicated that he is not familiar with the Flood Insurance Study (FIS). This report studies the flood risk and provides engineering details to promote sound floodplain development, specifically it lists the exact Base Flood Elevation for AE flood zones on lakes and ponds as that value is rounded on the map. The flood profiles in the FIS are needed to interpolate the flood elevation between cross sections in order to properly permit on rivers, brooks, or streams. The Town of Bradley should have a copy of this document. If the town does not have the FIS, it can be downloaded from the FEMA Map Service Center,  
<https://msc.fema.gov/portal/search#searchresultsanchor>.



The CEO was not familiar with the procedures for issuing permits in unnumbered A Zones. Enclosed is a guidance document *Dealing With Unnumbered A Zones* which explains some acceptable methods for development in the A Zones.

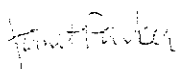
Mr. Bennett is familiar with Letters of Map Amendments (LOMAs). There has been one LOMA granted in Bradley. It is helpful to know the process in order to help property owners who may believe the map is incorrect. The individuals' names are protected by the Federal Privacy Act. These forms may be copied. If a LOMA is granted, the town should make a notation on the FIRM panel so that it can be used for future reference. We recommend the Town file the LOMAs in the appropriate map/lot number file, if that is how the community files similar documents. LOMAs can be downloaded from the FEMA Map Service Center.

The most recent Maine Floodplain Management Handbook may be viewed or consulted from our web site at: <https://www.maine.gov/dacf/flood/handbook.shtml>. I encourage your CEO and the Municipal Officers responsible with the administration of your Floodplain Ordinance to consult the handbook. We do provide floodplain management training for CEOs through the Maine Code Enforcement Officer Training and Certification Program. I would like to encourage your CEO, the Chair of the Board of Selectmen and you to attend future floodplain management workshops.

In closing, Bradley is currently in compliance with the minimum NFIP criteria.

I enjoyed the conversation with Mr. Bennett and thank him for the time he spent talking with me. I hope that the Town of Bradley will benefit from this Community Assistance Contact. If you have any questions or comments regarding the enclosed materials or your floodplain management program, do not hesitate to call me directly at 287-9981 or this office at 287-2801. The Eastern Maine Development Corporation (EMDC) is also available to help you with your floodplain management needs.

Sincerely,



Janet Parker, CFM  
Floodplain Management Program  
[janet.parker@maine.gov](mailto:janet.parker@maine.gov)

Enclosures: Flood Hazard Development Application and Permit Package  
FEMA Map Service Center Instructions  
Hazard Mitigation Planning Information

cc: Dean Bennett, Code Enforcement Officer  
Mark Ketch, Town Council Chair  
Jonathan Garrett, FEMA Region I  
Anna Stockman, EMDC





STATE OF MAINE  
EXECUTIVE DEPARTMENT  
MAINE STATE PLANNING OFFICE  
38 STATE HOUSE STATION  
AUGUSTA, ME 04333

JOHN ELIAS BALDACCI  
GOVERNOR

MARTHA E. FREEMAN  
DIRECTOR

December 6, 2007

Melissa L. Doane, Town Manager/Town Clerk  
Town of Bradley  
P.O. Box 517  
Bradley, Maine 04411-0517

RE: Floodplain Management Ordinance

Dear Ms. Doane:

I have completed the ordinance review checklist for the Floodplain Management Ordinance of the Town of Bradley and I find the ordinance to be compliant with the requirements of the National Flood Insurance Program (NFIP). The ordinance that the town adopted on May 1<sup>st</sup>, 2007, and became effective on May 31, 2007 contains all the significant changes that have occurred in the Federal regulations since you previously updated your ordinance.

We are very pleased that your community has taken the necessary steps to assure continued participation in the NFIP, which affords flood insurance and disaster assistance to your constituents. Future development that may take place in the Town of Bradley's floodplains will also benefit from the improved development standards contained in your updated ordinance.

I am forwarding a copy of your ordinance and the review checklist to the Federal Emergency Management Agency (FEMA) Regional Office in Boston and a copy of the ordinance to Penobscot Valley Council of Governments (PVCOG). PVCOG is also available to help the town with their floodplain management needs. The final copy will be retained here in your community file. **If an electronic copy of the May 1<sup>st</sup>, 2007 adopted ordinance is available, please forward to this e-address: [brigitte.m.ndikum-nyada@maine.gov](mailto:brigitte.m.ndikum-nyada@maine.gov) for our electronic files.** If you have any questions in regard to the above or need additional floodplain management assistance, please feel free to call this office at 287-3261 or me at 287-8932.

Sincerely,

Brigitte Ndikum-Nyada, Planner  
State Floodplain Management Program

cc: Charles Norburg, Code Enforcement Officer, Town of Bradley  
Linda Hardesty, Planning Board, Town of Bradley  
David Knowles, FEMA Region I  
Dean Bennett, PVCOG

11/24/11



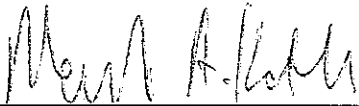
# FLOODPLAIN MANAGEMENT ORDINANCE

## FOR THE

### TOWN OF BRADLEY, MAINE

Approved by the Bradley Town Council at a duly called meeting on 4-25-2023.

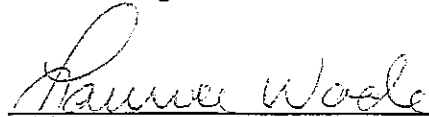
Effective Date: 5-25-2023



Mark Ketch, Council Chair



Duane Lugdon



Laurence Wade

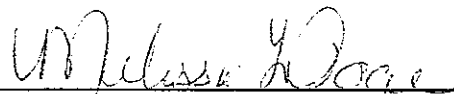


Ann Delaware



Charles Clemons

A True Attest:



Melissa L. Doane, Bradley Town Clerk





**TOWN OF BRADLEY**  
**FLOODPLAIN MANAGEMENT ORDINANCE**

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**THE TOWN OF BRADLEY HEREBY ORDAINS that this Ordinance shall be known as the Floodplain Management Ordinance for the Town of Bradley, Maine and shall be referred to herein as the "Ordinance".**

## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

Certain areas of the Town of Bradley, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Bradley, Maine has chosen to become a participating community in the National Flood Insurance Program and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Bradley, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Bradley has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Bradley having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Bradley, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Bradley, Penobscot County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Penobscot County, Maine," dated July 19, 2023, with accompanying "Flood Insurance Rate Maps, Penobscot County, Maine" dated July 19, 2023, are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

The Code Enforcement Officer shall be designated as the local Floodplain Administrator. The Floodplain Administrator shall have the authority to implement the commitment made to administer and enforce the requirements for participation in the National Flood Insurance Program.

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Bradley, Maine.

## **ARTICLE III - APPLICATION FOR PERMIT**

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



- A. The name, address, and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. in Zones AE, from data contained in the "Flood Insurance Study - Penobscot County, Maine," as described in Article I; or,
    - b. in Zone A:
      - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.M. and VIII.D.; or,
      - (2) in the absence of all data described in Article III.H.1.b.(1), information to demonstrate that the structure shall meet the elevation requirement in Article VI.H.2.b., Article VI.I.2.a. or b., or Article VI.J.2.b.
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement;
  - 4. lowest machinery and equipment servicing the building; and,
  - 5. level, in the case of non-residential structures only, to which the structure will be floodproofed.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article VI.I.; and other applicable standards in Article VI;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.N.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.O.;
  4. a certified statement that containment walls will meet the standards of Article VI.P.
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$25.00 for all minor development and \$50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer, Planning Board, and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study - Penobscot County, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation



and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.(1); Article VI.M.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b.(1), the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
  - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
    1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an "under construction" Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction for verifying compliance with the elevation requirements of Article VI, paragraphs H., I., or J. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
    2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.I.1. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
    3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
  - G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation

Certificates, Floodproofing Certificates, Certificates of Compliance, and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## **ARTICLE VI - DEVELOPMENT STANDARDS**

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

**A. All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

**B. Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

**C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

**D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

**E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**F. Utilities** - New construction or substantial improvement of any structure (including manufactured homes) located within Zones A and AE, shall have the bottom of all electrical, heating, plumbing, ventilation and air conditioning equipment, permanent fixtures and components, HVAC ductwork and duct systems, and any other utility service equipment, facilities, machinery, or connections servicing a structure, elevated to at least one foot above the base flood elevation.

**G. Physical Changes to the Natural Landscape** - Certain development projects, including but not limited to, retaining walls, sea wall, levees, berms, and rip rap, can cause physical changes that affect flooding conditions.

1. All development projects in Zones AE and VE that cause physical changes to the natural landscape shall be reviewed by a Professional Engineer to determine whether or not the project changes the base flood elevation, zone, and/or the flood hazard boundary line.
  - a. If the Professional Engineer determines, through the use of engineering judgement, that the

project would not necessitate a Letter of Map Revision (LOMR), a certified statement shall be provided.

- b. If the Professional Engineer determines that the project may cause a change, a hydrologic and hydraulic analysis that meets current FEMA standards shall be performed.
2. If the hydrologic and hydraulic analysis performed indicates a change to the base flood elevation, zone, and/or the flood hazard boundary line, the applicant may submit a Conditional Letter of Map Revision (C-LOMR) request to the Federal Emergency Management Agency for assurance that the as-built project will result in a change to the Flood Insurance Rate Map. Once the development is completed, a request for a Letter of Map Revision (LOMR) shall be initiated.
3. If the hydrologic and hydraulic analysis performed show a change to the base flood elevation, zone, and/or the flood hazard boundary line, as soon as practicable, but no later than 6 months after the completion of the project, the applicant shall submit the technical data to FEMA in the form of a Letter of Map Revision request.

**H. Residential** - New construction or substantial improvement of any residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated:
  - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; or Article VIII.D.; or,
  - b. in the absence of all data described in Article VI.H.2.a., to at least two feet above the highest adjacent grade to the structure.

**I. Non-Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.

2. Zone A shall have the lowest floor (including basement) elevated:
  - a. to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,
  - b. in the absence of all data described in Article VI.I.2.a., to at least two feet above the highest adjacent grade to the structure; or,
  - c. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.I.1.a., b., and c.

**J. Manufactured Homes** - New or substantially improved manufactured homes located within:

1. Zone AE shall:
  - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
  - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - (3) All components of the anchoring system described in Article VI.J.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
  - a. be elevated on a permanent foundation, as described in Article VI.J.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.(1); Article V.B.; Article VIII.D.; or,
  - b. in the absence of all data as described in Article VI.J.2.a., to at least two feet above the highest adjacent grade to the structure; and,
  - c. meet the anchoring requirements of Article VI.J.1.c.

**K. Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE shall either:

- a. be on the site for fewer than 180 consecutive days; and,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.J.1.

L. **Accessory Structures** - New construction or substantial improvement of Accessory Structures, as defined in Article XIII, shall be exempt from the elevation criteria required in Article VI.H. & I. above, if all other requirements of Article VI and all the following requirements are met.

1. Accessory Structures located in Zones A and AE shall:

- a. meet the requirements of Article VI.A.1. through 4., as applicable;
- b. be limited in size to a one-story two car garage;
- c. have unfinished interiors and not be used for human habitation;
- d. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- e. be located outside the floodway;
- f. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- g. have hydraulic openings, as specified in Article VI.N.2., in at least two different walls of the accessory structure.

M. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A and AE, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.M.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that

the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.
3. In Zones A and AE riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

N. **Hydraulic Openings/Flood Vents** - New construction or substantial improvement of any structure in Zones A and AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs H., I., or J. and is elevated on posts, columns, piers, piles, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

O. **Bridges** - New construction or substantial improvement of any bridge in Zones A and AE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and,

2. a registered professional engineer shall certify that:

- a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.M.; and,
- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

P. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones A and AE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

Q. **Wharves, Piers, and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A and AE, in and over water and shall comply with all applicable local, state, and federal regulations.

## ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs H., I., or J.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, or local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

The Board of Appeals of the Town of Bradley may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal, or local laws or ordinances; and,



4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
  - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
  - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - c. that the granting of a variance will not alter the essential character of the locality; and,
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  1. the criteria of Article IX.A. through C. and Article VI.M. are met; and,
  2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  1. the development meets the criteria of Article IX.A. through C.; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances may be issued for new construction and substantial improvement of Agricultural Structures being used for the conduct of agricultural uses provided that:
  1. the development meets the criteria of Article IX.A. through C.; and,
  2. the development meets the criteria of Article VI.M. and Article VI.N.
- G. Any applicant who meets the criteria of Article IX.A. through C. and Article IX.D., E., or F. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and,
  2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

#### H. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the documents constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

#### ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **ARTICLE XI - VALIDITY AND SEVERABILITY**

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

#### **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

#### **ARTICLE XIII - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

**Accessory Structure** - a structure which is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure.

**Adjacent Grade** - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Agricultural Structure** - structures that are used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Structures that house tools or equipment used in connection with these purposes or uses are also considered to have agricultural purposes or uses.

**Area of Special Flood Hazard** - the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

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

**Basement** - any area of the building having its floor subgrade (below ground level) on all sides.

**Building** - see Structure.

**Certificate of Compliance** - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

**Code Enforcement Officer** - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

**Containment Wall** - a wall surrounding all sides of an above ground tank to contain any spills or leaks.

**Development** - any man made change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

**Digital Flood Insurance Rate Map (DFIRM)** - an official digital map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Elevated Building** - a non-basement building that is:

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or shear walls; and,
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A or AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.N.

**Elevation Certificate** - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

**Existing Manufactured Home Park or Subdivision** - a manufactured home park or subdivision that was recorded in the deed registry prior to the adoption date of the community's first floodplain management regulations.

**Flood or Flooding** -

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe

storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

**Flood Elevation Study** - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

**Flood Insurance Study** - see **Flood Elevation Study**.

**Floodplain or Flood-prone Area** - any land area susceptible to being inundated by water from any source (see **Flood or Flooding**).

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

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

**Floodproofing** - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and contents.

**Floodway** - see **Regulatory Floodway**.

**Floodway Encroachment Lines** - the lines marking the limits of floodways on federal, state, and local floodplain maps.

**Freeboard** - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally Dependent Use** - a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - any structure that is:

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

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. 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,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior, or,
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**Locally Established Datum** - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**Lowest Floor** - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.N. of this ordinance.

**Manufactured Home** - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Mean Sea Level** - for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Minor Development** - all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes but is not limited to: accessory structures as provided for in Article VI.L., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**National Geodetic Vertical Datum (NGVD)** - the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**New Construction** - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**North American Vertical Datum (NAVD)** - the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon the vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound and subsidence, and the increasing use of satellite technology.

**100-year flood** - see **Base Flood**.

**Recreational Vehicle** - a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and,
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway** -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, and,
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area** - see **Area of Special Flood Hazard**.

**Start of Construction** - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

**Structure** - for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial Damage** - damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

**Variance** - a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - the failure of a structure or development to comply with a community's floodplain management regulations.

#### ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

#### ARTICLE XVI - DISCLAIMER OF LIABILITY

The degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.





# Chapter 6

## Subdivision Ordinance


**TOWN OF BRADLEY**  
**SUBDIVISION ORDINANCE**

Approved by the Bradley Town Council at a duly called meeting  
on 2/20/08

Sally Strout  
Sally Strout, Chairperson


  
Oscar Emerson

### A True Copy Attest:

  
Melissa L. Doane, Town Clerk

**Audrey Wilcox**

Lillian Coulter  
Lillian Coulter

  
J. Frederick Gifford

**THE TOWN OF BRADLEY HEREBY ORDAINS that the following ordinance shall be adopted to govern subdivision development.**

On April 1, 2008, The Bradley Town Council voted to approve the following fees governing subdivision applications. These fees are effective immediately.

**Preliminary:** \$125 plus \$25 per lot or unit plus \$20 for every additional 4 acres or portion thereof (open space, common areas, buffer zones, etc)

**Final, minor:** \$125 plus \$50 per lot

**Final, major:** \$50 per lot.

**Technical review fee** (Art. 6.2.B & Art. 7.1.B): In addition to other fees, the applicant shall pay a separate fee of two hundred (\$200.00) per lot or unit prior to the start of the Planning Board's review of the Final Plan of a Minor Subdivision or of the Preliminary Plan of a Major Subdivision.

