

LAND USE ORDINANCE

Town of Phippsburg

November 6, 2012

Amended: June 11th, 2025

LAND USE ORDINANCE

- TABLE OF CONTENTS -

Section 1. Purpose	3
Section 2. Authority	3
Section 3. Applicability	3
Section 4. Effective Date.....	3
Section 5. Availability.....	4
Section 6. Severability.....	4
Section 7. Conflicts with Other Ordinances.....	4
Section 8. Amendments.....	4
Section 9. Land Use Standards.....	5
A. Lot Size and Setbacks	5
B. Agriculture	6
C. Campgrounds	7
D. Earth Moving Activity	9
E. Mobile Home and Mobile Home Parks.....	9
F. Multi-family Dwelling Units	9
G. Sanitary Standards	9
H. Signs.....	10
I. Water Quality Protection.....	12
J. Driveways and Other Private Ways	12
K. Timber Harvesting	13
L. Business Uses	13
M. Temporary Residential Uses	18
N. Habitable Structure	19
O. Accessory Dwelling Unit (ADU).....	19
P. Essential Services	20
Section 10. General Building Requirements	21
A. Permits Required.....	21
B. Construction Standards	22
C. Solar Access	23
D. Mobile Homes.....	23
E. Debris from Destroyed Buildings.....	23
F. Structure Demolition or Removal Notice	23
G. Certificate of Occupancy	24
Section 11. Non-Conformance	25
A. Grandfathering	25
B. Non-Conforming Lots of Record.....	25
C. Non-Conforming Structures.....	25
Section 12. Administration.....	27
A. Administering Bodies and Agents	27
B. Permits Required.....	27
C. Permit Application	28
D. Procedure for Administering Permits.	28
E. Special Exception Permit	29
F. Expiration of Permit	30
G. Installation of Public Utility Service.....	30
H. Appeals / Variances	30
I. Enforcement	30
Section 13. Definitions.....	32

ABBREVIATIONS

CEO	Code Enforcement Officer
DEP	Department of Environmental Protection
DMR	Department of Marine Resources
IF&W	Inland Fish and Wildlife
IBC	International Building Code
IRC	International Residential Code
LPI	Licensed Plumbing Inspector
MRSA	Maine Revised Statutes Annotated
NFPA	National Fire Protection Association
Town	Town of Phippsburg

LAND USE ORDINANCE TOWN OF PHIPPSBURG, MAINE

The effective date of this Ordinance is November 6, 2012.

This Ordinance repeals and replaces in its entirety the Ordinance entitled
"Land Use Ordinance, Town of Phippsburg June, 1993."

Section 1. Purpose

A. This Ordinance seeks to preserve insofar as practical the character of the Town of Phippsburg (Town) as a residential, fishing and vacation community with clean waters, scenic attractiveness and a sense of rurality. We seek also to preserve to the maximum extent possible, traditional rights of landowners to use their lands as they desire, while at the same time protecting nearby residential owners from excessive conflicting uses that degrade property values and damage the attractiveness of the community to the detriment of all.

B. This Ordinance creates standards whereby business, industry and residential properties can live together as good neighbors, thus assuring Towns people opportunities for jobs and economic well-being, as well as a safe, healthy and attractive community in which to live and raise their families.

C. By adopting this Ordinance, the Town seeks to balance the right of landowners to use their land throughout the community for commercial, industrial, municipal, institutional or recreational uses, with the corresponding right of nearby landowners to enjoy their homes without unreasonable disturbance or damage from smoke, noise, fumes, dust, odor, glare, traffic, storm water runoff, or the pollution of ground or surface water resources.

Section 2. Authority

A. This Ordinance is adopted under the powers granted the Town by Title 30, M.R.S.A., Section 3001 and the general home rule powers of the municipality.

Section 3. Applicability

A. This Ordinance applies to all land areas not regulated by the Town of Phippsburg Shoreland Zoning Ordinance adopted June 9, 2009, including all amendments thereto.

Section 4. Effective Date

A. The effective date of this Ordinance is the date on which the Ordinance was adopted by the Town, November 6, 2012.

Section 5. Availability

A. A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Hard copies shall be made available to the public at a reasonable cost, or may be downloaded at www.phippsburg.com. Notice of availability of this Ordinance shall be posted.

Section 6. Severability

A. 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.

Section 7. Conflicts with Other Ordinances

A. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance (excluding the current Town of Phippsburg Shoreland Zoning Ordinance), regulation or statute administered by the Town, the more restrictive provision shall control.

Section 8. Amendments

A. This Ordinance can be amended only by a majority vote at any Phippsburg Town Meeting. Such amendments shall not be effective until the date of the vote.

B. Amendments can be initiated only by a majority vote of the Planning Board, or by a majority vote of the Board of Selectmen or by written petition signed by a number of voters equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election.

Section 9. Land Use Standards

A. Lot Size and Setbacks

- 1.** No dwelling or new business structure shall be constructed on or moved to a lot with an area less than forty thousand (40,000) square feet. Such lot shall have road frontage, public or private, of not less than one hundred and fifty (150) feet unless the conditions of Section 9.A.2. are met.
- 2.** This section shall not prohibit construction on, or creation of, lots that do not have one hundred and fifty (150) feet of frontage on a public or private way, providing the minimum lot size is maintained and providing that a square of one hundred and fifty (150) feet on each side can be located within the boundaries of the lot.
- 3.** A lot on which a dwelling or business is located shall not be subdivided or otherwise reduced in size so as to make the lot less than forty thousand (40,000) square feet nor have less than one hundred and fifty (150) feet of frontage on a public or private way.
- 4.** Notwithstanding the above, the Planning Board may permit an In-law apartment providing all of the following requirements are met:
 - a.** Shall be part of the primary residence;
 - b.** Shall contain no more than five hundred and fifty (550) square feet of living space;
 - c.** Shall share the water, sewer and electricity of the primary residence;
 - d.** Shall provide proof that the existing or proposed septic system is adequate to accept the additional flow as per State of Maine Subsurface Wastewater rules;
 - e.** Shall be occupied only by relatives of no more than three (3) degrees of separation;
 - f.** Shall not be used for commercial residential purposes;
 - g.** Shall be recorded with the deed of the property at the Sagadahoc Registry of Deeds and shall be non transferable;
 - h.** Shall be rendered uninhabitable as an apartment by removal of the kitchen as soon as occupancy has ceased;
 - j.** Shall comply with all other restrictions as may be deemed necessary by the Planning Board.
 - k.** In-law apartment standards shall not be altered by variance.

5. Any non-conforming lot of record as of the effective date of this ordinance or subsequent amendment may be built upon providing that all provisions of this ordinance except lot size can be met.

