


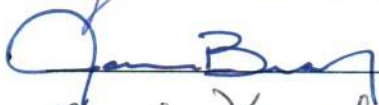
TOWN OF ALTON
LAND USE ORDINANCE


AMENDMENT
2020

March 2, 2021

We the Select Board of the Town of Alton, certify this copy of the Alton Land Use Ordinance Amendment 2020 as approved for enactment by the June 13, 2020 Annual Town Meeting to the municipal clerk to be preserved in the town records as a public record.


_____ John Belding


_____ James Braley


_____ Brenda Kennedy-Wade

Attest: I attest that this is a true copy of an ordinance entitled "Town of Alton Land Use Ordinance Amendment 2020", as certified to me by the municipal officers of Alton on the 2nd day of March 2021.



_____ Ronald F. Borja, Town Clerk of Alton

TABLE OF CONTENTS

ALTON LAND USE DISTRICTS MAP

ARTICLE 1. GENERAL

1.	Pre-Existing Uses and Structures	1-2
2.	Authority and Jurisdiction	1-2
3.	Title.....	1-2
4.	Purposes.....	1-2
5.	Conflicts with Other Ordinances	1-2
6.	Validity	1-2
7.	Amendments.....	1-2
8.	Effective Date.....	1-2
9.	Availability	1-3

ARTICLE 2. LAND USE DISTRICTS

1.	Establishment of Districts.....	2-1
2.	Rules Governing District Boundaries.....	2-1
3.	Land Use Requirements	2-2
4.	District Purposes.....	2-3
5.	Permitted Uses within Land Use Districts.....	2-3
6.	Dimensional Requirements	2-6

ARTICLE 3. ADMINISTRATION

1.	Administering Agencies	3-1
2.	Approvals Required.....	3-2
3.	Enforcement	3-2
4.	Non-conformance	3-3

ARTICLE 4. SITE PLAN AND SUBDIVISION REVIEW

1.	Purpose	4-1
2.	Subdivisions Permitted by District.....	4-1
3.	Subdivision Review – Administrative Requirements.....	4-1
4.	Subdivision Review – Application Contents.....	4-3
5.	Subdivision Review – Statutory Review Criteria.....	4-4
6.	Site Plan Review – Administrative Requirements	4-5
7.	Site Plan Application.....	4-6
8.	Site Plan Review Performance Standards	4-7
9.	General Provisions.....	4-9