This fee shall be paid in the form of a check made payable to the Town of Bradley. The Town shall deposit this fee into a special account designated by the particular subdivision application that is separate and distinct from all other Planning Board and Town accounts, to be used by the Planning Board and the Town Council for the following purposes:

- ◆ Legal fees incurred by the Town for review of the project.

**(NOT FOR USE IN LITIGATION).**

- ◆ The cost of professionals to inspect required improvements.
- ◆ The cost of professionals to review the proposed project.

If the balance in this account is drawn down by fifty percent (50%) or more, the Planning Board shall notify the applicant and require that an additional \$150 per lot or dwelling unit be deposited by the applicant. The Planning Board shall continue to notify the applicant and require an additional \$150 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by fifty percent (50%) of the original deposit.

Any balance remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

.....

The Bradley Town Council, after due process, may, from time to time, vote to change any or all of these fees.

# APPENDIX

## 1

# TOWN OF BRADLEY

## SUBDIVISION ORDINANCE

### **article 1 – purposes**

The purposes of this Ordinance are:

- 1.1** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2** To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., Section 4404;
- 1.3** To assure that new development in the Town of Bradley meets the goals and conforms to the policies of the Comprehensive Plan;
- 1.4** To assure the comfort, convenience, safety, health and welfare of the people of the Town of Bradley;
- 1.5** To protect the environment and conserve the natural and cultural resources identified in the Bradley Comprehensive Plan as important to the community;
- 1.6** To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality;
- 1.8** To promote the orderly development of an economically sound and stable community; and
- 1.9** To assure that within the watersheds of all lakes and ponds development shall not degrade the water quality of the lake or pond, thereby retaining its suitability for water supply and for recreational purposes.

# APPENDIX

## 2

## ***article 2 – authority and administration***

### **2.1 Authority.**

- A. This Subdivision Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. This Subdivision Ordinance shall be known and may be cited as “Subdivision Ordinance of the Town of Bradley, Maine.”
- C. Adoption of this Subdivision Ordinance hereby repeals the Town of Bradley Subdivision Ordinance dated July 1, 1977.

### **2.2 Administration.**

- A. The Planning Board of the Town of Bradley, hereinafter called the Board, shall administer this Ordinance.
- B. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Bradley.

### **2.3 Amendments.**

- A. This Ordinance may be amended by the Town Council of the Town of Bradley, in accordance with Chapter 1, General Provisions of the Town of Bradley Code.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.



# APPENDIX

## 3

## **article 3 – definitions**

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Land Use Ordinance of the Town of Bradley shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**Applicant:** The person applying for subdivision approval under this ordinance.

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

**BFE:** Base Flood Elevation, 100-Year Flood, q.v.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Cluster Developments:** *Clustered Residential Development:* A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot and/or unit owners, the Town or a land conservation organization.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the

general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this ordinance. The Board may vote to waive the submission of some of the required information pursuant to Article 14.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

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

**Cul-de-sac:** A circular area at the end of a dead-end road, for the reversal of traffic.

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which site improvements are made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed of a Great Pond:** That portion of the watershed that drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan.

Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its

designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

**Driveway:** A vehicular access way serving one dwelling unit or less.

**Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, bathing and eating. The term shall include mobile homes but not travel trailers or motor homes. Guest quarters that meet this definition shall be considered a separate dwelling unit and must meet all applicable requirements.

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

**Final Plan:** The final drawings, on which the applicant's plan of subdivision is presented to the Board for approval.

**Freshwater Wetland:** Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. See Shoreland Zoning Ordinance for a more complete and specific definition.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed

or increased inland body of water is completely surrounded by land held by a single owner.

**Hammer-head:** A turn-around area, normally at the end of a dead-end road. An alternative, in some instances, to a cul-de-sac.

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

**100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

**High Water Mark (Inland Waters):** That line, apparent from visible markings, at which changes in the character of soils due to prolonged action of the water or changes in vegetation take place, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

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

**Multifamily Development:** A subdivision that contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Municipal Engineer:** Any registered professional engineer hired or retained by the Town of Bradley, either as staff or on a contractual basis.

**Municipal Planner:** Any professional planner hired by or retained by the Town of Bradley, either as staff or on a contractual basis.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan,

**Net Residential Density:** The average number of dwelling units per net residential acre.

**New Structure or Structures:** Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance.

**NGVD:** National Geodetic Vertical Datum. Previously referred to as U.S. Coast and Geodetic Survey Mean Sea Level Datum (US.C.&GS)

**Nonpossessory Interest:** An interest that gives the holder some right of entry or use of the land of another.

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

**Planning Board:** The Planning Board of the Town of Bradley.

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

**Principal Structure:** Any building or structure in which the main use of the premises takes place.

**Public Water System:** A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year ( Or current definition per Health Human Services standards)

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

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway: used in this Ordinance as a reference for unobstructed road visibility according to current Maine Department of Transportation Standards.

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

**Spring:** A natural point of noticeable ground water discharge.

**Street:** A public or private way which affords the principal means of access to abutting properties and which has been duly recorded as such in the Registry of Deeds.

**Street Classification:**

*Arterial Street:* A major thoroughfare that serves as a major traffic way for travel between and through the municipality.

*Collector Street:* A street with average daily traffic of 200 vehicles per day or greater, or streets that serve as feeders to arterial streets, and collectors of traffic from minor streets.

*Dead-End:* A street with only one outlet and having a circular end (Cul-de-sac) or other means ( Hammer-Head) for the reversal of traffic movement.

*Industrial or Commercial Street:* Streets servicing industrial or commercial uses.

*Minor Residential Street:* A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

*Private Way:* A privately owned road, driveway for vehicle access to structures or uses on lots.

**Subdivision:** The definition of "subdivision" contained in the Maine Revised Statutes at 30-A M.R.S.A. § 4401 (4), as it may be amended from time to time.

**Subdivision, Major:** Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing four lots or dwelling units or less, and not containing a proposed street.

**Substantial Start:** The completion of a portion of the improvements that represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides after September 22, 1971.

**Usable Open Space:** That portion of the common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.



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# APPENDIX

## 4

## **article 4 – administrative procedure**

### **4.1 Procedure**

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall:

Prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least fifteen days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer and complying with the submission requirements.

### **4.2 Ineligible Applicant**

No plan may be considered by the Board as long as the applicant or principals of any such applicant shall be in default or shall have failed to complete improvements on any previously approved subdivision plan in the Town, in accordance with the terms of the approval. Such default or failure to complete shall constitute conclusive evidence of the inability of such applicant to comply with the terms of this Ordinance or to complete work required by a Final Plan.

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# APPENDIX

## 5

## **article 5 – pre-application meeting, sketch plan and site inspection**

### **5.1 Purpose.**

The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

### **5.2 Procedure.**

- A. The applicant shall present the Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application. In addition the following determinations shall be made by the Board:
  - 1. Classification of the Subdivision.
  - 2. Classification of Streets within the proposed Subdivision as appropriate (minor or collector)
- C. The date of the on-site inspection is selected.

### **5.3 Submission.**

The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified

in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
- B. A copy of that portion of the *Soil Survey of Penobscot County Maine* covering the proposed subdivision, showing the outline of the proposed subdivision.

#### **5.4 On-Site Inspection.**

In preparation for preliminary review, the Board may hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

#### **5.5 Rights Not Vested.**

The pre-application meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A. §302.

#### **5.6 Establishment of File.**

Following the pre-application meeting with the Planning Board, the Code Enforcement Officer shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.

#### **5.7 Caution.**

Developers are cautioned that the following activities are prohibited (after the Sketch Plan presentation), until a proposed subdivision has been reviewed and approved by the Board: Construction of streets; cutting of trees (other than thinning); grading of land or lots; offering or advertising lots for sale.

# APPENDIX

## 6



## article 6 – minor subdivision

### 6.1 General.

The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A. §4404, or the standards from Article 11 of these regulations, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision.

### 6.2 Procedure.

- A. Within six months after the Sketch Plan Meeting, the Board, the applicant shall submit an application for approval of a final plan at least fifteen days prior to a scheduled meeting of the Board. Applications shall be submitted to the Code Enforcement Officer in care of the Planning Board. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The final plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. An additional copy of all application material shall be provided to the Town Clerk at time of submission.
- B. All applications for final plan approval of a Minor Subdivision shall be accompanied by a non-refundable application fee per lot or dwelling unit, as determined by the Town Council, payable by check to the Town of Bradley. **No further action shall be taken until proof of fee payment is submitted.** In addition, the Board upon reviewing the application and finding the need for outside professional assistance, may, at its sole discretion, hire its own civil engineer, soil scientist, geologist or other experts to review the plan submitted by the applicant. The applicant shall deposit an amount determined by the Board in an account with the Town of Bradley in advance of the hiring of such experts to cover this expense. Any balance in the account remaining after the decision on the final plan application by the Planning Board shall be returned to the applicant.
- C. Prior to the meeting at which an application for final plan approval of a minor subdivision is initially presented, the Planning Board shall:

1. Issue a dated receipt to the applicant.
  2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. The costs of notification to be reimbursed to the town by the applicant.
  3. Notify the Town Clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- D. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- E. A public hearing shall be held within thirty days of the Board's determination that it has received a completed plan application. The Board shall cause notice of the date, time and place of such hearing to be given to the applicant and be published in a newspaper of general circulation in Bradley, at least one time, the date of publication to be at least seven days prior to the hearing, and posted in the Town Office. For any proposed subdivision lying wholly or partly within the watershed of a public water supply, water district or its successors shall be notified of the date, time and place of the hearing.
- F. Within thirty days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A M.R.S.A., §4404 and the standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board

shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval. In issuing its decision, the Board shall state, in writing, the conditions of such approval, if any, with respect to:

1. The specific changes it will require in the Final Plan;
2. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare; and
3. The amount of improvements or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Plan.

### **6.3 Submissions.**

The final plan application shall consist of the following items.

- A. Application Form.
- B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  1. Existing subdivisions in the proximity of the proposed subdivision.
  2. Locations and names of existing and proposed streets.
  3. Boundaries and designations of zoning districts.
  4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted cover only a portion of the owner's entire contiguous holding.
- C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of two reproducible Mylar's, one to be recorded at the Registry of Deeds,

the other to be filed at the municipal office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderlines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Sufficient copies of the Plan and all accompanying information shall be submitted to the Planning Board for distribution to the Board at least 15 days prior to the next regularly scheduled meeting. Applicant shall also submit one copy (if available) of the approved plan in common digital format.

D. Application Requirements. The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A. §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A boundary survey of the parcel, giving complete descriptive data by bearings and distances, prepared and sealed by a professional land surveyor registered in the State of Maine. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
  - a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the appropriate sewer district, stating that the district has the capacity to collect and treat the wastewater, shall be provided.
  - b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the district approves the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the district approving the design of the extension shall be submitted.
  - b. When water is to be supplied from a public water company, a written statement from the Fire Chief of the Town of Bradley approving the number, size and location of the proposed hydrants and their supply mains.

- c. When water is to be supplied by private wells, the Planning Board may require evidence of adequate ground water supply. This evidence shall be prepared by hydro-geologist familiar with the area and/or evidence from wells on a minimum of three adjacent properties as submitted by a well-driller to be approved by the Planning Board.
  - d. For rural locations the Fire Chief shall provide a statement relative to the availability of water sources such as lakes, ponds, rivers, brooks and holding tanks for fire fighting purposes. In areas where no water supplies are available, the fire department's ability to transport water via tank trucks shall be considered relative to the size, construction type and built-in fire suppression systems of the structures proposed.
- 8. The date the plan was prepared, north arrow, and graphic map scale.
  - 9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
  - 10. Preexisting conditions including the location of any mines, gravel pits and freshwater wetland areas regardless of size, shall be identified on the survey.
  - 11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at 4 ½' above the ground within areas the developer proposes to clear shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.

12. The location of all rivers, streams, brooks and springs within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to National Geodetic Vertical Datum (NGVD) (1929).
14. The zoning district in which the proposed subdivision is located and location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, existing building footprints, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written

evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title and that they will recommend its acceptance to the Town Council shall be included.

20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan. In areas where the base flood elevation (BFE) has been determined, the applicant shall show through field survey the flood boundary based on an NGVD benchmark.
21. The Board may require a hydro-geologic assessment in cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils.
22. The Board may require an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, current edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant or the Board demonstrates that these sources better reflect local conditions.
23. For subdivisions involving 40 or more parking spaces or projected to generate more than 100 vehicle trips in the peak hour, a traffic impact analysis, prepared by a professional engineer registered in the State of Maine with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets



which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

24. Storm water management provisions, in accordance with the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection. If the development is within the watershed of a great pond, will not involve grading which changes drainage patterns, and is adding additional impervious surfaces such as roofs and driveways less than 5% of the area of the subdivision, a full Stormwater Management Plan shall be submitted.
25. An erosion and sedimentation control plan prepared in accordance with the Maine Department of Environmental Protections Best Management Practices. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan will be required.
  - a. For subdivisions that qualify for the simplified review procedure, the plan shall indicate the location and

dimensions of vegetative buffer strips or infiltration systems. The simplified review may be used for a:

- (1) Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three-lot subdivision or 600 feet for a four-lot subdivision;
- (2) Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three-lot subdivisions or 1,100 feet for four-lot subdivisions; or
- (3) Proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface wastewater disposal systems and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

A proposed subdivision that creates lots that could be further subdivided, such that five or more lots may result, shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

- b. For subdivisions that do not qualify for the simplified review procedure as described in 27.a above, the following shall be submitted.

- (1) A phosphorus impact analysis and control plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, September, current edition.

(2) A long-term maintenance plan for all phosphorus control measures.

(3) The contour lines shown on the plan shall be at an interval of no less than five feet.

(4) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

28. The location and method of disposal for land clearing and construction debris and/or the quantity and type of fills to be brought in.

29. New created lots shall be numbered in accordance with the Bradley Addressing Ordinance.

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# APPENDIX

7

## **article 7 – preliminary plan for major subdivision**

### **7.1 Procedure.**

- A. Within six months after the Sketch Plan Meeting, the applicant shall submit an application for approval of a preliminary plan at least fifteen days prior to a regularly scheduled meeting of the Board. Applications shall be submitted to the Board in care of the Planning Board and an additional copy to the Town Office. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan approval of a Major Subdivision shall be accompanied by a non-refundable application fee payable by check to the Town of Bradley or a copy of receipt as proof of fee payment. **No further action shall be taken until proof of fee payment is submitted.** In addition, the Board upon reviewing the application and finding the need for outside professional assistance, may, at its sole discretion, hire its own civil engineer, soil scientist, geologist or other experts to review the plan submitted by the applicant. The applicant shall deposit an amount determined by the Board in an account with the Town of Bradley in advance of the hiring of such experts to cover this expense. Any balance in the account remaining after the decision on the final plan application by the Planning Board shall be returned to the applicant.
- C. Prior to the meeting at which an application for preliminary plan approval of a Major Subdivision is initially presented, the Planning Board shall:
  - 1. Issue a dated receipt to the applicant.
  - 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of

the proposed subdivision and including a general description of the project.

3. Notify the Town Clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- D. Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
  - E. A public hearing shall be held within thirty days of the Board's determination that it has received a completed preliminary plan application. The Board shall cause notice of the date, time and place of such hearing to be given to the applicant and be published in a newspaper of general circulation in Bradley, at least one time, the date of the first publication to be at least seven days prior to the hearing and posted in the Town Office. For any proposed subdivision lying wholly or partly within the watershed of a public water supply, the appropriate Water Company or its successors shall be notified of the date, time and place of the hearing.
  - F. Within thirty days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
  - G. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
    1. The specific changes which it will require in the final plan;
    2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare;

3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

H. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

## **7.2 Submissions.**

The preliminary plan application shall consist of the following items.

A. Application Form.

B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary Plan. The preliminary plan shall be submitted in two copies, or a number determined by the Board at the pre-application meeting, of one or more maps or drawings which may be printed or



reproduced on paper, with all dimensions shown in feet or decimals of a foot. In addition, one copy shall be submitted to Code Enforcement Office and on to the Town Clerk. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read.