6. Setbacks for Principal and Accessory Structures

a. All new or relocated structures shall be setback from the traveled way as follows:

i. Seventy-five (75) feet from the center of the traveled way along Route 209 (Main Road) starting at the Town Line at Winnegance to the Main Entrance of the State Park, from beginning of Route 216 (Small Point Road) to the Club Road, from the beginning of Sebasco Road to the culvert at the north end of Wat-tuh Lake and from the beginning of the West Point Road to Holland Drive;

ii. Fifty (50) feet from the center of the traveled way for all other publicly maintained roads;

iii. Ten (10) feet from the edge of the traveled way for privately maintained roads, but in no case less than twenty (20) feet from a property line.

b. All new or relocated structures shall be setback from an abutting boundary line by a minimum of twenty (20) feet.

c. All new and accessory structures shall be in accordance with the required setbacks unless a variance is granted by the Board of Appeals.

7. It shall be unlawful to drill any well for the purpose of human or animal consumption, or to construct or occupy any building as a place of residence, or to place a mobile home or any structure to be used as human habitation within five hundred (500) feet of the Phippsburg Landfill located on the Sam Day Hill Road, Tax Map 43, Lot 33. The five hundred (500) foot setback shall be measured from the limit of waste as currently designated on the Site Plan (sheet 3) of the Phippsburg Landfill Closure Plan by Dufresne-Henry, Inc. (JDP 5-24-94). This prohibition shall not apply to existing residences or wells, or replacement wells.

B. Agriculture

1. All spreading of manure shall be accomplished in conformance with the current Manure Utilization Guidelines published by the Maine Department of Agriculture and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).

2. Where soil is tilled, an untilled filter strip of natural vegetation shall be retained between the tilled ground and a property line. The width of this strip shall vary according to the average slope of the land from a minimum of fifty (50) feet [slope under four (4)

percent] to a maximum of one hundred and ten (110) feet along the surface of the ground where the average slope of the land is over fifteen (15) percent.

3. Private gardens of less than five thousand (5,000) square feet in area, which are not for commercial use, are exempt from the provisions of this section, except an untilled filter strip of at least ten (10) feet in width from a property line shall be retained.

4. Agricultural practices not in conformance with these standards may be allowed by a Special Exception Permit from the Planning Board. This permit shall not be considered a variance.

C. Campgrounds

1. A campground is any area or tract of land accommodating two (2) or more parties in temporary mobile living quarters, including tents, for which a fee is charged. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- a.** Campgrounds shall be screened from adjacent lot lines, including public and private ways, by fencing or vegetation having a minimum height of six (6) feet;
- b.** Campgrounds shall contain a minimum of five thousand (5,000) square feet of land for each site, not including roads, driveways and vegetative wetlands;
- c.** The areas intended for placement of a recreational vehicle (RV), tent or shelter, and the campgrounds utility and service buildings shall be set back in accordance with all other required set backs;
- d.** RVs shall not be located on any type of a permanent foundation except a gravel pad;
- e.** RV sites shall be limited to:
 - i.** The RV and its self-contained expansions (i.e., slide-outs and fabric/rigid canopies with or without enclosures)
 - ii.** A free standing deck(s) 30 inches or less in elevation and not to exceed a total of 160 sq. ft.
 - iii.** Picnic table(s)
 - iv.** Fire pit per campground rules
 - v.** Storage shed not to exceed 64 sq. ft.
 - vi.** Parking for passenger vehicles

f. RV sites shall not be occupied more than 225 days per calendar year. (A Special Exception Permit may be granted by the Planning Board per Section 12.E.1.)

g. In order to bring existing conditions into compliance with Section 9.C.1.e all existing non-compliant expansions and structures shall not be replaced or enlarged and shall be removed when the current RV leaves the site.

2. Notwithstanding the above requirements, a residential lot containing at least forty five thousand (45,000) square feet may have one commercial campsite for a recreational vehicle (RV) without obtaining a Campground Permit, provided the following conditions are met:

a. The lot owner has obtained Home Business determination from the Planning Board;

b. The RV site contains a minimum of five thousand (5,000) square feet;

c. The RV location meets required setbacks;

d. The RV location shall be screened from an adjacent residential lot line by fencing or vegetation having a minimum height of eight feet;

e. The RV shall be located only on the existing ground or a gravel pad;

f. The RV shall have self-contained water and sewerage facilities;

NOTE: Waste water shall be disposed of by a lawful method.

g. The site shall be limited to only the RV and self-contained expansions; e.g., slide-outs and attached fabric canopy with or without screen enclosure;

h. The RV site shall be occupied only from April 1st through November 30th;

j. The RV shall not be stored on site from December 1st through March 31st;

k. These conditions shall not be altered by a Board of Appeals variance.

3. Wilderness campsites without water-carried sewage facilities shall contain a minimum of twenty thousand (20,000) square feet for each tent or shelter site. This recreational area shall maintain a one hundred (100) foot setback from any residential property line.

D. Earth Moving Activity

1. Any operation involving the excavation, processing, or storage of soil, gravel, rock or other mineral deposits in lawful operation at the time this Ordinance becomes effective shall operate in conformance with all State regulations and use Best Management Practices.
2. The following earth moving activity shall be allowed without a Planning Board permit:
 - a. The removal or filling of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto.
 - b. The removal or filling or transfer of material incidental to the construction, alteration or repair of a public or private way.

E. Mobile Home and Mobile Home Parks

1. A mobile home not in a mobile home park shall meet all the regulations of this Ordinance for a single family dwelling.
2. Mobile Home Parks shall meet all Federal, State and Town requirements including the Town of Phippsburg Subdivision Ordinance.
3. A continuous landscaped area not less than fifteen (15) feet in width containing evergreen shrubs, trees, fences, walls or any combination which form an effective visual barrier of not less than six (6) feet in height shall be located on all exterior lot lines of the park, except that roadways shall be kept open to provide visibility for vehicles.

F. Multi-family Dwelling Units

1. A two-family dwelling unit (duplex) may be located on a lot that meets all of the requirements for a single family dwelling unit (see Section 9. A), except that such lot shall contain at least eighty thousand (80,000) square feet.
2. Multi-family dwelling units of three (3) or more shall meet the provisions of the Town of Phippsburg Subdivision Ordinance.

Note: An "In-law apartment" shall not be considered a duplex.

G. Sanitary Standards

1. Subsurface Sewage Disposal
 - a. All subsurface sewage disposal systems shall be located in areas of suitable soil as determined and documented by a State Certified Site Evaluator
 - b. All subsurface sewage disposal systems shall require approval from the Licensed Plumbing Inspector prior to any construction including clearing of the site.

2. Privies may be permitted under the following conditions:

- a.** All privies shall be located on suitable soils as determined and documented by a State Certified Site Evaluator;
- b.** No privy shall be installed prior to a permit being issued by the Licensed Plumbing Inspector;
- c.** No plumbing of any kind shall be connected to or discharged into the privy pit.

3. Other systems of sanitary waste disposal may be permitted by the Licensed Plumbing Inspector after approval by the Maine Department of Health and Human Services.