D. Application Requirements. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A. § 4404 are met.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title or interest in the property.
3. A boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
  - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the appropriate sewer district stating the district has the capacity to collect and treat the wastewater shall be provided.

- b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by public water supply, a written statement from the appropriate water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
  8. The date the plan was prepared, north arrow, and graphic map scale.
  9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
  10. Preexisting conditions including the location of any mines, gravel pits and wetland areas regardless of size, shall be identified on the survey.
  11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
  12. The location of all rivers, streams, brooks and springs within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
  13. Contour lines at 2' intervals unless directed otherwise by the Board.
  14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.

15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The proposed lot lines with approximate dimensions and lot areas. Newly created lots shall be numbered in accordance with the Bradley Addressing Ordinance.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map shall be delineated on the plan. In areas where the base flood elevation (BFE) has been determined, the applicant shall show through field survey the flood boundary based on an NGVD benchmark.
23. The Board may require a hydro geologic assessment in cases where site considerations or development design indicate greater

potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils.

24. The Board may require an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, current edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant or the Board demonstrates that these sources better reflect local conditions.
25. For subdivisions involving 40 or more parking spaces or projected to generate more than 100 vehicle trips in the peak hour, a traffic impact analysis, prepared by a professional engineer registered in the State of Maine with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the

application shall include a long-term maintenance plan for all phosphorus control measures.

28. Written approval from the Board of Appeals of appeals for variances or special exceptions, if required, and any conditions imposed.

# APPENDIX

## 8

## **article 8 – final plan for major subdivision**

### **8.1 Procedures.**

- A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least fifteen days prior to a scheduled meeting of the Board. Applications shall be submitted to the Board in care of the Planning Board and copied to the Town Office. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. All applications for final plan approval of a major subdivision shall be accompanied by non-refundable application fee per lot or dwelling unit as determined by the Town Council payable by check to the Town of Bradley or a copy of a receipt as proof of fee payment. **NO SUBDIVISIONS WILL BE APPROVED UNLESS ALL APPLICABLE FEES HAVE BEEN PAID AND EVIDENCE OF PAYMENT PROVIDED TO THE PLANNING BOARD.**

- C. Prior to approval of the final plan, the applicant shall provide a list of State and/or Federal approvals to be obtained, such as, but not limited to:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a wastewater discharge license is needed.
  2. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  3. Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
  4. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. The applicant, or his duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.
- E. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- F. A public hearing may be held within thirty days of the Board's determination that it has received a completed Final Plan application. The Board shall cause notice of the date, time and place of such hearing to be given to the applicant and be published in a newspaper of general circulation in Bradley, at least one time, the date of the first publication to be at least seven days prior to the hearing and posted at the Town Office. For any proposed subdivision lying wholly or partly within the watershed of a public water supply, the applicable water district or its successors shall be notified of the date, time and place of the hearing.
- G. The Planning Board shall notify the road commissioner, police chief, fire chief, Superintendent or administrator of schools, of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-



family, commercial or industrial buildings. The Planning Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

- H. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 13.
- I. Within thirty days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A. §4404 and the standards of this ordinance. If the Board finds that all the criteria of the statute and the standards of this ordinance have been met, it shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of this ordinance has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

## **8.2 Submissions.**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible Mylar's, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of the plan shall be submitted. The applicant may instead submit one reproducible Mylar original of the final plan and one recording plan with three copies of the final plan. Sufficient copies of the Plan and all accompanying information shall be submitted to the Code Enforcement Officer

for distribution to the Planning Board. Applicant shall also submit one copy of the approved plan common digital format.

The final plan shall include or be accompanied by the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, watercourses, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at 4 ½' above the ground within areas the developer proposes to clear shall be shown on the plan.
- C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
  - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a hydrogeologist familiar with the area and/or evidence from wells on a minimum of three adjacent properties.
  - 2. For rural locations, the Fire Chief shall provide a statement relative to the availability of water sources such as lakes, ponds, rivers, and brooks for fire fighting purposes. In areas where no water supplies are available, the fire department's ability to transport water via tank

trucks shall be considered relative to the size, construction type, and built-in fire suppression systems of the structures proposed.

- E. The date the plan was prepared, north arrow, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- K. A storm water management plan, prepared by a registered professional engineer or "CPESC" (Certified Professional in Erosion and Sedimentation Control, in accordance with the Maine Department of Environmental Protections Best Management Practices. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

- L. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- M. The width and location of any streets or public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- N. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the Town of Bradley, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title and that they will recommend its acceptance to the Town Meeting shall be included.
- O. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan. In areas where the Base Flood Elevation (BFE) has been determined, the applicant shall show through field survey the flood boundary based upon an NGVD benchmark.
- P. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan:

1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection (current edition).  
The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
  2. A long-term maintenance plan for all phosphorus control measures.
  3. The contour lines shown on the plan shall be at an interval of no less than five feet.
  4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
- Q. The location and method of disposal for land clearing and construction debris and/or the quantity and type of fill to be brought in.

### **8.3 Final Approval and Filing.**

- A. No plan shall be considered by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A. §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets

the criteria of Title 30-A M.R.S.A. §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Except in the case of a phased development plan, failure to complete substantial start of the subdivision within three years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

# APPENDIX

## 9

## **ARTICLE 9 – REVISIONS TO APPROVED PLANS**

### **9.1 Procedure.**

Any applicant for a revision to a previously approved plan shall, at least fifteen days prior to a regularly scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

### **9.2 Submissions.**

The applicant shall submit a copy of the approved plan as well as sufficient copies of the proposed revisions for distribution to the Board. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

### **9.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan that are proposed to be changed and to any consequent impacts of these changes.



# APPENDIX

10

## ***article 10 – inspections and enforcement***

### **10.1 Inspection of Required Improvements.**

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
  - 1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, (s)he shall so report in writing to the Planning Board, the subdivider and builder. The Code Enforcement Officer shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Planning Board to modify the plans.
- D. The subdivider shall provide the Planning Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

- E. Upon completion of the street construction and prior to a vote by the Governing Authority, as required by Charter, a written certification signed by a professional engineer shall be submitted to the Town Council, at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of the regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- F. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

## **10.2 Violations and Enforcement.**

- A. No plan of a division of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this ordinance.
- B. A person shall not convey, offer or agree to convey any land in a subdivision that has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision that is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings that require a plan approved as provided in these regulations and recorded in the Registry of Deeds.

- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.
- G. Violations of the above provisions of this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A. §4452.

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# APPENDIX

11

## **article 11 – performance standards**

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

### **11.1 Air or Water Pollution.**

- A. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.
- C. Applicable State and local health and water resource rules and regulations shall be adhered to.

### **11.2 Water Supply and Availability.**

- A. Water Supply.
  - 1. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a

“capped system” shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.

2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by appropriate water district or its successors and the fire chief.
3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or Consumers Maine Water Company or its successors.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
  - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
  - d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage



## **ARTICLE 11 – PERFORMANCE STANDARDS**

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

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- A. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.
- C. Applicable State and local health and water resource rules and regulations shall be adhered to.

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- A. Water Supply.
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"capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.

2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by appropriate water district or its successors and the fire chief.
3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or Consumers Maine Water Company or its successors.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
  - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
  - d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage

reservoirs or other methods acceptable to the fire chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

**B. Water Quality.**

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

**11.3 Existing Water Supply.**

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

**11.4 Soil Erosion and Water Holding Capacity of the Land**

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

## **11.5 Highway or Public Road Congestion resulting in Unsafe Conditions**

In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

- A. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
- B. Avoid traffic congestion on any street; and
- C. Provide safe and convenient circulation on public streets and within the subdivision.

## **11.6 Sewage Waste Disposal**

### **A. Public System.**

1. Any subdivision within the area designated in the comprehensive plan for future sewage disposal service shall be connected to the public system.
2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of

laterals, collectors, manholes and pump stations shall be reviewed and approved in writing by appropriate providing district.

#### B. Private Systems.

1. If a subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system that is in conformance with the current Maine State Plumbing Code can be installed on every lot.
2. If a sewage disposal system is proposed that will service more than one (1) principal structure (Common Sewage System), a reserve area shall be designated for a replacement system designed by a licensed site evaluator, in the possibility that the initial system should fail. This information shall be recorded with the deed in the Registry of Deeds.
3. Common sewage systems may not be located wholly or partially on individual house lots.
4. If common sewage systems are proposed, the Plan must indicate where replacement systems will be located. Replacement system locations must be preserved with deed restrictions.
5. When common sewage systems serve individual lots, each lot must be serviced by its own treatment (septic) tank.
6. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

### **11.7 Solid Waste Disposal**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a

disposal facility that is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

### **11.8 Scenic or Natural Beauty, Aesthetics, Historic Sites, Significant Wildlife Habitat , Rare and Irreplaceable Natural Areas & Visual Access to the Shoreline.**

#### **A. Preservation of Natural Beauty and Aesthetics.**

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter at breast height, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields the plans may include the planting of street trees.

#### **B. Retention of Open Spaces and Natural or Historic Features.**

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine

Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

4. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.

5. Reserved open space land may be dedicated to the municipality.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. Two hundred fifty (250) feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:

a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;

b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

c. Shorebird nesting, feeding and staging areas and seabird nesting islands; or

2. An area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor; or

3. Other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports.

D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

## **11.9 Conformity with the Subdivision Ordinance, Comprehensive Plan and Land Use Ordinance.**

All lots shall meet the minimum dimensional requirements of the Land Use Ordinance for the district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Land Use Ordinance. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

## **11.10 Financial and Technical Capacity**

### **A. Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this ordinance. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

### **B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

## **11.11 Watersheds and Shorelands**

Whenever Situated Entirely or Partially within the Watershed of any Pond or Lake or within 250 feet of any Wetland, Great Pond or River, the Proposed Subdivision will not adversely Affect the Quality of that Body of Water or Unreasonably Affect the Shoreline of that Body of Water.



## **11.12 Quality and Quantity of Ground Water.**

### **A. Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate- nitrogen concentrations at any wells within the subdivision; or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Subsurface waste water disposal systems and drinking water wells shall be constructed where shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

#### B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

### 11.13 Flood Zones

If the Subdivision, or any Part of it, is in a Flood Prone Area, the Subdivider shall determine the 100-year Flood Elevation and Flood Hazard Boundaries within the Subdivision. The Proposed Subdivision Plan must Include a Condition of Plan Approval Requiring that Principal Structures in the Subdivision will be Constructed with their Lowest Floor, Including the Basement, at Least One foot Above the 100-year Flood Elevation.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously

described. The construction requirement shall also be clearly stated on the plan.

#### **11.14 Freshwater Wetlands**

All Freshwater Wetlands within the Proposed Subdivision Shall be Identified on any Maps Submitted at Part of the Application, Regardless of the Size of these Wetlands.

Freshwater wetlands shall be identified in accordance with the Corps of Engineers Wetland Delineation Manual, current edition, published by the United States Army Corps of Engineers.

#### **11.15 Identification of Waterbodies**

Any River, Stream or Brook within or Abutting the Proposed Subdivision shall be Identified on any Maps Submitted as Part of the Application.

#### **11.16 Adequate Stormwater Management.**

- A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of best management practices such as swales, culverts, under drains, storm drains, buffers, turnouts and level spreaders conforming to Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, current edition. The stormwater management system shall be designed to meet the standards outlined for projects based upon their disturbed and impervious areas. All projects shall meet the Basic Standards Criteria.
- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

### **11.17 Shore Frontage**

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5:1.

### **11.18 Phosphorus Control**

The Long-Term Cumulative Effects of the Proposed Subdivision will not unreasonably Increase a Great Pond's Phosphorus Concentration During the Construction Phase and Life of the Proposed Subdivision.

Phosphorus control measures shall meet the design criteria in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, Published by the Maine Department of Environmental Protection, current edition.

### **11.19 Adjoining Municipality**

For any proposed subdivision that crosses municipal boundaries, the Proposed Subdivision will not cause Unreasonable Traffic Congestion or Unsafe Conditions with Respect to the Use of Existing Public Ways in an Adjoining Municipality in which part of the Subdivision is Located.

### **11.20 Timber Harvesting**

Timber on the parcel being subdivided shall not have been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the

Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A. section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

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# APPENDIX

12

## **article 12 – design guidelines**

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be approved if, and only if, the applicant has provided clear and convincing evidence, in the sole determination of the Board, that the proposed design will meet the performance standard(s) and the statutory criteria of Article 11. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

### **12.1 Sufficient Water.**

#### **A. Well Construction.**

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or larger, the applicant may prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

#### **B. Fire Protection.**

1. Spacing and location of fire hydrants connected to a public water supply system shall be approved by the Fire Chief, but in general shall be 1000' apart and within 500' of the end of a dead-end road.
2. In areas where there is no public water supply, fire ponds/dry hydrants are encouraged and subject to review and approval by the Fire Chief. Upon a recommendation by the Fire Chief, the Board may require an independent engineering feasibility study.



3. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds shall be six inches.
4. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.
5. Dead-end roads in excess of one thousand feet (1000') shall be provided with intermediate turn-around areas, such as "hammer-heads". These areas shall be spaced no more than one thousand feet (1000') apart and at the end, unless the Planning Board, with the advice and consent of the fire chief, grants an exception.

## **12.2 Traffic Conditions.**

### **A. Access Control.**

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Subdivision Access Design for Subdivisions Entering onto Arterial Streets.

When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the stricter or more stringent shall apply.

- a. General. Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the Trip Generation Manual, current edition, published by the Institute of Transportation Engineers.
  - (1) Low Volume Access: An access with 50 vehicle trips per day or less.
  - (2) High Volume Access: Any access with more than 50 vehicle trips per day.
- b. Sight Distances. Minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.
- c. Vertical Alignment. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for at least 75 feet.
- d. Low Volume Accesses.
  - (1) Skew Angle. Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
  - (2) Curb Radius. The curb radius shall be 15 feet minimum.
- e. High Volume Accesses.
  - (1) Skew Angle. Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90° as site conditions permit, but in no case less than 60°.
  - (2) Curb Radius. Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a

preferred radius of 30 feet. On one-way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5-foot radius on the opposite curb.

- (3) Width. On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

f. Access Location and Spacing.

- (1) Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as much as practical based on site constraints. Minimum corner clearances are listed in Table 12.2-1, based upon access volume and intersection type.

Table 12.2-1. Minimum Standards for Corner Clearance

<u>Access Type</u>	<u>Minimum Corner Clearance (feet)</u>	
	<u>Intersection Signalized</u>	<u>Intersection Un-signalized</u>
Low Volume	150	50
High Volume	150	50

- (2) Access Spacing. Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in Table 12.2-2, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line

at the edge of the roadway for access spacing to the property line.

Table 12.2-2. Minimum Access Spacing

<u>Access Type</u>	Minimum Spacing to Property Line <sup>1</sup>	Medium
	(feet)	(feet)
Low Volume	5	
High Volume	10	75

<sup>1</sup> Measured from point of tangency of access to projection of property line on roadway edge.

h. Number of Accesses. The maximum number of accesses on to a single street is controlled by the available site frontage. In addition, the following criteria shall limit the number of accesses independent of frontage length.

- (1) No low volume traffic generator shall have more than one two-way access onto a single roadway.
- (2) No high volume traffic generator shall have more than two two-way accesses onto a single roadway.

i. Construction Materials/Paving.

- (1) All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
- (2) All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and cross-section (at 50' intervals) of the proposed streets. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
- (1) Date, scale, and north arrow indicating magnetic or true.
  - (2) Intersections of the proposed street with existing streets.
  - (3) Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs as applicable.
  - (4) Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  - (5) Complete curve data shall be indicated for all horizontal and vertical curves.
  - (6) Turning radii at all intersections.
  - (7) Centerline gradients.
  - (8) Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

- c. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
- d. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan: "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town. To become Town roads, they must meet current municipal street design and construction standards and be accepted by an affirmative vote of the Governing Authority."

## 2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice.
- b. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets as applicable.
- c. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance.

d. The design standards of Table 12.2-3 shall apply according to street classification.

Table 12.2-3. Street Design Guidelines

Description	Collector	Type of Street		
		Minor	Private Rights-of-Way	Industrial/Commercial
Minimum Right-of-Way Width	66'	50'	50'	66'
Minimum Traveled Way Width	24'	20'	18'	30'
Minimum Width of Shoulders (each side)	3'	3'	1'	9'
Sidewalk Width	5'	5'	N/A	8'
Minimum Grade	0.5%	0.5%	N/A	0.5%
Maximum Grade	10%	10%	12%	5%
Minimum Centerline Radius without superelevation	Radii should meet current AASHTO design standards			
Minimum Centerline Radius with superelevation				
Roadway Crown <sup>1</sup>	1/4"/ft	1/4"/ft	1/4"/ft	1/4"/ft
Minimum Angle of Street Intersections <sup>2</sup>	60°	60°	60°	90°
Maximum Grade within 75 ft. of the Stopped Approach of the Intersection	3%	3%	3%	3%
Minimum Curb Radii at Intersections	25'	20'	N/A	30'
Minimum R/O/W Radii at Intersections	10'	10'	10'	10'

<sup>1</sup> Roadway crown is per foot of lane width.

<sup>2</sup> Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

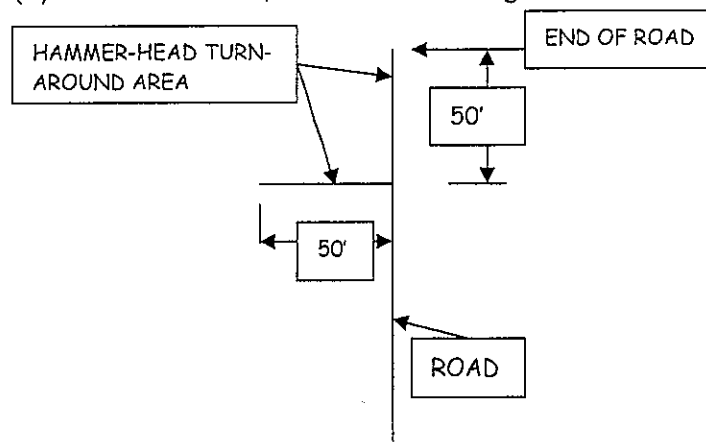
- e. Dead-end Streets. In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide a cul-de-sac or large vehicle turn-around with the following dimensions:

- (1) Radius to boundary 80'
- (2) Radius, inside pavement 40'
- (3) Radius, outside pavement 65'

Where the cul-de-sac is in a wooded area prior to development, a stand of trees may be maintained within the center of the cul-de-sac. The Board may also require the reservation of a 50-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

-OR instead of (1), (2) & (3), above, the Board may approve:

- (4) Hammer-head, with the following dimensions:



Maximum Length between hydrants, dry hydrants or other approved water sources for fire fighting: 1,000 feet.

- f. Grades, Intersections and Sight Distances.

- (1) Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- (2) All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.



Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft.)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3-1/2 feet and the height of object at 1-1/2 feet.

- (3) Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curblineline or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/4 feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft.)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- (4) Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

### 3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in Table 12.2-4.

Table 12.2-4. Minimum Pavement Materials Thicknesses

Street Materials	Type of Street		
	Collector	minor	Private Rights-of-Way
Aggregate Subbase Course <sup>1</sup> (maximum sized stone 6")			
Base Gravel	18"	18"	15"
Crushed Aggregate Base (necessary)	3"	3"	3"
Hot Bituminous Pavement			
Total Thickness	3"	3"	N/A
Surface Course	1"	1"	N/A
Base Course	2"	2"	N/A
Surface Gravel	N/A	N/A	3"
<sup>1</sup> The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation.			

b. Preparation.

- (1) Before any clearing has started on the right-of-way, the centerline and sidelines of the new road shall be staked or flagged at 50-foot intervals.
- (2) Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways and utilities shall be cleared of all stumps, roots, brush and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
- (3) All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the

specifications for gravel aggregate sub-base, or a Maine Department of Transportation approved stabilization geotextile may be used.

- (4) Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
- (5) All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

(1) Bases/Subbase.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation.

- (2) Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

(3) Pavements.

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more

than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

(b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed provided the air temperature in the shade at the paving location is 50°F or higher.

(4) Surface Gravel. Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-7.

Table 12.2-7. Surface Gravel Grading Requirements

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

### 12.3 Impact

Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

#### A. Preservation of Natural Beauty and Aesthetics.

Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the

time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

**B. Retention of Open Spaces and Natural or Historic Features.**

1. The subdivision shall reserve between 5% and 10% of the area of the subdivision as open space to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan.
2. Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the comprehensive plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features.

**C. Protection of Significant Wildlife Habitat and Important Habitat Areas.**

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.
  - a. Habitat of species appearing on the official state or federal lists of endangered or threatened species shall be designated as open space (areas to remain undeveloped).
  - b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal

of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, as identified by the Department of Inland Fisheries and Wildlife.
  - a. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
    - (1) Shorebird nesting, feeding and staging areas;
    - (2) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; or
    - (3) Other important habitat areas identified in the comprehensive plan.
3. Protection of Deer Wintering Areas. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas as identified by the Department of Inland Fisheries and Wildlife.
4. Subdivisions in the Shoreland Zone shall meet the standards of that Zone in Section 1400 of the Land Use Ordinance of the Town of Bradley.

#### **12.4 Storm Water Management Design Guidelines.**

A. Design of best management practices shall be substantially equivalent to those described in the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, current edition.

Driveway culvert requirements and installation shall be governed by the most recent Town of Bradley Culvert Ordinance.

B. The minimum pipe size for any storm drainage pipe shall be (12) twelve inches, unless specified by a professional engineer. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

C. Catch Basins shall be installed where necessary, and when located within a street shall be located at the curb line.

D. . Storm Drainage Construction Standards.

1. Materials.

a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications.

b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a 50-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.

c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

2. Pipe Gauges. Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

Table 12.4-1. Culvert Specifications

<u>Inside Diameter</u>	Galvanized CMP	Aluminum Coated CMP
	<u>Aluminum/Zinc Coated CMP</u> <u>Corrugated Aluminum Alloy</u>	<u>Polymer Coated CMP</u>
18" to 24"	14 ga.	16 ga.
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Public Works Director.
  4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a between 250 and 300 foot intervals.
- E. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

## 12.5 Lots.

- A. The Board shall not approve for development such portions of any proposed subdivision that are:
1. Shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  2. Unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - a. slopes greater than 25%
    - b. wetland soils.
  3. Subject to rights of way.



4. Located in the resource protection zone.
  5. Covered by surface waters.
  6. Utilized for storm water management facilities.
- B. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
- C. If land on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- D. The ratio of lot length to width shall not be more than 5:1. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- E. For subdivisions lying wholly or partly within the watershed of any great pond, the Erosion and Sediment Control Plan shall specify those portions of the lots that may be graded or built upon. No building shall be placed within 100 feet of the normal high water mark of any great pond, or any perennial watercourse draining into a great pond.

## **12.6 Monuments.**

- A. Monuments shall be set no further than 750 feet apart along street lines without curves or intersections.
- B. Monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable

monumentation, as required by the Maine Board of Licensure for Professional Land Surveyors.

## **12.7 Cluster Developments.**

Cluster Developments shall conform to the standards of the duly adopted Land Use Ordinance of the Town of Bradley and be consistent with the purposes of the Comprehensive Plan of the Town.

## **12.8 Phosphorus Export.**

When a proposed subdivision is within the watershed of a great pond, phosphorus control measures shall meet the design criteria in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, current edition.

Simplified Phosphorus Review may be used for:

- A. A proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three-lot subdivision or 600 feet for a four-lot subdivision;
- B. A proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three-lot subdivisions or 1,100 feet for four-lot subdivisions; or
- C. A proposed subdivision consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building, parking, driveway, lawn, subsurface wastewater disposal systems and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

A proposed subdivision that creates lots that could be further subdivided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

# APPENDIX

13

## **ARTICLE 13 – PERFORMANCE GUARANTEES**

### **13.1 Types of Guarantees.**

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees in an amount equal to 125% of the total construction costs of all required improvements:

A. Either a certified check payable to the Town of Bradley or a savings account or certificate of deposit naming the Town of Bradley as owner, for the establishment of an escrow account;

B. A performance bond payable to the Town of Bradley issued by a surety company, approved by the Planning Board and the Town Manager;

C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town of Bradley may draw if construction is inadequate, approved by the Planning Board and the Town Manager.

The conditions and amount of the performance guarantee shall be determined by the Town Manager in consultation with the appropriate professionals as determined.

### **13.2 Contents of Guarantee.**

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

### **13.3 Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Bradley, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any

account opened by the applicant, the Town of Bradley shall be named as owner or co-owner, and the consent of the Town of Bradley shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the Town of Bradley has found it necessary to draw on the account.

#### **13.4 Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town of Bradley. The bond documents shall specifically reference the subdivision for which approval is sought.

#### **13.5 Letter of Credit.**

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

#### **13.6 Phasing of Development.**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

#### **13.7 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Town Manager shall determine to his/her satisfaction, in part upon the report of the Planning Board or other qualified individual retained by the Town of Bradley, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

### **13.8 Default.**

If upon inspection, the Public Works Director or other qualified individuals retained by the Town of Bradley finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Planning Board and the applicant or builder. The Town Manager shall take any steps necessary to preserve the rights of the Town of Bradley.

### **13.9 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of this ordinance and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

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# APPENDIX

14

## **ARTICLE 14 – WAIVERS**

### **14.1 Waivers Authorized.**

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the land use ordinance, or this ordinance.

### **14.2 Findings of Fact Required.**

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the land use ordinance, or this ordinance, and further provided the performance standards of this ordinance and the criteria of the subdivision statutes have been or will be met by the proposed subdivision.

### **14.3 Conditions.**

Waivers may only be granted in accordance with Sections 14.1 and 14.2. When granting waivers, the Board shall set conditions so that the purposes of this ordinance are met.

#### **14.4 Waivers to be Shown on Final Plan.**

When the Board grants a waiver to any of the improvements required by this ordinance, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

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# Chapter 7

## Addressing Ordinance

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ADDRESSING ORDINANCE

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## ADDRESSING ORDINANCE for the Town of Bradley

### **Section I. Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency services personnel in the Town of Bradley.

### **Section II. Authority**

This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, PART 2, Section 1 of the Constitution of the State of Maine and Title 30A- M.R.S.A. Section 3001.

### **Section III. Administration**

This ordinance shall be administered by the Town Council who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections IV. and V. The Town Council shall also be responsible for maintaining the following official records of this ordinance:

- a. A town map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

### **Section IV. Naming system**

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the Town of Bradley shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (e.g., no Pine Road, and Pine Lane).
- b. No two roads should have similar-sounding names (e.g., Beach Street and Peach Street).
- c. A named road should be essentially without gaps
- d. Road names should only change when there is a substantial intersection or at

municipal boundaries.

- e. When needing to name a road with two names in different sections, the name of the road that is used for the longest distance or is most heavily traveled should be kept.
- f. Road names should be assigned based on traffic patterns. When a road forks into two roads, the fork with the higher traffic volume should continue with the same name.

## **Section V. Numbering System**

Numbers shall be assigned every 50 feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, ascending from the number origin.

The following criteria shall govern the numbering system:

- a. All number origins shall begin from Milford/Bradley townline proceeding South Westerly. For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or the driveway of said structure if the front door can not be seen from the main road.
- c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. For example, duplexes will have two separate numbers.
- d. Apartments will have one property number followed by an apartment number, such as 235, Maple Street, Apt 2.

## **Section VI. Compliance**

All owners of structures shall, by the date stipulated in Section VIII, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

- a. *Number on the structure.* Where the structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the structure in the vicinity of the front door or entry.
- b. *Number at the Street Line.* Where the structure is over 50 (fifty) feet ~~of~~ *from* the edge of the road right-of-way, the assigned number shall be

displayed on a post, fence, wall, the mailbox, or on some structure at the property line adjacent to the walk or access drive to the numbered structure.

- c. *Size and Color of Number.* Numbers shall be a minimum 4 inches high and be of a contrasting color to its background.
- d. Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. *Interior location.* All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

## **Section VII. New Developments and Subdivisions**

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

- a. *New Construction.* Whenever any residence or structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from Town Council or its designee. This shall be done at the time of the issuance of the building permit.
- b. *New Subdivisions.* Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board after consultation with the Town Council or its designee, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 feet so as to aid in the assignment of numbers to structures subsequently constructed.

## **Section VIII. Effective Date**

This ordinance shall become effective for the purpose of its implementation on the date of its adoption by the Town Council. It shall become fully effective only after all of its provisions have been fulfilled including notification to each property owner and the Post Office by mail as to each new address. It shall be the duty of each property owner to comply with the provisions of this ordinance, including the posting of new property numbers, within thirty (30) days following notification. On new structures, numbering



must be installed prior to final inspection or when the structure is first used or occupied, whichever comes first.

### **Section IX. Enforcement**

- a. Code Enforcement Officer: The Code Enforcement Officer of the Town of Bradley shall have the responsibility of enforcing this ordinance. If the Code Enforcement Officer shall find that any provision of this ordinance is violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of such notices shall be maintained as a permanent record.
- b. Legal Action: When the above action does not result in the correction or abatement of the violation, the Town Council, upon notification from the Code Enforcement Officer, is hereby authorized to institute any and all actions and proceedings, either legal or equitable, including actions seeking injunctions of violations and the imposing of fines, that may be ordinance in the name of the town.
- c. Penalty: Any person, including, but not limited to a landowner, a landowner's agent or a contractor, who violates any provision of this ordinance shall be penalized in accordance with 30-A, M.R.S.A. Section 4452, as now existing or subsequently amended.

In addition, the Town of Bradley shall be entitled to all of the relief, including its costs and legal fees as allowed by said section 4452. Notwithstanding any provision to the contrary, including the provision of 30-A.M.R.S.A. Section 4452, as now existing or amended in the future, the Town of Bradley shall be entitled to judgment against any violator for its costs, expert witness fees, code enforcement expenses and attorney's fees incurred in enforcing this ordinance.

### **Section X. Severability**

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

# Chapter 8

## Pawnbrokers Ordinance

## PAWNBROKERS ORDINANCE

Sec. 1 Pawnbrokers Licenses Required. No person, firm or corporation shall engage in the Pawnbroker's in the Town of Bradley except under written license granted by the Town Council and issued under the signature of the Town Clerk.

Definitions:

- a. Pawnbroker: Any person, firm or corporation engaged in the business of \_ pawnbroking for which a license is required under 30-A M.R.S.A. ss 3961.
- b. Dealer: Any person, firm or corporation engaged in the business of purchasing, selling or trading used personal property.

1.1 License Fee: The applicant shall be required to fund the cost of the required legal notice to be published in a newspaper of general circulation. The applicant will also pay the Town a ten (10.00) dollar processing fee. At the time of application the applicant will provide the Town with \$75.00 from which the legal notices will be paid. Any funds remaining will be turned back to the applicant.

1.2 Effective Date of License: Such license shall continue in force for one year unless sooner revoked by vote of Town Council.

1.3 Record Kept of Licenses: The Town Clerk shall keep a record of such licenses and revocations in a book kept and properly indexed therefore.

Sec. 2 Application Requirements: Applications for pawnbroker's license shall designate the place and where the business is to be carried on.

Sec.3 Requirements of License Pawnbrokers: Every person, firm or business in the Town of Bradley under license as provided by the laws of the State or ordinances of the Town, as a pawnbroker shall make available to the office of Town Manager during regular business hours a correct list or transactions records containing an account of property held in pawn and the name and residence of the pawnier.

3.1 Sign Required: Every person, firm or corporation so licensed shall put and keep in some conspicuous place on the outside of such place of business, a sign designating, a licensed pawnbroker, and the name of such licensee.

Sec. 4 Penalties: Violations of any of the provisions of this ordinance or any of the conditions of any pawnbroker's license granted by the Town of Bradley shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each separate offense, and each days violation of any provision hereunder shall be deemed a separate offense.