H. Signs

1. General

- a.** A two-sided sign is one sign for the purpose of this section.
- b.** Moving, animated, or mobile chassis mounted signs are prohibited.
- c.** No free-standing or projecting sign shall extend higher than twenty (20) feet above the ground.
- d.** No sign shall be located within five (5) feet of a traveled way (including shoulders) or other lot line.
- e.** One flag for commercial or home business purposes is allowed, the flag shall not exceed fifteen (15) square feet. All personal flags are allowed.
- f.** State Department of Transportation off-premise directional signs are allowed. All other off premise signs which announce, advertise, or name any service or product available, sold or manufactured are prohibited.
- g.** The Town has the authority to remove any signs not meeting the requirements of Section H.
- h.** Signs may be illuminated by shielded non-flashing lights.

2. Commercial Signs

- a.** Free-standing signs: One free standing sign per business is allowed. The sign shall not exceed twenty-five (25) square feet.
- b.** Projecting Signs: One projecting sign per business is allowed. The sign shall not exceed twenty-five (25) square feet.

c. Signs on Buildings: Signs shall be limited to the aggregate of one (1) square foot for each linear foot of road side length of the principle structure on the premises. Signs on the building shall not extend beyond the height of the building.

d. A business shall have no more than two (2) of the above three (3) types of signs, and the aggregate shall not exceed fifty (50) square feet.

3. Home Business Signs

a. Home businesses may display one sign relating to goods or services rendered on the premises. The sign shall not exceed eight (8) square feet.

4. Name Signs

a. Non-commercial name signs shall be allowed, provided such signs, in the aggregate, shall not exceed eight (8) square feet, and providing that not more than two (2) such signs shall be located on the premises.

5. Temporary Signs

a. Two (2) real estate signs, each not exceeding four (4) square feet, are allowed on a property being sold, leased or developed. One directional sign, not exceeding four (4) square feet, leading to the property is allowed.

b. Construction site sign (s) shall not exceed thirty two (32) square feet in the aggregate.

c. Political campaign signs not exceeding eight (8) square feet shall be allowed.

d. All temporary signs shall be removed within seven (7) days after fulfilling their purpose.

6. Exemptions

a. For the purposes of this section, the term “sign” shall not include:

i. Signs erected for public safety and welfare or pursuant to any governmental function;

ii. Directional signs solely indicating entrance and exit at driveway locations, containing no advertising material, and where display area does not exceed two (2) square feet, or extend higher than seven (7) feet above ground level;

iii. Signs relating to trespassing and hunting, not exceeding two (2) square feet;

- iv. Signs indicating the residents of a private road, not exceeding twelve (12) square feet in the aggregate.

I. Water Quality Protection

1. No activity shall locate, store, discharge or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances.
2. 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 storm waters.
3. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

Note: The Storm Water 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 twenty thousand (20,000) square feet or more of impervious area or five (5) acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with one (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 (1) acre or more of disturbed area but less than one (1) acre impervious area [twenty thousand (20,000) square feet for most-at-risk lakes and urban impaired streams] and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one (1) acre or more of disturbed areas.

J. Driveways and Other Private Ways

1. No new driveways or other private ways, which intersect with a Town or public right of way, shall be constructed until a permit is issued by the Town Road Commissioner. A permit shall be issued only if the Road Commissioner finds the driveway or other private way shall provide reasonable and safe access and egress to and from the public road or way.
2. Driveways and other private ways shall conform to the following standards:

Note: In the interest of public safety, a driveway or other type of way should provide reasonable access and egress for fire and rescue equipment.

- a. Driveways and other private ways shall be located, constructed and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters in accordance with current DEP guidelines;

- b. Driveway and other private way crossings of water courses shall be kept to the minimum number necessary;
 - c. All cut and fill banks and areas of exposed material soil shall be revegetated or otherwise stabilized in accordance with current DEP guidelines.
 - d. Driveways shall have an eight (8) foot setback from any adjacent property line, except in the case of an easement or right-of-way. A driveway is not a structure.
3. Bridges and culverts of adequate size and design shall be provided for all driveway and other private way crossings or water courses which are to be used when surface waters are not frozen.
- a. Bottoms of culverts shall be installed at or below stream bed elevation in accordance with current DEP guidelines.
 - b. The maintenance of such bridges, culverts and ditches shall be the responsibility of the owner(s) of the driveway or other private way.
4. The Road Commissioner may impose conditions to assure that bridges, culverts and roadside ditches that may be needed are sufficient to prevent flooding of the public way and other property.
5. The Planning Board may issue a permit which waives or alters the requirements for a bridge, culvert, driveway or private way construction standards.

Note: The size of new or replacement bridges and culverts shall comply with current DEP standards for fish and aquatic organism passage. All streams are assumed to be fish passage ways unless ruled differently by the DEP, IF&W, or DMR.

K. Timber Harvesting

- 1. Timber harvesting is regulated by the State of Maine Department of Conservation, Bureau of Forestry.

L. Business Uses

1. New Business Permit

- a. A new business (see definition) shall not begin operation, unless exempted under L.2, without first obtaining a permit. A change of ownership or management, of an existing business without any change in operation shall require a review within ninety (90) days by the Planning Board for a transfer of business permit. Any cessation of use exceeding two (2) years, expansion, or

change of use of an existing business shall be considered a new business for the purposes of this Ordinance and shall require a New Business Permit. The Town shall provide application forms.

b. A new business permit shall not be issued until a public hearing has been held. Notice of a public hearing shall be posted in two public places and published in a newspaper with general circulation in the Town at least seven (7) days and not more than fourteen (14) days prior to the hearing.

c. Applicant shall notify abutters of the proposed business plan. Proof of such notice shall be presented with the application at the public hearing. Acceptable proof shall consist of either an abutter's signature on the application form, a signed abutter's statement on a separate document, or a certified mail return receipt showing either a signature or post office failure to deliver to the abutter's last known address.

d. New business hearings shall be held by the Planning Board. A quorum shall be any three (3) members of the Planning Board. Those members present at the hearing shall, by a majority vote, approve, approve with conditions, or deny all applications for a new business. Members shall render their decisions in writing, specifying the reasons for denial or imposition of conditions.

e. The business permit shall be posted at the place of business and visible to the public.

f. A new business permit shall become void one (1) year after issuance, if the business is not operational.

g. The permitting authority may grant up to a one (1) year extension.

h. Applicant shall pay a hundred seventy-five dollar (\$175.00) new business permit fee plus an amount as determined by the Planning Board to defray the cost of advertising the Public Hearing.

i. A Site Walk fee shall be one hundred dollars (\$100.00) plus an amount as determined by the Planning Board to defray the cost of advertising.

j. Should the Planning Board determine the need for hiring independent consulting services, such assistance shall be at the expense of the applicant.