# Chapter 9


## Dog Ordinance

**TOWN OF BRADLEY**

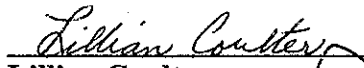
**DOG ORDINANCE**

Approved by the Bradley Town Council at a duly called meeting on 2/20/2008

  
Sally Strout, Chairperson


  
Oscar Emerson

  
Audrey Wilcox

  
Lillian Coulter

  
J. Frederick Clifford

A True Copy Attest:

  
Melissa L. Doane, Bradley Town Clerk

Town of Bradley  
Town Dog Ordinance

THE TOWN OF BRADLEY HEREBY ORDAINS that the following ordinance shall be adopted:

Section 1. Definitions:

As used in this ordinance, unless the context otherwise indicates:

- A. DOG- shall be intended to mean both male and female dogs.
- B. OWNER- shall be intended to mean any person or persons, firm, association or corporation owning keeping, harboring or in possession of or having the control of a dog, the parent or parents or guardian of a minor who owns, keeps or has in possession a dog.
- C. AT LARGE- shall be intended to mean off the premises of the owner and not under the control of any person by means of personal presence and attention as will reasonably control the conduct of such dog either by leash, cord, chain or "at heel", or under commend.
- D. ANIMAL CONTROL OFFICER- the Town Manager shall appoint an animal control officer for the purpose of enforcement of the provisions of this ordinance and the performance of the duties and responsibilities conferred upon animal control officers under Maine State statute. The animal control officer shall be authorized to issue compliance orders and court summons as required by this ordinance and Maine State statute.

Section 2. Running at Large

- A. No owner shall cause or permit any dog to run at large with the Town of Bradley. A dog, while in or on any public way or place shall be under restraint of a leash of not more than eight feet in length.
- B. Nothing in this section shall require the leashing of any dog while it is on the property of its owner.

Section 3. Barking or Howling Dogs

No owner shall keep or harbor any dog within the Town of Bradley which by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quite and good order of the Town.

#### Section 4. Removal and Disposal of Dog Excrement

- A. It shall be a violation of this section for any owner to fail to immediately remove and dispose of any feces left cast or deposited by the dog upon the premises of any public way or place or upon the property of others.
- B. This section shall not apply to a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

#### Section 5. License

A suitable tag showing the year the dog license was issued in accordance with the State of Maine statutes and bearing such other data as the commissioner of agriculture may prescribe shall be securely attached to a collar which must be worn at all times by the dog for which the license was issued. It shall be unlawful for any person to remove such tag or to place either a collar or tag on any dog not described or for which the license was not issued.

#### Section 6. Fees

Any owner of a dog that has been transported by the Animal Control officer will be charged a \$20.00 fee plus any mileage expenses, boarding and medical expenses for the care of the dog. Failure to pay such a fee within 30 days of the billing date is a violation of this ordinance.

#### Section 7. Penalty

Upon a signed and sworn written complaint by any person, a duly qualified law enforcement official, animal control officer or person acting in that capacity for the Town of Bradley may investigate and may give written notice to the owner that they have been found in violation of this Ordinance. The written notice shall be made part of the complaint. Upon continuance of such violation, the owner found in violation of this ordinance by a court shall be subject to fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and shall also be liable to reimburse the Town and its officials for all costs incurred by the Town and its officials in connection with this violation, including but not limited to compensation for the animal control officer at the rate paid by the Town of Bradley, mileage expenses, the actual cost of boarding the dog in question, and reasonable attorney's fees. In no event will the fine assessed by the court be less than expenses incurred by the Town of Bradley in process of violation of this ordinance unless different penalties are provided for in Maine State statute.

# Chapter 10

## Holding Tank Ordinance



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HOLDING TANK ORDINANCE

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- Section 6. Exclusiveness of Rights and Privileges
- Section 7. Duties of Owner of Improved Property
- Section 8. Violations
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- Section 10. Alternative Disposal
- Section 11. Repeal
- Section 12. Severability
- Section 13. Effective Date

## **Holding Tank Ordinance**

**Be It Enacted And Ordained** by the Councilors of the Town of Bradley, Penobscot County, and it is hereby enacted and ordained as follows:

**Section 1. Purpose.** The purpose of this Ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain waste water from residential or commercial uses. It is hereby declared that the enactment of this Ordinance is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this municipality.

**Section 2. Definitions.** Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

**Authority:** Shall mean the Councilors or their designated representative of the Town of Bradley, Penobscot County, Maine.

**Agent:** Shall mean the person designated in a holding tank permit to maintain a holding tank after initial installation.

**Holding Tank:** A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of waste water at another site.

**Improved Property:** Any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure waste water shall or may be discharged.

**Municipality:** Shall mean the Town of Bradley, Penobscot County, Maine.

**Owner:** Any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality.

**Person:** Any individual, partnership, company, association, corporation, or other group or entity.

**Waste Water:** Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers or other source of water-carried industrial, hazardous, or toxic wastes and materials.

**Section 3. Rights and privileges granted.** The Authority is hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank waste water and the collection and transportation thereof.

**Section 4. Rules and regulations to be in conformity with applicable law.** All such rules and regulations adopted by the Authority shall be in conformity with the provisions herein, all other ordinances of the Town of Bradley, all applicable laws and applicable rules and regulations of the administrative agencies of the State of Maine. Holding tanks can not be used for seasonal conversion, see Subsection 301.3 of 144a CMR 241, or new construction within the Shoreland zone of a major water course.

**Section 5. Rates and charges.** The Authority shall have the right and power to fix alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

**Section 6. Exclusiveness of rights and privileges.** The collection and transportation of all waste water from any improved property utilizing a holding tank shall be done solely by, or under the direction and control of, the Authority, and the disposal thereof shall be made at such site or sites as may be approved by the Maine Department of Environmental Protection.

**Section 7. Duties of owner of improved property.** The owner of an improved property that utilizes a holding tank shall:

A. Maintain the holding tank in conformance with this or any other Ordinance of this Town, the provisions of any applicable law, the rules and regulations of the Authority, and any administrative agency of the State of Maine; and

B. Permit only the Authority, or its agent, to collect, transport, and dispose of the contents therein.

**Section 8. Violations.** Any person who violates any provisions of Section 7 shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One Hundred and not more than Three Hundred dollars, plus costs.

**Section 9. Abatement of nuisances.** In addition to any other remedies provided in this ordinance, any violation of Section 7 shall constitute a nuisance and shall be abated by the municipality or Authority by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

**Section 10. Alternative disposal.** An alternative means of waste water disposal shall meet first time system criteria. Replacement system criteria shall not be considered.

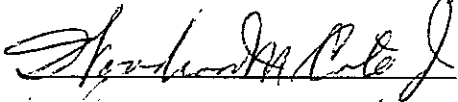
**Section 11. Repeal.** All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

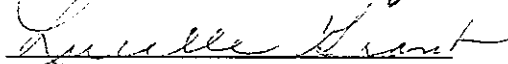
**Section 12. Severability.** If any sentence, clause, Section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

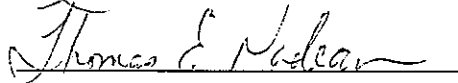
**Section 13. Effective date.** This ordinance shall become effective thirty days after its adoption.

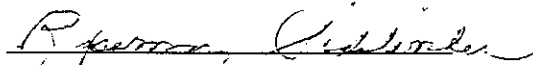
ENACTED AND ORDAINED, Councilors into an Ordinance this 27 day of February A.D., 1996 of the Town of Bradley of Penobscot County in lawful session duly assembled.

Councilors of the Town of Bradley











**A True Copy**



Attest: Town Clerk

Don Thompson

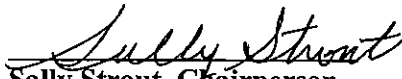
# Chapter 11

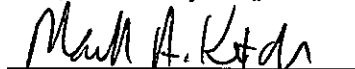
## Culvert and Driveway Entrance Ordinance


**TOWN OF BRADLEY**

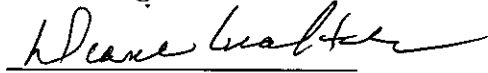
**CULVERT and DRIVEWAY ENTRANCE ORDINANCE**

Approved by the Bradley Town Council at a duly called meeting on May 19, 2015

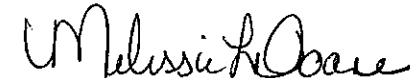
  
Sally Strout, Chairperson

  
Mark Ketch

  
Duane Lugdon

  
Diane Walter

A True Copy Attest:

  
Melissa L. Doane, Bradley Town Clerk

\_\_\_\_\_  
Amanda Lankist

**Town of Bradley**  
**Town Culvert and Driveway Entrance Ordinance**

THE TOWN OF BRADLEY HEREBY ORDAINS that the following ordinance shall be adopted to govern the installation of culverts and driveway entrances that border onto town public ways.

**Article 1: Title and Purpose**

This ordinance shall be known and may be cited as the "Culvert and Driveway Entrance Ordinance" of the Town of Bradley, Maine and will be referred to herein as the "Ordinance". It is enacted by the Town of Bradley to establish standards for the issuing, sizing, and installation of all culverts and all driveway entrances that enter onto town public ways. This includes temporary culverts and driveway entrances. This Ordinance is not applicable to culverts or driveway entrances entering onto State Highway or onto private ways. The Town of Bradley wishes to ensure the proper issuance of permits, and the installation and sizing of culverts and driveway entrances located on town public ways to protect the drainage and roads of the Town of Bradley, as well as the health, safety, and welfare of its residents.

**Article 2: Definitions**

- A. TOWN PUBLIC WAY is defined as a road accepted as a town road by the Town of Bradley Town Council and is maintained with funds from the Town of Bradley municipal budget which is approved by its voters.
- B. TOWN AGENT is defined as the administer of this Ordinance and shall be duly appointed by the Town Council.
- C. DRIVEWAY ENTRANCE is defined as a driveway, road, field road or other avenue of vehicular travel that runs through any part of a private parcel of land and that connects or will connect to a town public way at the property boundary.
- D. SIGHT DISTANCE is defined as ten feet for each mile per hour of the posted speed limit in either direction for that section of town public way from a height approximating the sitting height in a standard automobile and ten feet back from the pavement of the town public way.

**Article 3: Authority and Administration**

- A. **Authority**  
This Ordinance is enacted under the authority granted to the Town by the Constitution and the Statutes of the State of Maine and the Charter of the Town of Bradley.
- B. **Effective Date**  
This Ordinance shall be in full force and effect according to the provisions set forth by Article III Section 9 of the Charter of the Town of Bradley.

#### **Article 4: Applicability**

This Ordinance shall apply to all culverts and driveway entrances installed or constructed in the town public way.

#### **Article 5: Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of the Ordinance should be declared invalid, for any reason, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

#### **Article 6: Conflict with other Ordinances**

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, the provisions of this Ordinance shall prevail.

#### **Article 7: Repeal of Prior Ordinance**

The Town of Bradley Town Culvert Ordinance dated November 1, 2006 and the Town of Bradley Townway Entrance Ordinance dated April 1, 1991 with all amendments thereto will be repealed with the adoption of this Ordinance.

#### **Article 8: Permits**

##### **A. Town Public Way:**

No person shall construct, modify or install a culvert(s) or driveway entrance within the town public way without first securing a permit to do so from the Town Agent. The code enforcement officer shall not issue building or other developmental permits until a culvert and driveway entrance permit is obtained. A proper culvert and driveway entrance must be installed/constructed prior to any work being commenced on any property bordering the town public way.

##### **B. Temporary Driveway Entrance and Culverts:**

Temporary driveway entrances and temporary culvert installation are subject to the regulations set forth in the Ordinance. Any temporary driveway entrance or culvert must be removed within 60 days unless approved by the Town Agent. Used culverts may be utilized for temporary driveway entrances.

##### **C. Permit Application Review:**

The Town Agent shall have no less than seven (7) business days to make review of the permit application for material and design requirements. The applicant/property owner shall have clearly marked the desired location on the application.

The property owner/applicant must notify the Town Agent within five (5) business days from the completion of the installation of the culvert and driveway entrance.



**D. Permit Form:**

The permit is designed to ensure proper compliance with the ordinances of the Town of Bradley.

**E. Permit Fees:**

Persons making application for a permit shall be subject to a fee as approved by the Town Council and set forth in the fee schedule.

**F. Permit Expiration:**

The permit shall expire one year from the date of issuance. If work is not completed a new permit and permit fee shall be required.

**Article 9: Culverts:**

**A. Responsibilities**

**Property Owner responsibility**

It shall also be the responsibility of the property owner/applicant to pay for and install the first culvert on a town public way. The property owner/applicant shall keep the culvert free of obstruction and report any problems with the culvert such as worn surface gravel or drainage issues.

Should the property owner/applicant willfully and or negligently dump leaves, other debris, plow snow and or ice into the ditch over the end of the culvert, which disrupts the flow of water, the property owner/applicant shall be responsible for the cost of correction if the town has to clear the culvert or if a blocked culvert causes damage to the roadway.

**Town Responsibility**

It shall be the responsibility of the Town to replace or reset all culverts after the first culvert is installed. The need for replacement or reset is to be determined by the Town. The Town will not be obligated to replace or reset a culvert if it was incorrectly installed, not of the correct type as required under this Ordinance, or damaged through the negligence of the property owners, or the property owners' invitees or agents. The Town will also not be responsible for damage to driveways caused by the movement of culverts. The Town will not be responsible for the preservation of decorations within the town public way. The Town will determine what the suitable surface replacement will be, the Town will not be responsible for re-pavement of driveways as a result of culvert replacement or reset.

**B. Standards**

Culverts are required at all driveway entrances, curb cuts, and town public way. It may be determined by the Town Agent at the time of application that a culvert is not required. If it is determined that a culvert is not required at the time of application for a permit, this does not waive the Town's right to require a culvert at a later time due to future road reconstruction or drainage needs. It will be the responsibility of the property owner/applicant to pay for the installation and the cost of the first culvert in these cases.

**1. Types of culverts allowed.**

Use of used culverts for is prohibited for any installation other than temporary installation or construction.

- a. Aluminized Type 2 or higher grade – Culverts of this type are allowed to be used under this Ordinance.
- b. Smooth Interior Plastic N-12 or higher grade – Culverts of this type are allowed to be used under this Ordinance.

**2. Culvert Sizing Criteria**

Culvert size shall be determined by the Town Agent by considering the size of culverts located upstream and downstream in the ditch line and the land area being drained.

- a. The minimum diameter of all driveway culverts will be 15 inches.
- b. The length of the culvert will be determined by the Town Agent using the width of the driveway entrance as designed in accordance with this Ordinance as the basis.

**3. Culvert Installation**

The following installation practices shall be strictly followed in order to ensure proper culvert performance and to prevent damage:

- a. Culverts shall be installed at the bottom of the ditch line. Drainage in the town's side ditches shall not be altered or impaired.
- b. Appropriate cover is to be determined by Town Agent, and will be noted on the permit by said agent.
- c. All fill material must be compacted around and over the culvert pipe in 8 inch layers to prevent seepage along the pipe and reduce settlement of the driveway over the culvert. Backfill should be clean gravel and compacted in such a way as to prevent drainage into the road. Special care and compaction should be used on the bed and around the haunches of the culvert.
- d. The inlets and outlets of all culverts should be stabilized to prevent erosion. Recommended methods are rip-rap or seeding. The Town recommends a minimum of 5" diameter rocks or equivalent.
- e. Other standards of installation may apply depending on the type of bedding soils the culvert is placed on. If this is the case, then the Town may require the use of a different bedding material.
- f. Damage to town public way as determined by the Town Agent caused by culvert installation will be repaired at the property owner/applicants expense.
- g. It is the property owner/applicant's responsibility to clean up the tracking of soil, gravel, vegetation or other material onto the town public way that occurs due to the culvert installation.
- h. Within 5 business day of completion of the installation, it is the responsibility of the property owner/applicant to contact the Town Agent to inspect.

## **Article 10: Driveway Entrance**

Any driveway entrances constructed is for the purpose of securing access to property. No driveway entrance constructed on the town public way as an exercise of the permit shall be relocated or its dimensions altered without written permission of the Town Agent.

### **A. Responsibilities.**

#### **Property Owner/Applicant Responsibility**

It shall also be the responsibility of the property owner/applicant to pay for and install the driveway entrance on the town public way. It shall also be the responsibility of the property owner/applicant, in the case of a new entrance or change to use entrance onto a State Highway, to acquire an Entrance Permit from the Department of Transportation. A copy of this permit must be supplied to the Town Agent prior to obtaining a building, land use permit or any other pertinent permit for this property.

### **B. Standards**

- a. All driveway entrances shall be so located that vehicles approaching or using the town public way will be able to obtain adequate sight distance in both directions along the town public way, so they may maneuver safely without interference with traffic.
- b. Occupancy of the town public way and is prohibited.
- c. To the greatest extent possible, the grade of the driveway entrance shall slope away from the town public way surface. Surface drainage shall be provided so that all surface water on the areas adjacent to the town public way shall be carried away from the town public way.
- d. All driveway entrances shall be constructed so that they shall not interfere with the drainage of the road, side ditches and roadside areas.
- e. All driveway entrances shall be graded and constructed in such a manner that no storm water or surface drainage is discharged on to the town public way.
- f. All driveway entrances apron shall extend out into the town public way further than the town public way edge or face of the curb.
- g. Drainage in the town public way ditches shall not be altered or impaired.
- h. Damage to the town public way as determined by the Town Agent caused due to the construction of the driveway entrance will be repaired at the property owner/applicants expense.
- i. It is the property owner/applicants responsibility to clean up the tracking of soil, gravel, vegetation or other material onto the town public way that occurs due to the driveway entrance construction.

## **Article 11: Enforcement**

The Town Agent shall be responsible for the enforcement of this Ordinance pursuant to the provisions of 30-A MRS § 4452 sub § 1.

## **Article 12: Penalties**

Failure to comply with any provision of this Ordinance may cause the violator to be liable for civil penalties as set forth in 30-A MRSA § 4452 sub §3, plus the payment of the Town's reasonable attorney fees and costs incurred in bringing suit and may also require the removal of any illegally constructed entrances and/or culverts at the property owners expense. If it is determined that a culvert installation was not designed ~~or~~ in accordance with this Ordinance, then the town may refuse to replace the culvert upon failure, refuse to fix any washout conditions found to be caused by faulty installation, or may remove the culvert altogether. Any reinstallation or replacement will be the responsibility of the property owner. The property owner/applicant shall reimburse the Town for any costs borne by it due to the property owner's noncompliance with the requirements of this Ordinance. Driveway entrances constructed in violation of this Ordinance that cause damage to a town public way, will subject the property owner/applicant to liability for payment of reasonable roadway repairs.

## **Article 13: Appeals**

Any applicant who has applied for a permit and has been denied, or feels aggrieved by the denial, the conditions of the permit or the permit fee imposed, may appeal the decision of the Town Agent by applying to the Board of Appeals, in writing, stating the basis for the appeal, within 30 days of issuance of the permit or receipt of the notice of decision made by the Town Agent. The fee for such an appeal shall be \$50.00 and must accompany the request for appeal. The Board of Appeals shall review the permit application within thirty (30) days of the receipt of the request for review. The Board of Appeals may only reverse the decision of the Town Agent if it was clearly contrary to the provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the applicant as to the approval or denial of a permit. If the decision of the Town Agent is overturned, in whole or in part, the Town shall be required to refund the appeal fee of \$50.00. If the Town Agent's decision prevails, any fines shall be accrued from the initial date of violation notice.



# TOWN OF BRADLEY

## PERMIT APPLICATION



### CULVERT & DRIVEWAY ENTRANCE

<b>PROPERTY OWNER'S NAME</b>			
<b>MAILING ADDRESS</b>			<b>Map Lot</b>
<b>PROPERTY ADDRESS</b>			
<b>TELEPHONE</b>	<b>HOME</b>	<b>WORK</b>	
<b>AGENT</b>		<b>ADDRESS</b>	<b>PHONE</b>

In accordance with the Town of Bradley Culvert Ordinance and Town-way Entrance Ordinance, application is hereby made to (Check all that apply.)

☐ Create an entrance/driveway (Including a change of use) (Include DOT permit if on Main St.)

☐ Install a culvert(s) at the entrance to my property on the  
(specify: north, south-east, etc.) \_\_\_\_\_ side of the traveled way named above,

☐ or other use (specify) \_\_\_\_\_.

PROJECT DESCRIPTION: (Please describe the proposed activity)

Proposed width of opening _____ ft.
Total proposed linear length of driveway from end to end _____ ft.
Surface of the driveway will be gravel <input type="checkbox"/> bituminous asphalt, <input type="checkbox"/> other <input type="checkbox"/> (describe)
Surface of the abutting roadway is gravel <input type="checkbox"/> bituminous asphalt, <input type="checkbox"/> other <input type="checkbox"/> (describe)
Other information:

CULVERT SIZE: NORMAL: 15" DIAMETER, 24' LENGTH. or: \_\_\_\_\_.

This permit application or any permit issuing therefrom does not preclude the applicant from meeting applicable State and Federal rules, statutes and guidelines, which may differ from local ordinances. It is your responsibility to check. Permits will expire if the work is not completed within one (1) year of the permit date. False information can invalidate a permit and stop work on a project. Any work performed under permission granted by this PERMIT must conform to all the provisions of all ordinances in effect on the date of this permit, unless permission for non-conformance has been granted, in writing, by the Authority granting the permit.

I certify that I have read and understand all the details of the TOWN OF BRADLEY CULVERT AND DRIVEWAY ENTRANCE ORDINANCE (Available at the Town Office)..

I understand that my signature grants permission and gives my express consent for the Town Agent and Road Commissioner or his/her agent(s) of the Town of Bradley to enter upon my property for the purpose of performing inspections, during normal business hours, of the construction and final completion of the project.

I certify that I have obtained all other required permits and approvals from all other State and Federal agencies. Further, I hold the Town harmless from any damages, fines and penalties which may arise from this work, and save harmless and indemnify the Town against all suits, claims, damages and proceedings of any kind arising out of the construction and maintenance of said driveway entrance.

I have read, completed and I understand all of the above.

**SIGNATURE \***

**DATE**

Owner ☐

Agent ☐

\*\*\* PLEASE ALSO COMPLETE THE REVERSE SIDE OF THIS APPLICATION & SIGN BOTH SIDES.



# Chapter 12

## Special Amusement Ordinance

TOWN OF BRADLEY  
SPECIAL AMUSEMENT ORDINANCE

Approved by the Bradley Town council at a duly called meeting on May 19, 2015

Sally Strout  
Sally Strout, Chairperson

A True Copy Attest:

Mark A. Ketch  
Mark Ketch

Melissa L. Doane  
Melissa L. Doane Bradley Town Clerk

Duane Lugdon  
Duane Lugdon

Diane Walter  
Diane Walter

Amanda Lankist  
Amanda Lankist



**TOWN OF BRADLEY  
SPECIAL AMUSEMENT ORDINANCE**

The Town of Bradley hereby ordains that an ordinance entitled "Special Amusement Permit Ordinance of the Town of Bradley" be hereby adopted as follows:

**ARTICLE 1: TITLE and PURPOSE**

This Ordinance shall be known and may be cited as the "Special Amusement Ordinance" of the Town of Bradley, Maine and will be referred to herein as the "Ordinance". The purpose of this Ordinance is to control as required in Title 28A MRSA § 1054, as amended, the issuance of Special Permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor in the Town of Bradley.

**ARTICLE 2: DEFINITIONS**

- A. ENTERTAINMENT-Any amusement, performance or exhibition or diversion for patrons or customers of the licensed premises, whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.
- B. LICENSEE-The holder of a license issued under the alcoholic beverages statutes of the State of Maine or any person, individual, partnership, firm association, corporation, or other legal entity acting as agent or employees of the holder of such a license.
- C. NUISANCE-excessive, or unreasonably loud noise or any noise which either annoys, disturbs, injuries or endangers the comfort, repose, health or safety of individuals; or which results in disturbing the peace and tranquility of the neighborhood.

**ARTICLE 3: PERMIT**

No licensee for the sale of liquor to be consumed on his or her licensed premises shall permit on such licensed premises located in the Town of Bradley any music, except a radio or mechanical device, and dancing or entertainment of any sort unless the licensee shall have first obtained a special amusement permit approved by the Town of Bradley Town Council.

- A. APPLICATION FORM-Applications for special amusement permits and annual renewals thereof shall be made in writing on forms provided by the Town Clerk and signed by the licensee at least 20 days in advance of the next regularly scheduled Town Council meeting. Each application shall state the name and address of the applicant; the name, address, and nature of the proposed amusement; whether admission will be charged under Subsection B and if so the area so designated and whether the applicant has ever had a State liquor license or special amusement permit denied or revoked and if so, and explanation thereof.
- B. ADMISSION CHARGES-The licensee of a licensed hotel, Class A restaurant, Class A Tavern or restaurant or malt liquor licensee, as defined in MRSA title 28A, who has been issued a special amusement permit may charge admission in designated areas; provided however, that such area must be so designated in the application and approved by the Town Council.
- C. PERMIT FEE-The permit fee shall be subject to a fee as approved by the Town Council and set forth in the fee schedule.

## **ARTICLE 5: INSPECTIONS**

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a Special Amusement Permit are provided for or required by Ordinance or State law, or are reasonably necessary to secure compliance with any Ordinance provision or State law, it shall be the duty of the licensee, or person in charge of the premises to be inspected, to admit any officer, official or employee of the town authorized to make inspection at any reasonable time that admission is required

The Town Council may require an initial inspection of the premises and licensee for overall ability to comply with the provisions of this Ordinance. Thereafter, annually inspections may take place. The officer, official or employee of the Town authorized to make inspection will record the findings.

In addition to any other penalty which may be provided, the Town Council may revoke the Special Amusement Permit of any licensee in the Town who refuses to permit any such officer, official or employee of the Town to make an inspection, or who interferes with such officer, official or employee while in the performance of their duties.

## **ARTICLE 4: PUBLIC HEARING**

Prior to granting a new special amusement permit and after reasonable notice has been given to the applicant a public hearing will be held. The public hearing shall be advertised at the applicant's expense in a newspaper of general circulation in the town at least seven days in advance. At the public hearing, the testimony of any interested parties shall be heard.

## **ARTICLE 4: ISSUANCE OF PERMIT**

After the public hearing, the Town Council shall grant the special amusement permit requested unless the issuance of the permit would be detrimental to the public health, safety, or welfare or would violate any applicable state law or town ordinance. No permit shall be issued under this Ordinance, if the premises and building to be used for the purposes do not fully comply with all Town of Bradley Ordinances, Articles, By-laws, appropriate fire codes and State of Maine Statutes.

Town Council may impose reasonable restrictions to protect property owners in the vicinity of the licensed premises from any nuisance aspects of the proposed amusement, including the location and size of the premises, the facilities that may be required for the permitted activities on those premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities will be amused.

## **ARTICLE 5: NOTICE OF DECISION**

Any licensee requesting a special amusement permit shall be notified in writing of the Town Council's decision no later than 15 days from the date of the decision. In the event that a licensee is denied a permit or restrictions are imposed upon the permit, the licensee shall be provided in writing the reasons for the denial or a list of restrictions. A licensee may not reapply for the same permit within 30 days.

## **ARTICLE 6: DURATION OF PERMIT**

A Special Amusement Permit shall be valid for only the license year of the existing liquor license.

## **ARTICLE 7: SUSPENSION OR REVOCATION OF PERMIT**

The Town Council may, after a public hearing preceded by notice to interested parties, suspend or revoke any special amusement permit on the grounds that the music, dancing or entertainment so permitted is detrimental to the public health, safety or welfare or violates any applicable State law or Town Ordinance. If the Town Council revoke or suspend a licensee's Special Amusement Permit, he or she shall be notified in writing within 15 days of the reasons for such action.

#### **ARTICLE 8: APPEALS**

A Licensee whose request for a Special Amusement Permit has been denied, approved with restrictions, or revoked or suspended may, within 30 days of such action, appeal the decision to the Board of Appeals. The Board of Appeals may grant or reinstate the permit only if it finds that the denial, imposition of restrictions or revocation, or suspension was arbitrary or capricious.

#### **ARTICLE 9: ENFORCEMENT, VIOLATION AND PENALTIES**

This Ordinance and the terms of the Special Amusement Permit issued shall be enforced by any Town employee or Town official appointed by the Town Council to hold such authority. Whoever violates any provision of this article shall be fined not less than \$100 not more than \$500 to be recovered on complaint to the use of the Town of Bradley. Each day that such violation continues shall constitute a separate offense.

#### **ARTICLE 10: SEVERABILITY**

The invalidity of any provision of this ordinance shall no invalidate any other provisions.

**TOWN OF BRADLEY**  
**APPLICATION FOR SPECIAL AMUSEMENT PERMIT**

Applicant's Name:	
Mailing Address	
Contact Phone Number:	Email:

Name of Business:	
Business Physical Address:	
Business Mailing Address:	
Business Phone Number:	Business Email:

Nature of Business:
---------------------

Describe the kind and nature of entertainment proposed:
Hours and days of Operation:

Has the applicant ever had a license to conduct business herein described, either denied or revoked?
<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, describe circumstances:

Has the applicant including any partner or corporate officers ever been convicted of a felony?
<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, describe circumstances:

Attach a copy of applicant's current liquor license. Expiration date of current liquor license:
---

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto and that all the information is true and complete. I authorize the Town of Bradley, through its designated officials, to enter the property (including buildings and accessory structures) that is the subject of this application, at reasonable hours, to determine the accuracy of any information provided herein and to determine the state of compliance with conditions of the permit. I am aware that there are significant penalties for submitting false information, including the possibility of fines, imprisonment and revocation of license.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Applicant

Fee Collected: \_\_\_\_\_

\_\_\_\_\_  
Name of Business/Corporation

APPLICATION MUST BE SIGNED BY A MAJORITY OF THE MUNICIPAL OFFICERS

1.	2.
3.	4.
5.	DATE:

# Chapter 13

## Ordinance Restricting Vehicle Weight on Posted Ways

**The Town of Bradley hereby ordains:**

**Ordinance Restricting Vehicle Weight on Posted Ways**

**Section 1. Purpose and Authority**

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Bradley which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A. Sec. 3009 and 29 M.R.S.A. Sec. 2395.

**Section 2. Definitions**

The definitions contained in Title 29 M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

**Section 3. Restrictions and Notices**

The Road Commissioner may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in his/her judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein. (No restriction if road is solidly frozen. "Solidly frozen" means that the air temperature is below 32 degrees F and no water is showing in the cracks of the road.)

The notice shall contain at a minimum the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signature of the Road Commissioner.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

#### Section 4. Exemptions

The following vehicles are exempt from this ordinance:

- (a) Any two-axle vehicle while delivering home heating fuel;
- (b) Any vehicle while engaged in highway maintenance or repair under the direction of the State or Town;
- (c) Any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- (d) Any school transportation vehicle while transporting students;
- (e) Any public utility vehicle while providing emergency service or repairs; and
- (f) Any vehicle whose owner or operator holds a valid permit from the Road Commissioner as provided herein.

#### Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Road Commissioner for a permit to operate on a posted way or bridge notwithstanding the restriction. The Road Commissioner may issue a permit only upon all of the following findings:

- (a) No other route is reasonably available to the applicant;
- (b) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) The applicant has tendered cash, a bond or other suitable security running to the Town in an amount sufficient, in the road commissioner's judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the Road Commissioner makes the foregoing findings, he/she need not issue a permit if he/she determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. He/she may also limit the number of permits issued or outstanding as may, in his/her judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the Road Commissioner shall consider the following factors:

- (a) The gross registered weight of the vehicle;
- (b) The current and anticipated condition of the way or bridge;
- (c) The number and frequency of vehicle trips proposed;
- (d) The cost and availability of materials and equipment for repairs;
- (e) The extent of use by other exempt vehicles; and
- (f) Such other circumstances as may, in his/her judgment, may be relevant.

The Road Commissioner may issue permits subject to reasonable conditions, including but not limited to, restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement

This ordinance shall be administered and may be enforced by the law enforcement, officers of the Town of Bradley and Code Enforcement Officer.

Section 7. Penalties

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250 nor more than \$1,000. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and shall be awarded reasonable attorney fees and costs.

Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

Section 8. Amendments

This ordinance may be amended by the Municipal Officers at any properly noticed meeting.