2. Home Business

a. Home Business applicants need not obtain a New Business Permit but shall seek Planning Board determination that the proposed home business qualifies per this Section. Standard Planning Board fee of one hundred dollars (\$100.00) shall apply. Should a Site Walk be required, an additional one hundred dollar (\$100.00)

Site Walk fee shall apply plus an amount as determined by the Planning Board to defray the cost of advertising.

b. Home businesses shall be carried on wholly within the principal building or other structure accessory to it, or on the grounds of the property in a manner such that impact on neighbors is minimal. The business shall be clearly secondary to the use of the dwelling unit for residential purposes.

c. No unreasonable nuisance, traffic congestion, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare or radiation shall be generated.

d. Reasonable and safe access and egress as well as parking requirements shall be provided.

e. Signs shall be restricted to one on-premise totaling not more than eight (8) square feet.

f. Not more than two (2) persons other than family members residing in the home shall be employed in a home business.

g. Home businesses may not expand beyond the limits imposed by this section without fulfilling all the requirements of this Ordinance and obtaining a permit under L.1.

h. The following are examples of a home business:

i. Sale of home-grown vegetables and plants, crafts made in the home, antiques, and other traditional home business activities that have no significant impact on the character of a residential neighborhood;

ii. Service businesses such as plumbing, carpentry, and home maintenance services in which at least seventy five (75) percent of the activities take place on the premises of the customer;

iii. Home beauty and barbershops;

iv. Home mechanics shop;

v. Sale of fish or other marine products harvested /landed by the home business owner(s);

vi. Wharves and piers, storage buildings and the outdoor storage of boats, traps, nets, and other gear used in the commercial harvesting of marine products;

vii. Use of a residence to provide accounting, insurance or tax return services or similar activity;

- viii.** Incidental use of a home as an office for municipal business activities;
- ix.** Yard or garage sales, limited to four per year. The duration of each sale shall not exceed three (3) consecutive days;
- x.** A Bed and Breakfast establishment with not more than two (2) rental rooms may serve breakfast to overnight guests only. No meals shall be served after 11:30 a.m. Such establishments shall meet State requirements and Local Plumbing Inspector approval that the waste water system is adequate;
- xi.** One (1) commercial campsite per Section 9.C.2.
- xii.** Businesses that the Planning Board may determine are substantially similar to the above.

i. Applicant shall notify abutters of the proposed business plan. Proof of such notice shall be presented with the application. Acceptable proof of such notice shall consist of the abutter's signature on the application form, an abutter's statement and signature on a separate document, or a certified mail return receipt showing either a signature or post office failure to deliver to the abutter's last known address.

3. Buffer Zones

- a.** No business shall be established, except as permitted by the Planning Board under the provisions of this section or as exempted in L.2, unless the following buffer zones are provided between the business, including any accessory buildings and parking lots, and adjacent residential lot lines:
 - i.** Commercial and other non-residential buildings or other commercial or industrial activities shall have a minimum side and rear yard distance of at least one hundred (100) feet from residential lot lines.
 - ii.** Notwithstanding the above, restaurants with musical entertainment, bars, dance halls, clubs offering musical entertainment, motels, trailer parks, mobile home parks, campgrounds, kennels and boarding kennels, industrial uses, and shopping centers shall have a minimum rear and side yard distance of at least one hundred and fifty (150) feet from the nearest residential lot line.
- b.** The Planning Board may approve substitute buffer zones providing the purposes of this Ordinance are maintained. Substitute buffer zones may be approved when the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of a buffer zone. Substitute buffer zones may also be approved when the character of a neighborhood is predominantly commercial.

- i.** The applicant shall have the burden of demonstrating that the topography of the land, the nature of the vegetation, or building(s) provides screening that is equal in protection to the required width of the buffer zone, or that the character of the neighborhood is predominantly commercial.
- c.** The Planning Board shall approve, approve with conditions or deny all applications for substitute buffer zones.
- d.** Substitute buffer zones shall not be considered a variance.

4. Standards for Commercial and Industrial Uses

- a.** The applicant shall have the burden of demonstrating that the proposed business shall be located and designed so as to prevent unreasonable nuisance to nearby properties, parking on adjacent public roads, danger to children, unsanitary waste disposal, noise, vibration, smoke, fumes, dust, noxious odors, heat, glare or radiation that exceeds conditions previously detectable at the lot boundaries of other properties in the general area.
- b.** New businesses shall also demonstrate that they meet the following standards and requirements:

 - i.** The natural landscape shall be preserved insofar as practical. New landscaping may be required that will define, soften or screen the appearance of the business from adjacent public ways or nearby residential areas. Retail establishments catering to the general public need not be screened from public roads;
 - ii.** Businesses shall provide safe access and egress without causing traffic congestion;
 - iii.** Surface waters shall be drained so as not to damage adjacent lands;
 - iv.** Exposed storage areas, fixed machinery, and utility buildings shall have sufficient setbacks and screening to provide a visual buffer sufficient to prevent unreasonable adverse impact on other land uses in the area;
 - v.** Evidence shall be provided that sufficient water is available for the proposed use and that adequate water for existing users shall not be diminished;
 - vi.** New businesses shall provide sanitary facilities sufficient for its employees and, where appropriate, customer facilities may be required;

vii. Junkyards and automobile graveyards as defined by State Law (currently, Title 30, M.R.S.A., Section 3752) shall not locate within six hundred (600) feet of any public way or adjacent residential property line unless the Planning Board permits a substitute buffer zone per Section 9.L.3.b. However, no junkyard or automobile graveyard shall be located less than one hundred (100) feet from the nearest public road or right of way or adjacent property lines. In no instance shall a junkyard or automobile graveyard be located so that discarded vehicles or other wastes are visible from public ways or adjacent properties.

c. The following new commercial and industrial uses are prohibited:

i. Chemical and bacteriological laboratories;

ii. Commercial storage of chemicals including herbicides, pesticides or fertilizers for wholesale distribution.

M. Temporary Residential Uses

1. A mobile home or recreational vehicle that otherwise meets the standards of this Ordinance, with a Certificate of Occupancy may be located on a lot for up to twenty four (24) months to provide temporary housing during the construction of a new home that is being constructed wholly or in part by the owner of the land. Upon completion of the home or within twenty four (24) months, whichever is less, the Certificate of Occupancy for the temporary housing shall expire and any mobile home shall be removed within sixty (60) days.

2. Friends and relatives may visit Phippsburg residents and locate recreational vehicles on a lot with a permanent residential structure for up to seven consecutive days without a permit. After seven days, the Codes Enforcement Officer may issue up to two (2) seasonal permits, at any given time, for up to a total of one hundred and twenty (120) days per calendar year, to the property owner of the lot where the recreational vehicle is located. These provisions do not apply to any commercial or rental purposes.

Note: For a seasonal permit to be issued, the existing dwelling must meet the standards of the State Plumbing Code. All temporary occupants must use the sanitary facilities in the existing dwelling unless the unit has a self-contained sanitary system. Wastes from recreational vehicles shall not be connected to the septic system of the dwelling being visited. The applicant must also produce written authorization from an approved dumping station.