Section 9. Severability; Effective Date

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

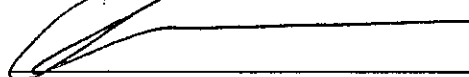
This ordinance shall take effect immediately upon enactment.

Town of Bradley

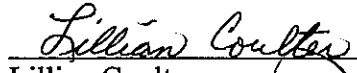
Ordinance Restricting Vehicle Weight on Posted Ways

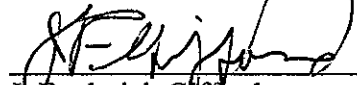
Approved by the Bradley Town Council at a duly called meeting on 11/1/06.

  
Sally Strout, Chairperson

  
Oscar Emerson

  
Audrey Wilcox

  
Lillian Coulter

  
J. Frederick Gifford

A True Copy Attest:

  
Melissa L. Doane Bradley Town Clerk



Notice is hereby given that the Municipal Officers of the Town of Bradley will hold a public hearing on November 1, 2006 6:00 p.m. at The Municipal Building 165B Main Rd Bradley to hear public comment on the following:

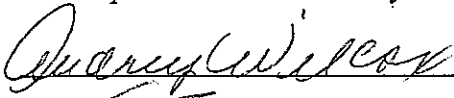
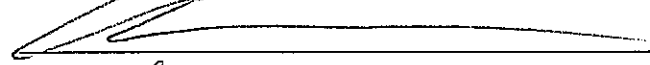
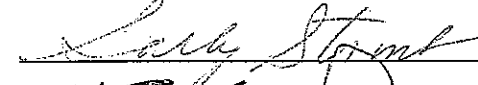
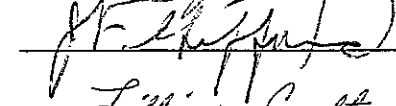

**ORDINANCE RESTRICTING VEHICLE WEIGHT ON POSTED WAYS  
CULVERT ORDINANCE  
SHORELAND ZONING ORDINANCE  
NOTICE OF WINTER PARKING REGULATIONS  
GENERAL ASSISTANCE ORDINANCES APPENDIXES A, B, & C FOR THE YEARS 2006-2007**

**RETURN ON THE NOTICE**

Bradley Maine  
November 1, 2006

Pursuant to 30-A M.R.S.A § 2528 (5), we have notified the inhabitants of said Town of Bradley of a public hearing, to be held at said time and place, and for the purposes herein named, by posting a copy of said notice in said Town, being a public and conspicuous place (s) in said Town on the 19 day of October, being at least seven days before the hearing.

Municipal Officers of Bradley

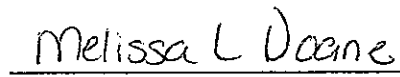
State of Maine

Penobscot, ss

Then personally appeared before me the above-name Audrey Wilcox, J. Frederick Gifford, Oscar Emerson, Lillian Coulter, and Sally Strout, known to me (or, who satisfactorily identified him/herself to me) and swore that the representations set forth in the above Return of Notice are true of their own knowledge; and acknowledged the signatures appearing thereon to be theirs and that they executed the Return of their own free will (and who signed the above Return in my presence).

Date

  
Notary Public

  
Printed name of Notary Public  
Commission expires

# Chapter 14

## Property Assessed Clean Energy Ordinance

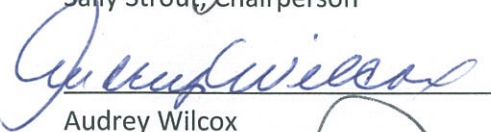
TOWN OF BRADLEY

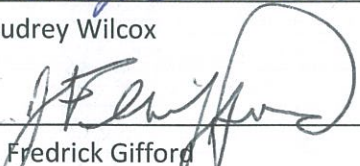
PROPERTY ASSESSED CLEAN ENERGY ORDINANCE


Approved by the Bradley Town Council at a duly called meeting on October 26, 2010

  
Sally Strout, Chairperson

  
Melissa L. Doane Bradley Town Clerk

  
Audrey Wilcox

  
J. Fredrick Gifford

  
Lillian Coulter

  
Nicholas Wood

# **THE TOWN OF BRADLEY PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

## **Administration by the Efficiency Maine Trust**

### **PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.**

#### **PREAMBLE**

WHEREAS, the 124<sup>th</sup> Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Bradley (Municipality), financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

#### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

##### **§ XX-1 Purpose**

By and through this Chapter, the Town of Bradley declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of Bradley. The Town of Bradley declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

##### **§ XX-2 Enabling Legislation**

The Town of Bradley enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq.*).

## ARTICLE II - TITLE AND DEFINITIONS

### § XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “the Town of Bradley of Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

### § XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

**1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

**2. Municipality.** “Municipality” shall mean the Town of Bradley.

**3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

**4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

**5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. **PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
8. **PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### **ARTICLE III - PACE PROGRAM**

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.
2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

## **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

**1. Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

## **ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

### **1. Program Administration**

**A. PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of

home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**C. Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

**D. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

**2. Liability of Municipal Officials; Liability of Municipality**

**A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.



Notice is hereby given that the Municipal Officers of the Town of Bradley will hold a public hearing on October 26, 2010 at 6:00 p.m. at The Municipal Building 165B Main Rd Bradley to hear public comment on the following:

**NOTICE OF WINTER  
PARKING REGULATIONS  
GENERAL ASSISTANCE  
ORDINANCES APPENDICES  
A, B, & C FOR THE  
YEARS 2010-2011**

**PROPERTY ASSESSED CLEAN  
ENERGY (PACE) ORDINANCE**

All documents regarding the above may be viewed at the Bradley Municipal Building or by visiting the Town of Bradley website, [townofbradley.net](http://townofbradley.net). The public is encouraged to attend and comment. Written comments will be accepted until 4 P.M. of the day of the hearing. Written comments should be mailed to the Bradley Municipal Building, ATTN: Melissa Doane PO Box 517 Bradley Me 04411 or via email [mldoane@roadrunner.com](mailto:mldoane@roadrunner.com).

# Chapter 15

General Assistance –  
See General Assistance  
Administrator

**GENERAL ASSISTANCE  
ORDINANCE**

**PLEASE SEE GENERAL  
ASSISTANCE ADMINISTRATOR**

# Chapter 16

## Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Club in the Municipality of Bradley

**Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs  
in the Municipality of Bradley**

**The Town of Bradley hereby ordains** that the following ordinance shall be adopted to govern retail marijuana establishments and retail marijuana social clubs.

**Section 1. Authority.**

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

**Section 2. Definitions.**

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

**Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.**

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

**Section 4. Effective date; duration.**

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

**Section 5. Penalties.**

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

Approved by the Bradley Town Council at duly called meeting 5/30/2017

Mark A. Ketch Mark Ketch

Sally Strout Sally Strout

Duane Lugdon Duane Lugdon

\_\_\_\_\_ Diane Walter

Karen Richard Karen Richard

A True Copy Attest:

Melissa L. Doane  
Melissa L. Doane Bradley Town Clerk

**MUNICIPALITY OF BRADLEY MORATORIUM  
ORDINANCE ON RETAIL MARIJUANA ESTABLISHMENTS AND RETAIL  
MARIJUNA STORES AND RETAIL MARIJUANA SOCIAL CLUBS**

WHEREAS, the "Marijuana Legalization Act," has become law in Maine, codified in the Maine Revised Statutes in Title 7, chapter 417; and

WHEREAS, the Marijuana Legalization Act (hereinafter, "Act") authorizes municipalities to regulate the number of retail marijuana stores and the location and operation of retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined in the Act, as well as providing the option to prohibit the operation of retail marijuana social clubs and retail marijuana establishments, including stores, cultivation facilities, manufacturing facilities and testing facilities, within their jurisdiction; and

WHEREAS, the proposed Act will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications; and

WHEREAS, the Municipality's current ordinances do not include any regulations related to retail marijuana stores, retail marijuana establishments or retail marijuana social clubs under the proposed new Act; and

WHEREAS, the unregulated location and operation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs within the Municipality of Bradley raises legitimate and substantial questions about the impact of such establishments, stores and social clubs on the Municipality, including questions about the compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing uses and development in residential, commercial and industrial zoning districts; the potential adverse health and safety effects of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the Act; potential criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the Municipality's police and fire departments; and the adequacy of the Municipality's streets and infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments, retail marijuana stores or retail marijuana social clubs; and

WHEREAS, the possible effect of the location and operation of retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs within the Municipality has potentially serious implications for the health, safety and welfare of the Municipality and its residents; and

WHEREAS, the Municipality needs time to review the Act and to review its own ordinances to determine the implications of future proposed retail marijuana establishments and/or retail marijuana stores and/or retail marijuana social clubs to develop reasonable ordinances governing the location and operations of such establishments and stores and social clubs to address the concerns cited above; and

WHEREAS, the Municipality's current ordinances are insufficient to prevent serious public harm that could be caused by the unregulated development of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, thereby necessitating a moratorium; and

WHEREAS, the board of municipal officers, the administration and the planning board, with the professional advice and assistance of the police department, shall study the Municipality's current ordinances to determine the land use and other regulatory implications of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and consider what locations, if any, and conditions of approval, if any, might be appropriate for such uses; and

WHEREAS, a moratorium is necessary to prevent an overburdening of public facilities that is reasonably foreseeable as the result of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs and other uses authorized by the Act, being located in the Municipality; and

WHEREAS, it is anticipated that such a study, review, and development of recommended ordinance changes will take at least one hundred and eighty (180) days from the date the Municipality enacts this Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social Clubs;

NOW, THEREFORE, be it ordained by the Town Council of the Municipality of Bradley, that the following Moratorium Ordinance on retail marijuana establishments and retail marijuana stores and retail marijuana social clubs be, and hereby is, enacted, and, in furtherance thereof, the Town Council does hereby declare a moratorium on the location, operation or licensing of any retail marijuana social clubs and any retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, within the Town.

This Moratorium Ordinance shall take effect, once enacted by the Town Council, but shall be applicable as of April 7 2017 as expressly provided below. The moratorium shall remain in effect for one hundred and eighty (180) days from the date of applicability of this Ordinance, unless extended, repealed, or modified by the Town Council, for the express purpose of drafting an amendment or amendments to the Municipality's current ordinances to protect the public from health and safety risks including, but not limited to, compatibility of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with existing and permitted uses in residential, commercial and industrial zoning districts; the correlation of retail marijuana establishments, retail marijuana stores and retail marijuana social clubs with medical marijuana cultivation facilities and dispensaries, all as

defined in the Act; the potential adverse health and safety effects of retail marijuana establishments and retail marijuana stores and retail marijuana social clubs on the community if not properly regulated; the possibility of illicit sale and use of marijuana and marijuana products to minors and misuse of marijuana and marijuana products by those who would abuse the uses authorized under the new law; criminal activity associated with the cultivation, manufacturing, sale and use of marijuana and marijuana products for non-medicinal purposes and the potential increased burden on the public safety agencies serving the Municipality in responding to the same; and the adequacy of the Municipality's infrastructure to accommodate the additional traffic and/or population that may result from the presence of retail marijuana establishments or retail marijuana stores or retail marijuana social clubs in the Municipality.

BE IT FURTHER ORDAINED, that this Ordinance shall apply to retail marijuana stores and retail marijuana social clubs and retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, as those terms are defined by the Act, codified at 7 M.R.S.A. §§ 2442 (36), (38), (39), (40) (41), that may be proposed to be located within the Municipality on or after the April 7, 2017 (date) applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance, when enacted, shall govern any proposed retail marijuana establishments or retail marijuana stores or retail marijuana social clubs for which an application for a building permit, Certificate of Occupancy, site plan or any other required approval has not been submitted to and granted final approval by the Code Enforcement Officer, Planning Board or other Municipal official or board prior to the applicability date of this Ordinance; and

BE IT FURTHER ORDAINED, that no person or organization shall develop or operate a retail marijuana establishment or retail marijuana store or retail marijuana social club within the Municipality on or after the effective date of this Ordinance without complying with whatever ordinance amendment or amendments the Town Council enact as a result of this Moratorium Ordinance; and

BE IT FURTHER ORDAINED, that during the time this Moratorium Ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit or any other type of land use approval or permit and/or any other permits or licenses related to a retail marijuana establishment or retail marijuana stores or retail marijuana social club; and

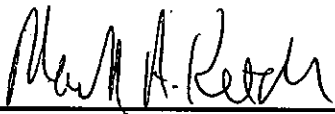
BE IT FURTHER ORDAINED, that those provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance, are hereby repealed to the extent that they are applicable for the duration of the moratorium hereby ordained, and as it may be extended as permitted by law, but not otherwise; and



BE IT FURTHER ORDAINED, that if retail marijuana establishments or retail marijuana stores or retail marijuana social clubs are established in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance, and the Municipality shall be entitled to all rights available to it in law and equity, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations; and

BE IT FURTHER ORDAINED, that should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

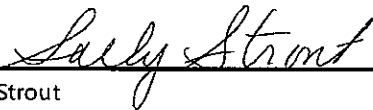
Applicability Date:

X 

Mark Ketch

X

Duane Lugdon

X 

Sally Strout

X 

Amanda Lankist

X

Diane Walter

Notice is hereby given that the Municipal Officers of the Town of Bradley held a public hearing on March 7, 2017 at 6:30 p.m. in The Municipal Building 165B Main Rd Bradley to hear public comment on the following:

### **Marijuana Moratorium**

Bradley Maine  
March 7, 2017

Pursuant to 30-A M.R.S.A § 2528 (5), we have notified the inhabitants of said Town of Bradley of a public hearing, to be held at said time and place, and for the purposes herein named, by posting a copy of said notice in said Town, being a public and conspicuous place (s) in said Town on the 29th day of July being at least seven days before the hearing.

Municipal Officers of Bradley

Mark A. Ketch  
Sally Strout  
Diene Walter  
\_\_\_\_\_  
\_\_\_\_\_

State of Maine

Penobscot, ss

Then personally appeared before me the above-name Amanda Lankist, Duane Lugdon, Sally Strout, Diane Walter and Mark Ketch, known to me (or, who satisfactorily identified him/herself to me) and swore that the representations set forth in the above Return of Notice are true of their own knowledge; and acknowledged the signatures appearing thereon to be theirs and that they executed the Return of their own free will (and who signed the above Return in my presence).

Date

Melissa L. Doane  
Notary Public

Melissa L. Doane  
Printed name of Notary Public  
Commission Expires 11/3/2020

# Chapter 17

## An Ordinance to Restrict Winter Parking

**An Ordinance to Restrict Winter Parking  
Town of Bradley**

**Section 1: Purpose and Authority**

The Town of Bradley hereby ordains an ordinance which shall be known as and may be cited as "An Ordinance to Restrict Winter Parking". The purpose of this ordinance is to protect and promote the public safety of Bradley citizens and to facilitate snow removal and sanding on public ways during the winter season.

This ordinance is adopted pursuant to 30-A M.R.S.A. Sec. 3009 and 29 M.R.S.A. Sec. 902 and 1611.

**Section 2. Restrictions:**

No person shall allow or permit any vehicle under his/her control or registered in his/her name to stand or be parked any vehicle upon a public way within the limits of the Town of Bradley in such a manner as to interfere with or hinder the plowing or removal of snow at any time.

**Section 3: Enforcement:**

The Road Commissioner and or Town Manager may cause any vehicle so parked as listed in section 2 to be towed from the public way at the expense of the owner of such vehicle. Neither the Town of Bradley or appointed designee shall be liable for any damage which may be caused by such removal or caused by non-removal.

**Section 4: Amendments**

This ordinance may be amended by the Town Council at any properly noticed meeting.

**Section 5: Severability**

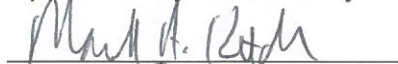
In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

**Section 6: Effective Date**

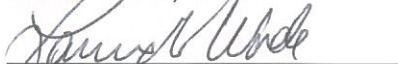
This ordinance shall take effect immediately upon enactment.

**Section 7: Approval**

Approved by the Bradley Town Council at a duly called meeting on \_\_\_\_\_.



Mark Ketch, Chair



Laurence Wade



Duane Lugdon



Charles Clemons



Ann Delaware

A True Copy Attest:



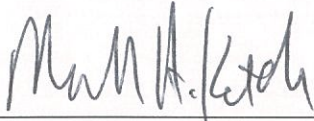
Melissa L. Doane Town Clerk

# Chapter 18

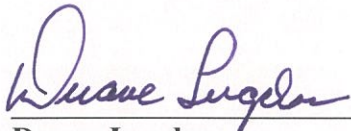
## Solar Array Ordinance

# **Town of Bradley Solar Array Ordinance**

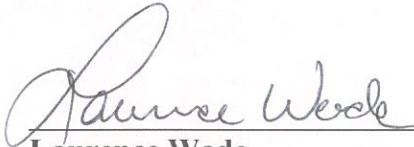
Approved by the Bradley Town Council at a duly called meeting on 4-25-2023



**Mark Ketch, Council Chair**



**Duane Lugdon**



**Laurence Wade**

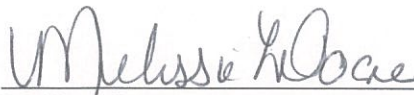


**Ann Delaware**



**Charles Clemons**

**A True Copy Attest:**



**Melissa Doane, Bradley Town Clerk**

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C

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## **TOWN OF BRADLEY SOLAR ARRAY ORDINANCE**

### **Section 1. Title**

**The Town of Bradley hereby ordains that this Ordinance shall be known as the Town of Bradley Solar Array Ordinance and shall and will be referred to herein as the "Ordinance".**

### **Section 2. Purpose**

The purpose of this ordinance is to accomplish the following objectives with the least possible regulation.

1. To encourage the development of on-site energy production and consumption.
2. To protect the public health and safety.
3. To promote the general welfare of the community.
4. To conserve the environment, wildlife habitat, fisheries, and unique natural areas
5. To fit these systems harmoniously into the fabric of the community by providing standards for alternative energy systems and other types of arrays, and
6. Protect the property values in the Town of Bradley.

### **Section 3. Authority**

The Bradley Planning Board is vested with the authority to review and approve, approve with conditions, or reject any application for Solar Energy Conversion Arrays (Arrays) as defined in this Ordinance. An array shall have been approved by the Planning Board before a building permit may be issued under the Bradley's Land Use Ordinance (LUO).

1. In the event the Planning Board requires expert opinions, advice, or testimony during the course of reviewing the application to determine the impact to surrounding properties or public safety implications, or to resolve any other issues regarding the proposal, it shall first use due diligence to obtain and utilize free services from governmental or non-profit sources.



2. Should the Planning Board be unable to obtain and utilize free services, the Town Council may authorize the hiring of independent third-party consultants to review array proposals in order to determine the impact to surrounding properties or public safety implications or resolve any other issues regarding the proposal. The Planning Board shall require the applicant to pay for such services after giving notice to the applicant of the name of the expert, the area of qualification of the expert, and the purpose for which the expert is required and the approximate cost of the expert.

3. The applicant shall be provided with an opportunity to meet with the Code Enforcement Officer to arrange a schedule for payment of the costs.

4. The applicant shall have the right to request a public hearing before the Board of Appeals to determine if the experts, as indicated by the Planning Board, are necessary to do a determination of any issue, and if the approximate costs of the expert are reasonable. The applicant shall request the hearing within 10 days of receipt of the notice establishing the necessity and costs of any independent third-party consultant, or such time as is agreed to by the Planning Board and the applicant. It will be the applicant's burden to prove that the requested expert is unnecessary, or that the cost is not reasonable.

In addition to any other applicable provisions of this Ordinance, before granting a Solar Array Complex Plan approval, the Planning Board must find that the proposed plan will comply with the following standards as applicable.

#### **Section 4. Exempt Arrays**

The following arrays are exempt from this Ordinance:

1. Roof-mounted on any legally permitted residential or residential accessory structure that does not exceed the State of Maine minimum sizes will be exempted.
2. Ground - or pole-mounted for private use that does not exceed the State of Maine minimum sizes will be exempted.
3. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
4. Repair or replacement of array components that do not enlarge the area of the existing array
5. Commercial buildings utilizing solar energy for on-site operational purposes only.

## **Section 5. Permitted Arrays**

The following arrays are permitted in this Ordinance

1. **Private Residential Solar Energy Systems (PRESES):** An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site residential use, and consisting of one or more free-standing ground mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. PRESES can be up to a total of two thousand (2,000) feet in surface area, with a rated nameplate capacity of up to 20kW. Solar arrays or modules that are flush mounted on the roof or walls of private residences shall not be subject to PRESES performance standards or permit requirements for the same.

2. **Commercial Solar Energy Systems (CSES):** An area of land or other area used by a business for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for commercial use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. CSES can be up to a total of twenty thousand (20,000) square feet in surface area, with a rated nameplate capacity of up to 250 kW.

3. **Industrial Solar Energy Systems (ISES):** An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for off-site grid use, and consisting of one or more free-standing, ground mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce off-site consumption of utility power and/or fuels. ISES can be up to two hundred (200) acres in surface area, and there is no limit on the rated nameplate capacity of an ISES.

## **Section 6. Solar Array Complex Plan Review**

All non-exempt arrays must be approved by the Bradley Planning Board through this Ordinance. The following requirements must be included in a Solar Energy Conversion Array application:

1. All application materials required under the Land Use Ordinance and any applicable fee established by the Town Council.
2. A site plan showing property lines, the location of any wetlands or flood zones or vernal pools, the location of proposed panels, equipment, fencing and access roads, and the location and setback of any roads or streets.

3. A submission showing results of a Phase 1 Environmental Site Assessment (ESA) by a qualified professional from the site to establish a baseline for soil condition comparison upon decommissioning. The Town reserves the right to request additional ESA's for sites on or adjacent to former landfills or for sites where contamination is discovered during the soil testing process.

4. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) whose minimum requirements meet the standards in Section 5 of this Ordinance. Such plan must be filed in the Penobscot County Registry of Deeds prior to the approval of the solar array plan.

5. A Waste Stream Management Plan (WSMP) for the construction waste and debris at the site of the said Array, including but not limited to cardboard, wood, scrap metal, scrap wire, and clearing and grading wastes, from the construction site and the disposal site(s) of such waste. Information on the amount of material that is being recycled shall be included in the WSMP.

6. The Code Enforcement Officer shall conduct a final inspection to ensure compliance with the approved plan.

## **Section 7. Guarantee for Removal**

At the time of approval of a proposed array, and prior to initiating construction of any array within the Town of Bradley, the applicant must guarantee the costs for the removal of the facility.

1. The amount of the guarantee shall be equal to 125% of the estimated removal cost, provided by the applicant and certified by a professional civil engineer licensed in Maine or a professional array construction company.

2. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine or a professional array construction company every five (5) years from the date of the Planning Board's approval of the Solar Array Complex plan.

3. If the cost has increased more than fifteen (15) percent, then the owner of the facility shall provide additional security in the amount of the increase. The applicant may also request adjustments in the guarantee.

4. Types and Contents of Guarantee - One of the following performance guarantees chosen by the applicant shall be provided on approval of the application,

a. Interest-Bearing Escrow Account - A cash contribution equal to 125% of the estimated removal cost for the establishment of an escrow account shall be made by either a certified check made out to the Town, direct deposit into a savings account, or purchase of a certificate of deposit

i. For any account opened by the applicant, the Town shall be named as owner or co- owner, and consent of the Town shall be required for withdrawal.

ii. Any interest earned on the escrow account shall be returned to the applicant unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required work.

b. Performance Bond - A performance bond shall detail the conditions of the bond, the method for release of the entire bond or portions of the bond to the Town, and the procedures for collection by the municipality. The bond documents shall specifically reference the array facility for which approval is sought.

c. Irrevocable Letter of Credit - An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the removal of the array facility and may not be used for any other project or loan. The letter of credit shall detail the procedures for collection by the municipality. The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Town Council, and/or Town Attorney, expenses paid for by the applicant.

## **Section 8. Decommissioning and Abandonment**

The owner or operator of the facility, or the owner of the parcel if there is no separate owner or operator of the facility or if the owner/operator fails to do so, shall do the following as a minimum to decommission the project:

1. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations.
2. Submit the results of Phase 1 ESA by a qualified professional to compare to the original Phase 1 ESA taken at the time of application. If there is any contamination or pollution in the soils it shall be the responsibility of the operator of the facility to restore the soils to its original state.
3. Revegetate any cleared areas with appropriate plantings that are native to the region according to an approved Solar Array Complex plan, unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting or other development subject to the Planning Board's approval.
4. Fill in all holes, depressions or divots resulting from the construction of the array.

All said removal and decommissioning shall occur within 12 months of the facility ceasing to operate. Abandonment will occur as a result of any of the following conditions unless the lessee or owner of the facility or of the parcel notifies the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility within 30 days of the following events:

1. The land lease ( if applicable) ends; or
2. The system does not function for 12 months; or
3. The system is damaged and will not be repaired or replaced.
4. A notice submitted to the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility shall be updated every three months with a statement of the progress made towards that goal.
5. If the facility has not returned to operational condition within one year from the date of the first notice of the intent to maintain and reinstate the operation of the facility, the Code Enforcement Officer shall find the facility has been abandoned unless there is documentable evidence that the process has had significant progress and in the Code Enforcement Officer's opinion is likely to be completed in a timely manner.

Upon determination of abandonment based on the foregoing, the Code Enforcement Officer shall notify the party (or parties) responsible by certified mail or by hand delivery with signed receipt that they must remove the facility and fully restore the site in accordance with section 6 subsection (1) of this ordinance within three hundred and sixty five (365) days of notice by the Code Enforcement Officer. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Town Council.

1. In the event the lessee of the facility fails to decommission the facility as outlined above, the landowner shall decommission the facility within 90 days of notice by the Code Enforcement Officer.
2. In the event the landowner fails to remove the facility as stated above, the Town of Bradley shall have the facility removed and shall reimburse the Town's costs by accessing any performance guarantee provided. Any unpaid costs associated with the removal after one year of removal shall be enforced as a special tax to be assessed against the real estate of the array site,

## **Section 9. General Standards for all Arrays**

1. Unless otherwise specified through a written contract, lease or other agreement, a copy of which is on file with the Bradley Code Enforcement Officer, the property owner of record will be presumed to be the responsible party for owning and maintaining the array.

2. Approval under this Ordinance is conditional upon compliance with all other Bradley Ordinances, the Maine Plumbing and Electrical Codes, Natural Resources Protection Act, Storm Water Management Law or other applicable regulations and any requirements of the local utility if any array is to be connected to any existing electric grid.

3. An array shall not be constructed until the Solar Array Complex plan has been approved by the Planning Board and a Land Use Permit has been issued by the Code Enforcement Officer and any applicable appeal period having passed without an appeal being filed.

4. All arrays shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.

5. All on-site electrical wires or piping associated with the system shall be installed underground except for "tie-ins" from above-ground mounted installations and to public-utility company transmission & distribution poles, towers and/or lines. This standard may be waived by the Planning Board if the project terrain is determined to be unsuitable for underground installation.

6. The array site shall not display any permanent or temporary signs, writing, symbols, logos, or any graphic representation of any kind except appropriate manufacturer's or installer's identification and warning signs.

7. Array placement must be designed to minimize or negate any solar glare onto nearby properties, or roadways.

8. If lighting is provided at the site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

9. Any point of potential contact of people or animals with generated electric current must be secured.

10. The boundaries of any nonexempt array that borders any road or any abutting residential dwelling lot shall consist of a vegetated buffer the width of the required setback along that border, in addition to any fence that may be erected, and existing vegetation should be used to satisfy these planting requirements where possible. Berms with vegetation are encouraged as a component of any buffer and the Planning Board may allow up to 25% reduction in the required buffer width where a berm is to be constructed. The buffer shall screen the array from view by the abutting road or any nearby residences to the greatest extent practical. In the event no natural vegetation exists a plan by a licensed arborist shall be submitted to the Planning Board for approval. The

plan shall contain indigenous species of conifers or evergreens and must be maintained to adequately screen the array.

11. Arrays covering permanent parking lots and other hardscape areas approved by the Planning Board are encouraged in order to limit the amount of storm water flowage. Where the array will cover existing hardscape (impermeable surface) areas, the Planning Board may in its discretion waive the vegetated buffer requirement so long as the required setback is met.

12. If electric storage batteries are included as part of any array system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the Town of Bradley and any other applicable laws and regulations relating to solid, special, or hazardous waste disposal.

13. Financial gain from "Net metering" for electric power is not considered a commercial activity if used to offset energy costs of private individuals only.

#### **Section 10. Dimensional and Design Standards**

1. Setbacks: All parts of the array shall be setback from all property lines a distance equal to the required minimum setback required by the Land Use Ordinance..

2. Height: A ground- or pole-mounted SECA shall have a maximum height of 20 feet as measured from the ground level to the system's highest point at full tilt.

3. Roof Load: The weight of any array proposed to be roof mounted on any non-exempt structure must be calculated and the applicant must submit a determination by a registered engineer with stamped certification or finding that the load rating of the underlying structure can accommodate the additional weight of the SECA.

4. Lot Coverage: The maximum surface area of a ground - or pole - mounted panel system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage or area of the structure, for the purposes of any applicable Town of Bradley ordinance.

5. Design Standards:

a. Any height limitations of this Ordinance shall not be applicable to roof-mounted solar collectors provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve.

b. Array installations shall not obstruct solar access to neighboring properties.

c. The array structure shall be a non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruptions.

#### **Section 11. Retroactive Clause**

Notwithstanding the provisions of 1M.R.S.A §302, and regardless of the date on which it is approved by the Town Council, this Ordinance shall be effective as of May 25, 2023 and shall govern any and all applications for permits or approvals required under the applicable laws of The Town of Bradley Maine that were or become pending before any officer board or agency of The Town of Bradley on or at any time after May 25, 2023.

#### **Section 12. Conflicts; Savings Clause**

Any provisions of the Town's ordinances that are inconsistent with or conflict with the provisions of this Ordinance are hereby repealed to the extent applicable. If any section or provision of this Ordinance is declared by a Court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

#### **Section 13. Violations and Enforcement**

Violations of this Ordinance shall be subject to per-day penalties in accordance with 30-A M.R.S. § 4452 and the violator shall be assessed the Town's reasonable attorney fees and costs. The Code Enforcement Officer shall have authority to enforce this Ordinance.

#### **Section 14. Definitions**

**Array: A Solar Energy Conversion Array.** For the purposes of this Ordinance, any single antenna or panel greater than 5,000 square feet of surface area is included in this definition. Examples of arrays are, but are not limited to, solar heating panels, solar photovoltaic panels, concentrated solar thermal installations, and antenna arrays.

**Berm:** A barrier constructed of landscaped earth, four (4) feet or more in height measured from the outside base of the berm. Berms may be pierced with reasonable access ways no more than twelve (12) feet in width as approved by the Planning Board.

**Solar Energy Conversion Array (SECA):** The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, concentrated solar thermal installations, and solar hot water systems.



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# Chapter 19

## Paid Sexual Contact

## Paid Sexual Contact

Be it enacted and ordained by the Bradley Town Council that the following ordinance be effective the fourth day of April 1996.

Definitions: For the purposes of this Section the following definitions apply:

Sexual Contact means any touching of the genitals or anus, directly or through clothing or other covering, for the purpose of arousing or gratifying sexual desire.

Pecuniary benefit means any direct or indirect payment of money or any other object of value.

Sexual Contact for Pecuniary Benefit Prohibited.

Engaging in, or agreeing to engage in, or offering to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.

Providing or agreeing to provide a person for purposes of engaging in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.

Causing or aiding another person to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a third person is prohibited.

Leasing or otherwise permitting a place controlled by the defendant in any action or in association with another, to be used as a site for sexual contact for pecuniary benefit to any person is prohibited.

## Penalties

The violation of any provision of this Section shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the Town may enjoin or abate any violation of this Section by appropriate action.

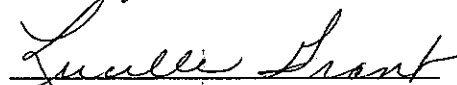
## Severability


If any section, phrase, sentence or portion of this Section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

  
Woodrow Cote

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Vernard King

  
Rosemary Sidelinker

  
Lucille Grant

  
Thomas Nadeau

A true copy:

Attest



Taon clerk