3. The Codes Enforcement Officer may issue up to two (2) seasonal permits, at any given time, for recreational vehicles or tent sites to be located on a vacant lot for temporary non-commercial use for up to one hundred and twenty (120) days per calendar year. A seasonal permit must be issued to the property owner of the lot where the recreational vehicle or tent site is located. The applicant must provide a written sewage disposal plan or a written agreement from an

approved dumping station for the disposal of the applicant's waste water, when applicable.

4. No permanent foundation, except for gravel pads, shall be permitted and no permanent structure shall be attached to any temporary dwelling.

N. Habitable Structure

Habitable structures permanently affixed to the land by connection to public or private utilities must be assessed and taxed. Habitable structures include but are not limited to wood frame construction, mobile homes, and travel trailers not road registered in the State of Maine. Such a structure shall be assessed to the owner of the land where it is located on April 1 of each year, unless the owner of the structure provides both proof of title verifying ownership and a written lease document demonstrating land-owner permission for the habitable structure to be so affixed to the land. Copies of both required documents are to be provided to the Town's Property Tax Collector upon request made to either owner of structure or owner of land where affixed.

O. Accessory Dwelling Unit (ADU)

1. Lot size requirements pursuant to Section 9.A.1 shall be waived for ADU development except that those requirements shall remain in effect and govern ADU development in the Shoreland Zone.

2. An ADU may be constructed only:

- a. Within an existing dwelling unit or other structure on the lot;
- b. Attached to or sharing a wall with a single-family dwelling unit;
- c. As a new structure on the lot for the purpose of creating an ADU.

3. An ADU must remain in common ownership with the single-family dwelling unit with which it shares the lot. The ADU must be a complete dwelling unit, including a full kitchen (stove, refrigerator, and sink), a bathroom (toilet, sink, and shower/tub); and not more than two bedrooms. The ADU shall not be less than 190 square feet and contain not more than 900 square feet of floor space.

4. The term of an ADU rental agreement shall not be for less than six months.

5. An ADU cannot be sold independently of the sale of the single-family dwelling unit.

6. The ADU shall be the primary residence of the tenant. The tenant shall not be allowed to sublet.

7. Water and electricity may be shared between the ADU and the primary residence.

8. An ADU shall not be used for any other purpose than residential occupancy.

9. An ADU shall not be advertised in short-term rental or vacation sites.
10. An ADU application must include:
 - a. Detailed site plan identifying lot coverage, set-back, and all additional requirements; such plan shall be drawn to scale and shall identify each dimension specifically on the plan;
 - b. Detailed floor plans clearly delineating the dimensions of each room and the total square footage of the ADU;
 - c. A water test and a flow test showing ability to obtain an occupancy permit;
 - d. Proof from a certified source that the existing or proposed septic system is adequate to accept the additional flow per State of Maine Wastewater Rules.
11. An ADU shall be exempt from any density requirements or calculations related to the area in which an ADU is constructed.
12. An ADU shall not be construed to exempt a subdivider from the Town's Subdivision Ordinance requirements.
13. An ADU built without approval prior to July 1, 2024 shall be allowed to remain if the ADU otherwise meets all ADU requirements, and after payment of a penalty equaling four times the normal construction fee per Section 10.A.3.
14. This section shall not be construed to interfere with, abrogate or annul the validity or enforceability of any valid enforceable easement, covenant, deed restriction, or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

P. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The maximum height of any tower and its related equipment shall not exceed one hundred ninety (190) feet.
3. Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

Section 10. General Building Requirements

A. Permits Required

1. It shall be unlawful to construct, add to, alter, or to commence the construction, addition, or alteration of a building, mobile home, or structure where such construction or addition exceeds one thousand (1000) dollars in value, without first obtaining a permit from the Codes Enforcement Officer (CEO). Permits shall be posted on site in a visible location at site entrance by the CEO on his/her next workday.

2. The one thousand (1,000) dollar exemption from the need to have a building permit shall not apply to the construction of a foundation or slab for a dwelling unit. No work shall be done on a foundation for a house, mobile home slab, cottage or other dwelling unit until the CEO has reviewed the site for compliance with the provisions of this Ordinance and issued a permit.

3. All applications shall be accompanied by a fee in accordance with the following estimated value of construction schedule:

\$1,001 to \$10,000 - \$75.00

\$10,001 and above - \$100.00 plus \$4.00 per \$1,000

If the estimated value of the project is deemed unreasonable by the CEO, the CEO has the right to assess a renovation at one hundred fifty (150) dollars per square foot and new construction at three hundred (300) dollars per square foot. The fee for construction commenced before a permit is issued shall be four times (4x) the normal fee.

4. Permits shall expire one (1) year from the date of issuance unless a substantial start is made in construction or in the use of the property during that period. If a substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire. A one (1) year extension may be granted by the permitting authority.

5. No permit shall be issued for new construction until a plumbing permit has been obtained for the treatment and disposal of the sanitary wastes when such is required by the planned use of the structure.

6. No permit shall be issued for additional bedrooms or uses until the applicant demonstrates that the waste water system is lawful for both the existing structure and the proposed changes.

7. All modifications to existing structures or change of use shall be in conformity with all provisions of this Ordinance, the Maine State Plumbing Code and Subsurface Waste Water Disposal Rules. No permit shall be issued for activities prohibited by this Ordinance or other Town or State codes, laws and ordinances.

B. Construction Standards

- 1.** All dwellings and mobile homes shall be erected on solid ledge or foundation walls not less than seven (7) inches thick and carried not less than twelve (12) inches below the frost line, or upon a concrete slab not less than six (6) inches thick, or upon pressure treated or concrete posts that extend to solid ledge or to at least four (4) feet into the earth.
- 2.** All construction and materials shall conform to generally accepted standards of good practice and shall conform to all applicable State laws and Town regulations and ordinances.
- 3.** New dwelling construction and renovations shall conform to the following standards:
 - a.** A smoke alarm shall be installed in the following locations:
 - i.** In each sleeping room
 - ii.** Outside each separate sleeping area in the immediate vicinity of the bedrooms.
 - iii.** On each additional story of the dwelling, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
 - iv.** When more than one smoke alarm is required to be installed within an individual dwelling unit the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.
 - v.** All smoke alarms shall be listed and installed in accordance with the provisions of the State Building Codes and the household fire equipment provisions of NFPA 72.
 - b.** There shall be two (2) inches or more clearance between combustible materials and masonry chimneys.
 - c.** All masonry chimneys must be lined.
 - d.** All hallways shall have a minimum finished width of thirty-six (36) inches.
 - e.** Dwelling units shall have a minimum of two (2) exterior doors and each must have a minimum finished cleared opening of thirty-four (34) inches.

f. Walls and doors between attached garages and living spaces shall be built of fire shield material with a one (1) hour rating.

g. Multi-family structures shall contain no more than ten (10) dwelling units. Such units shall be separated by fire shield material with a one (1) hour rating and be connected to common water and waste water systems. (Structures containing three (3) or more units are subject to Subdivision review.)

h. No building shall exceed forty (40) feet in height, measured from the mean original grade on the downhill side.

j. All building shall conform to current standards of the Maine Model Building Code as amended referred to as MUBEC (Maine Universal Building and Energy Code).

C. Solar Access

1. No new structure or addition shall be built that casts a shadow on south-facing windows or other solar collecting devices on neighboring properties on December 22nd, unless the owners of such devices and windows shall agree in writing that they do not object to such shading. Neither shall any new vegetation be allowed to grow so as to cast such a shadow without the owner of a solar device agreeing. Any tree, shrub or any planted landscaping growing at the time of the construction or installation of the solar device may be allowed to remain and grow out its natural life.

D. Mobile Homes

1. Mobile homes shall be allowed on any lot of land where a single family home would be allowed after plumbing and building permits have been issued. No permits shall be issued unless that owner provides evidence demonstrating that the mobile home meets the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, U. S. Code, Title 42, Section 5401 et seq.

E. Debris from Destroyed Buildings

1. Debris and waste from buildings destroyed by fire, deterioration, accident, and storms or flooding shall be removed by the owners within six months of being notified to do so by the Codes Enforcement Officer.

F. Structure Demolition or Removal Notice

1. Property owners and contractors shall notify the Codes Enforcement Officer before the demolition of any structure can take place. The Codes Enforcement Officer will, in turn, notify the Phippsburg Historical Preservation Commission who will determine whether that structure is associated with events that have made a significant contribution to the broad patterns of our history; or that is associated with the lives of persons significant in

our past, or embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that have yielded, or may be likely to yield, information important in prehistory or history (National Historic Register of Historic Places). If the structure is deemed not to be of historical significance, the Phippsburg Historical Preservation Commission will notify the Codes Enforcement Officer that the demolition delay should be withdrawn. This determination will be made as soon as possible, but no later than 45 days after Commission notification from the Code Enforcement officer. If the property is deemed to be of significant historical value, the Phippsburg Historical Preservation Commission will negotiate with the owner or contractor for permission to move the structure or negotiate/seek a suitable alternative for the structure.

G. Certificate of Occupancy

- 1.** No structure shall be used for residential purposes until a Certificate of Occupancy is issued by the Codes Enforcement Officer.
 - a.** No Certificate shall be issued until the Plumbing Inspector certifies that the dwelling has sanitary facilities installed and operating that meet all the requirements of the State Plumbing Code and all local ordinances.
- 2.** A structure that has not been used for residential purposes for more than five (5) years shall be considered a new residential structure and shall require a Certificate of Occupancy.
- 3.** The penalty for occupying a structure without first receiving a Certificate of Occupancy shall be twenty (20.00) dollars per day.

Section 11. Non-Conformance

A. Grandfathering

1. All uses of land and buildings existing at the time of adoption of the Building Code for the Town of Phippsburg (enacted March, 1970), or which have been developed legally since then may continue even though such use does not conform to the provisions of this Ordinance.

B. Non-Conforming Lots of Record

1. Any single lot of record that existed on the effective date of the original Phippsburg Building Code (March 1970) may have a single family dwelling, provided that:

- a. Such lot shall be in separate ownership and not contiguous with any other lot of the same ownership.
- b. The lot does not already have a habitable dwelling.
- c. All other provisions of this Ordinance shall be met.
- d. Soils are suitable for wastewater disposal.

2. If two or more contiguous lots or parcels are in single ownership of record at the time of the adoption of the original Phippsburg Building Code in March, 1970, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered a single parcel for the purposes of this Ordinance and no portion of said parcel shall be built upon which does not meet the dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance.

3. A single lot containing more than one dwelling may be divided into two or more lots each containing a dwelling, providing that the person proposing the division demonstrates that the existing sewage disposal systems are functioning properly and, in the event of a future malfunctioning of the system or systems, the disposal systems can be replaced or enlarged to comply with the Maine State Plumbing Code.

4. A non-conforming lot shall not be made more non-conforming. This requirement shall not be altered by a variance.

C. Non-Conforming Structures

1. Any lawful building or mobile home or other structure existing at the time of the effective date of the original adoption of the Phippsburg Building Code, March, 1970, or which was constructed legally prior to the passage of this Ordinance, may be continued and repaired although it does not conform with these standards.

- 2.** A non-conforming structure may be extended or enlarged with a Planning Board permit.
- 3.** The CEO shall not issue a building permit until a Planning Board permit is issued.
- 4.** An existing non-conforming structure which is destroyed by storm, fire or other accident may be rebuilt if reconstruction is commenced within two years. Once operations have started, if no additional work is done for two (2) years, the building permit shall become void. Reconstruction will comply with all current Town Ordinances and State regulations.
- 5.** A non-conforming structure shall not be made more non-conforming. This requirement shall not be altered by a variance.

Section 12. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer (CEO)

a. The CEO shall be appointed or reappointed annually by July 1st. The person so named shall also be qualified and fulfill all duties of a Licensed Plumbing Inspector.

2. Planning Board

a. The Planning Board shall be created in accordance with the provisions of State law.

3. Board of Appeals

a. The Board of Appeals shall be created in accordance with the provisions of State law.

B. Permits Required

1. After the effective date of this Ordinance no person shall engage in any activity or use of land or structure requiring a permit without first obtaining a permit from the appropriate permitting authority. 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. Permits shall be posted on site in a visible location at site entrance by the CEO on his/her next workday. (Also see Section 10.A.1)

2. A curb cut Entrance Permit is required from either the Maine Department of Transportation (MDOT) for all State roads, or from the Phippsburg Road Commissioner for all Town maintained roads.

3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

4. A permit is not required for the replacement of an existing road culvert on private ways.

5. 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 lists, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures. Prior to excavation, a copy of documentation showing size and scope shall be provided to the Codes Enforcement Officer.

C. Permit Application

- 1.** Every applicant for a permit shall submit a completed application to the appropriate official as indicated in Section 12.A. The forms shall be provided by the Town.
 - a.** Building permit applications shall include a scaled site plan and building plan not to exceed 11"x17" or in digital format, if allowed by the CEO. Fees shall be in accordance with Section 10.A.3.
 - b.** Unless determined otherwise in specific sections of this Ordinance, a standard Planning Board fee is one hundred dollars (\$100.00). Planning Board fees are not refundable. Planning Board applications shall include appropriate fees.
 - c.** Application packets shall consist of the following:
 - i.** The application form,
 - ii.** Any other supporting information,
 - iii.** And when required, legible scaled site plans and building plans no smaller than 11"x17".
 - d.** The applicant shall provide ten packets; thirteen if for a New Business. A packet shall be mailed to each of the Board members ten (10) days prior to the scheduled meeting. The remaining packets shall be presented at the scheduled meeting.
- 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 of 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 CEO or Planning Board, as appropriate, shall note upon each application the date of its receipt.
- 4.** If the proposed use will require the installation or expansion of a subsurface wastewater disposal system, a valid permit from the LPI shall be required.
- 5.** An application to the Planning Board may be withdrawn at any time throughout the permitting process. A withdrawal statement must be submitted to the Board in writing, signed by the applicant or a certified designee. Fees paid shall not be refunded.

D. Procedure for Administering Permits.

- 1.** Within thirty five (35) days of the date of receiving an application, the CEO or Planning Board shall notify the applicant that the application is complete, or that specified additional material is needed. The CEO or the Planning Board, as appropriate,

shall approve, approve with conditions, or deny in writing, all permit applications within thirty five (35) days of receiving a completed application.

NOTE: If the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty five (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.

2. 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.

3. 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:

- a. Will maintain safe and healthful conditions;
- b. Will not result in water pollution, erosion, or sedimentation to surface waters;
- c. Will adequately provide for the disposal of all wastewater;
- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- e. Will protect archaeological and historic resources as designated in the Town's Comprehensive Plan;
- f. Will avoid problems associated with flood plain development and use;
- g. Is in conformance with the provisions of Section 9, Land Use Standards.

4. If a permit is approved with conditions or denied, 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, regulation, or statute administered by the municipality.

5. An application to the Planning Board may be withdrawn at any time throughout the permitting process. A withdrawal statement must be submitted to the Board in writing, signed by the applicant or a certified designee. Fees paid shall not be refunded.

E. Special Exception Permit

1. A special exception permit may be issued by the Planning Board only if the Board deems the applicant's proposal satisfies the purpose of this Ordinance as stated in Section 1.

F. Expiration of Permit

1. Permits shall expire one (1) year from the date of issuance. If a substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire. An additional one (1) year extension may be granted by the permitting authority, at no fee, if the site is re-vegetated.

G. Installation of Public Utility Service

1. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure 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 town officials or other written arrangements have been made between the Town officials and the utility company.

H. Appeals / Variances

1. The Board of Appeals shall have powers and duties granted in the current “Board of Appeals Ordinance.”

2. An aggrieved party must file an application for appeal, on a form provided by the Town, within thirty (30) days of the granting or denial of a permit.

I. Enforcement

1. Nuisance

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

2. Code Enforcement Officer (CEO)

a. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, the CEO 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 Board of Selectmen and be maintained as a permanent record.

b. The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.

c. The CEO 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 Action

a. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, upon notice from the CEO, is hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of The Town of Phippsburg. The Board of Selectmen, or its authorized agent, is 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 Town 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

a. Any person, including but not limited to a landowner, or a landowner's agent or contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452. All fines levied under this Ordinance shall be paid to the Town of Phippsburg.

NOTE: Current penalties include fines of not less than one hundred (100) dollars nor more than two thousand five hundred (2500) dollars per violation for each day that the violation continues.

Section 13. Definitions

A. In this Ordinance the word **person** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The present **tense** includes the future tense. The singular number includes the plural; the plural includes the singular. The word **shall** is mandatory; the word **may** is permissive. The word **lot** includes the words **plot** or **parcel**. In case of a difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

B. Terms not defined shall have the customary and applicable dictionary meaning, found in Randall House Webster’s Dictionary 2nd Edition, copyright 2001 by Randall Publishing, Inc. A copy of this dictionary is located in the Phippsburg Town Hall.

C. The following definitions apply:

Abutter - A person who owns adjacent property including property directly across any road.

Accessory Dwelling Unit (ADU) – A smaller, independent dwelling unit located on the same lot as a stand-alone single-family dwelling. ADUs are intended to provide additional housing stock for the Town by encouraging infill development that is compatible in scale and character with existing residential uses.

Accessory Structure - A structure which is incidental and subordinate to 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 group of five (5) or more persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - Production, keeping or maintaining plants or animals. Agriculture does not include forest management and timber harvesting activities.

Alteration - Any change, addition, or modification in construction, or change in the structural members of a building, such as bearing walls, columns, posts or beams.

Aquaculture - The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Bedroom - A room furnished and used for sleeping

Buffer Zone – An area serving to neutralize potential conflict

Building - See Structures

Building Height – See Height

Camper - A portable structure designed to be used as a temporary dwelling for travel and designed to fit upon or in the back of a truck, including converted buses or other vehicles. This structure shall not be used as a permanent dwelling. (Also see recreational vehicle RV)

Campground - Any area or tract of land accommodating two (2) or more parties in temporary mobile living quarters, including tents, for which a fee is charged

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

Code Enforcement Officer (CEO) - A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the CEO shall be construed to include the Building Inspector and Plumbing Inspector, where applicable.

Commercial Use - The use of land, buildings, or structures, the intent of which is the production of income. This includes the rental of a residential dwelling unit. (The rental of a residential dwelling unit shall not require a business review by the Planning Board)

Complete Application - All documentation necessary for review and decision by the permitting authority.

DEP - Maine State Department of Environmental Protection

Development - A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction that does not naturally occur.

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

Disability - A 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.

Driveway - A vehicular access-way of no more than five hundred (500) feet in length, serving no more than two (2) residential dwelling units.

Duplex - A single structure containing two (2) separate and distinct residential dwelling units.

Dwelling - A fixed structure, containing one (1) or more residential dwelling units.

Note: See Residential Dwelling Unit

Emergency Operations - Operations conducted for the public health, safety or general welfare, e.g., 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.

Erosion and Sedimentation Control – All earth moving or development activities shall be in compliance with current DEP regulations.

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.

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

Family - One or more persons occupying the premises and living as a single residential dwelling unit.

Floor Area – See Square Footage

Forest Management Activities - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting, and the construction, creation or maintenance of roads.

Forest Stand - A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Forested Wetland - A freshwater wetland dominated by woody vegetation that is nineteen feet six inches (19.5 ft.) tall or taller.

Foundation - The supporting substructure of a building.

Freshwater Wetland - Freshwater swamps, marshes, bogs and similar areas.

Frontage, Street/Road - The distance as measured along the center of the traveled way between the intersections of the side lot lines with the traveled way.

Grandfathering – To exempt from a new ordinance, restriction or requirement that would affect prior rights and privileges.

Ground Cover - Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than ten (10) acres within the area affected by a harvest.

Height - The vertical distance between the mean original grade (**prior to construction**) on the down hill side of the proposed structure and its highest point, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

High Intensity - A use or change of use that would result in an acute detrimental change of environmental, safety, traffic, noise and density levels.

Home Business - An occupation or profession which is customarily conducted on or in a residential structure or property and:

1. Is clearly incidental to and compatible with the residential use of the property and surrounding residential uses;
2. Employs no more than two (2) persons other than family members residing in the home.

Increase in Non-Conformity - Any change in a structure or property which causes further deviation from the dimensional standard(s).

Note: A non-conforming structure may be expanded laterally provided that the expansion extends no further into the required setback than the closest portion of the existing structure. 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. Site improvements may include but not be limited to a gravel pad or tent platform, parking area and fire place.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

In-law Apartment – A one bedroom apartment limited to non-commercial use by relative(s) of the resident owner.

Institutional - A non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or town owned or operated building, structure or land used for public purposes.

Land Management Road - A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - A forester licensed under 32 M.R.S.A. Chapter 76.

Lot - A parcel of land in single ownership, described on a deed, plat, or similar legal document.

Lot area - The area of land enclosed within the boundary lines of a lot.

Lot Lines - The lines bounding a lot.

Lot Line, Front - On an interior lot, the line separating the lot from the street/road. On a corner or through lot, the line separating the lot from either street/road.

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

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

Lot of Record - A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Town or County Officials.

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.

Mobile Home - A structure designed as a dwelling unit for location on a permanent foundation, and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment of outside systems; and designed to be transported after fabrication on its own wheels. A mobile home shall contain not less than three hundred and twenty (320) square feet of gross floor area. Mobile homes shall be allowed on any lot of land where a single family home would be allowed, but no mobile home may be moved into Phippsburg or moved onto a lot in Phippsburg before plumbing and building permits have been issued. No permits shall be issued unless that owner provides evidence demonstrating that the mobile home meets the standards of the National Manufactured Housing Construction and Safety Standards Act of 1974, U. S. Code, Title 42, Section 5401, et seq.

Mobile Home Park- A plot of land laid out to accommodate three or more mobile homes.

Multi-unit Residential - A residential structure containing three or more residential dwelling units.

Native - Indigenous to the local land area.

New Business- For the purposes of this Ordinance, a new business is a business that meets one or more of the following criteria:

1. A business beginning operations that does not qualify as a home business under this Ordinance.
2. An existing business that expands the area devoted to retail customers by more than twenty (20) percent.
3. An existing business that converts existing space to a different line of business, e.g., the conversion of a storage area to retail use.
4. An existing business that moves or expands to a new location or onto land that is not contiguous to the lot where the business began.
5. A home business that expands to the point where it no longer meets the criteria for home business under this Ordinance.
6. A grandfathered business that is sold, leased or rented to other operators shall require, without a public hearing, a transfer of permit review from the Planning Board.

Non-conforming Condition - A lot or structure which is allowed solely because it was in lawful existence on the effective date of this Ordinance or any subsequent amendment.

Non-conforming Lot of Record - A lot of record that does not meet the lot area or road frontage requirements of this Ordinance.

Note: See Section 11.B.

Non-conforming Structure - A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence on the effective date of this Ordinance or any subsequent amendment.

Park Model – For the purpose of this Ordinance, Park Models shall be considered a Recreational Vehicle (RV) if it meets the definition of a Recreational Vehicle.

Permanent Foundation - A continuous enclosed masonry foundation, heavy concrete slab or wood foundation treated to prevent decay.

Permitted- an allowed use only with written approval from the permitting authority.

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.

Planned Unit – See Cluster Development

Portable Structures - Including but not limited to rigid framed tents and tractor trailer bodies.

Premises - One or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures, and improvements.

Principal Structure - The building in which the primary use of the lot is conducted.

Private Club - Access by membership only.

Private Recreational Facility - Access by membership only.

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.

Recreational Facility - A place designed and equipped for the conduct of sports, leisure activities, and other customary and usual recreational activities.

Recreational Vehicle (RV) - 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 a State Division of Motor Vehicles.

Renovation – An interior or exterior upgrade that may or may not include structural change.

Replacement System - A system intended to replace an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure.

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.

Residential Lot Line - The portion of a property line within two hundred (200) feet of a dwelling.

Residential Structure - A residential dwelling unit built for the support, shelter or enclosure of persons.

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.

Road – Public and private ways such as highways, streets, and other rights-of-way, excluding driveways as defined.

Seasonal - A use, structure or activity that is in place for seven (7) months or less per calendar year.

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 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/cable service:

- a. the extension, regardless of length, will be made by the installation of telephone/cable 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 required horizontal distance from an abutting property line or road to the closest part of any structure.

Sign - A name, identification, description, display or illumination which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relate to an object, product, place, activity, person, institution, organization or business.

Skid Road or Skid Trail - A route repeatedly used by machinery or animal(s) to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Special Exception Permit - A permit issued by the Planning Board for a special exception use. A special exception permit may be issued only after the Planning Board deems that the proposal satisfies the purpose of this Ordinance as stated in Section 1.

Square Footage - The sum of the horizontal areas of the floor(s) plus the horizontal area of any unenclosed portions of a structure such as porches and decks, calculated by the external limits.

Structures - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, standby generators, poles, wiring, and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes, including but not limited to, rigid framed tents and tractor trailer bodies/boxes.

Subdivision - See Town of Phippsburg Subdivision Ordinance.

Substantial Start - Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost, excluding the planning and design costs.

Subsurface Sewage Disposal System (SSDS) - Any system designed to dispose of waste water on or beneath the surface of the earth, including but not limited to: a septic tank, disposal field, pit privy, vault privy, grandfathered cesspool, holding tank, pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes. SSDS does not include any discharge system licensed under 38 M.R.S.A. section 414 (over board discharge), any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Tent – A portable fabric shelter intended for protection, including screen shelters and yurts.

Timber Harvesting - The cutting and removal of timber for the primary purpose of selling or processing forest products.

Timber Harvesting and Related Activities - Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Travel Trailer- A portable structure built as a vehicle designed for use as a temporary dwelling for travel. This structure shall not be used as a permanent dwelling.

Traveled Way – The part of the road over which vehicles travel.

Use - The purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Vacant Lot – A parcel of land that has no improvements.

Value - Equal to the cost of materials plus labor at fair market rates.

Variance - A relaxation of the terms of this Ordinance.

Note: See Board of Appeals Ordinance

Vegetation - All live trees, shrubs, and other plants.

Water Crossing - Any project extending from one bank to the opposite bank of a 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.

Wetlands, Inland - Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation or other criteria as inland wetlands including, but not limited to, swamps, marshes or bogs.

Wilderness Campsite – A campsite without water-carried sewage facilities. Sites shall contain a minimum of twenty thousand (20,000) square feet for each tent or shelter. This recreational area shall maintain a one hundred (100) foot setback from any residential property line.

Windfirm - The ability of a forest stand to withstand the normal forces of nature.

Windmill(s) – Any or various machines (for producing energy) driven by the force of the wind acting upon a number of vanes or sails.

Woody vegetation - Live trees or woody, non-herbaceous shrubs

Yard - The area of land on a lot not occupied by buildings.

Yard/Garage Sale - Casual public sale of goods, new or used, by other than an established business.