ARTICLE 5. APPEALS

1.	Appointment and Composition.....	5-1
2.	Powers and Duties	5-1

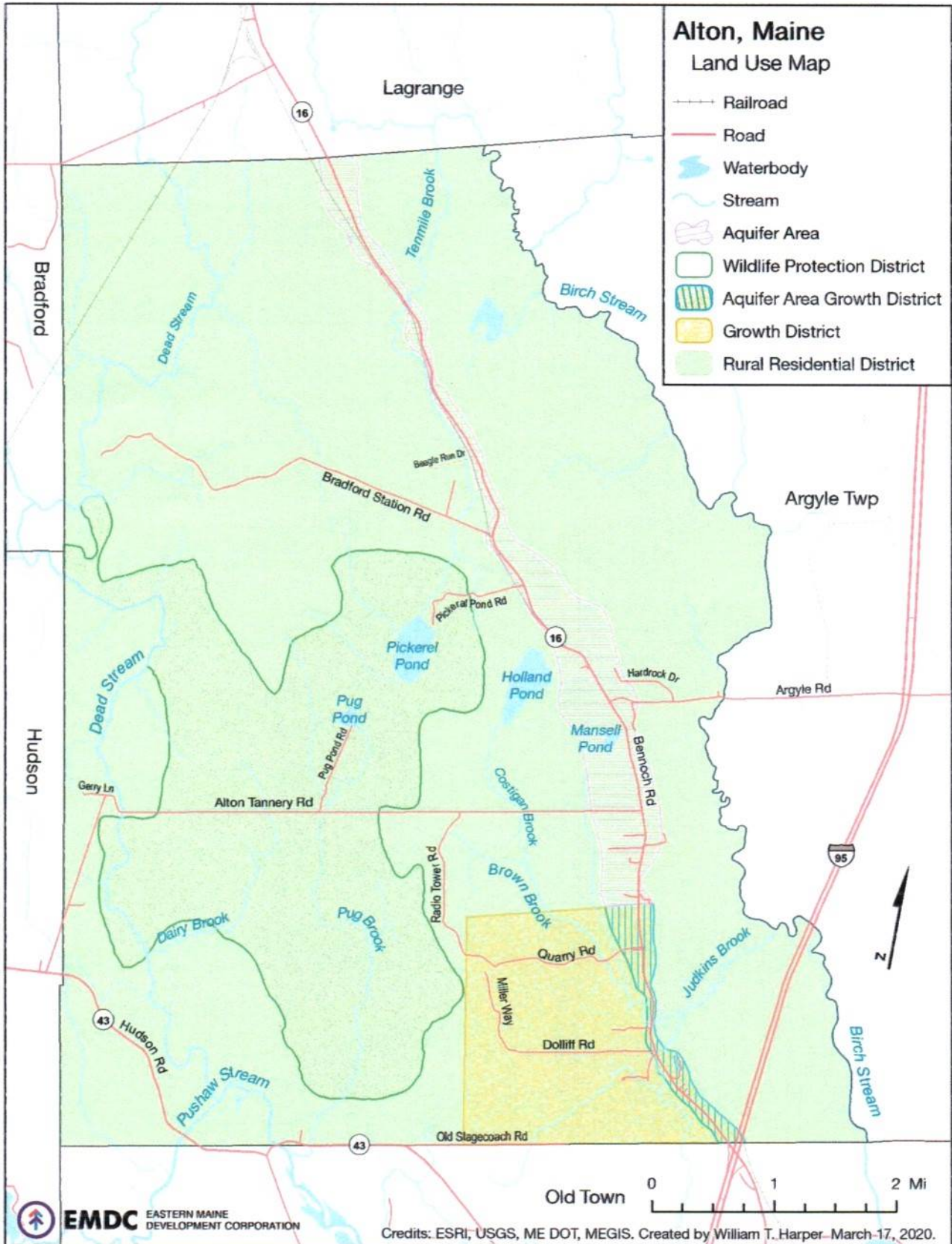
3. Appeal Procedure5-3

ARTICLE 6. DEFINITIONS

1. Construction of Language6-1
2. Definitions6-2

Alton, Maine Land Use Map

- Railroad
- Road
- Waterbody
- Stream
- Aquifer Area
- Wildlife Protection District
- Aquifer Area Growth District
- Growth District
- Rural Residential District



ARTICLE 1. GENERAL

1. Pre-Existing Uses and Structures

Any lawful use of buildings, structures, land, or parts thereof existing at the time of adoption or amendment of this Ordinance and made non-conforming by the provisions of this Ordinance or any amendments to it, may continue, subject to the provisions of Article 3, Section 4, Non-conformance.

2. Authority and Jurisdiction

This Ordinance has been prepared in accordance with the home rule authority granted in Title 30-A Maine Revised Statutes Annotated (MRSA) Section 3001 and Article VIII, Part 2, of the Maine Constitution.

3. Title

This Ordinance shall be known as and may be cited as the "Land Use Ordinance, Town of Alton, Maine."

4. Purpose.

The purpose of this Ordinance is to encourage the most appropriate use of land throughout the community as set forth in the Town of Alton Comprehensive Plan.

5. 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, the more restrictive provision shall control.

6. Validity

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

7. Amendments

The Town of Alton may amend this Ordinance at a special town meeting or at the annual town meeting.

8. Effective Date

The effective date of this Ordinance is June 13, 2020.

9. **Availability**

- A. A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public.
- B. Copies shall be made available to the public at reasonable cost at the expense of the person making the request.
- C. Notice of availability of this Ordinance shall be posted.

ARTICLE 2. LAND USE DISTRICTS

1. Establishment Of Districts

For the purpose of this Ordinance, all areas of the Town of Alton are hereby divided into the following three Districts:

- A. Growth District
- B. Wildlife Protection District
- C. Rural Residential District

2. Rules Governing District Boundaries

The boundaries of the three Districts are represented on the Land Use Districts Map contained in this Ordinance which is hereby made a part of this Ordinance. The boundaries of the three Districts are hereby described as follows:

- A. Growth District:** Alton's Growth District is located in the southeastern portion of the Town. The Growth District contains approximately 2,115 acres, or approximately 8% of Alton's total acreage.

The eastern boundary of the Growth District closely parallels Route 16. However, the eastern boundary does not extend as far as Route 16, but instead follows the western boundary of the Significant Sand and Gravel Aquifer located in this portion of the Town.

The south boundary of the Growth District is the boundary between the Town of Alton and the Town of Old Town. The eastern boundary of the Growth District is the western boundary of the wetland located within the southeastern portion of Alton. The boundary of the wetland in this area is shown on the Water Resources & Riparian Habitat Map in the Alton Comprehensive Plan.

The southeast corner of the Growth District is the intersection of the Alton-Old Town boundary with the western boundary of the wetland as shown in the Water Resources & Riparian Habitat Map in the Alton Comprehensive Plan. From this southeastern corner, the southern boundary of the Growth District proceeds west, following the Alton – Old Town boundary line, as far as the intersection of the western boundary of Lot No. 128 (Alton Property Tax Map No. 8) with the Alton-Old Town border.

The southwest corner of the Growth District is the intersection of the Alton-Old Town boundary with the western boundary of Alton Lot No. 128. From this southwestern intersection, the west boundary of the Growth District proceeds north, following the west boundary of Lot 128. At the northwest corner of Lot 128, the west boundary of the Growth District then jogs west, following the north boundary of Lot No. 129, to the intersection of the north boundary of Lot 129 and the west boundary of Lot No. (134). From here, the west boundary of the Growth District proceeds north, following the west boundaries of Lot Numbers 134, 37, 36, 34.1, 33, 2, and 1, as far north as the northwest corner Lot No. 1 (Alton Property Tax Map No. 8).

The northwest corner of the Growth District is the northwest corner of Lot No. 1. From here, the northern boundary of the Growth District proceeds east, following the north boundaries of Lot Nos. 1, 3, 6, and 7. At the northeast corner of Lot 7 the boundary jogs north to the northwest corner of Lot No. 12 (Alton Property Tax Map 8). From here the northern boundary proceeds east following the northern boundary of Lot 12.

The northeast corner of the Growth District is the intersection of the north boundary of Lot No. 12 (Alton Property Tax Map No. 8) and the western edge of the wetland. From this northeast corner, the east boundary of the Growth District proceeds south, following the west boundary of the wetland as shown on the Water Resources and Wetland Habitat Map in the Alton Comprehensive Plan, until the western border of the wetland crosses the Alton–Old Town border, which is the southeast corner of the Growth District.

- B. Wildlife Protection District:** Alton’s Wildlife Protection District contains approximately 5,444, acres, or approximately 20% of Alton’s total acreage. The boundaries of the Wildlife Protection District shall be deemed to follow the boundaries of the deer wintering area shown on the April 5, 2002 High Value Plant and Animal Habitat Map prepared by the Maine Natural Areas Program, a copy of which is available for viewing at the Alton Town Office.

Because the location of the boundaries of the deer wintering area may change from time to time, if the location of the boundaries as they exist on the ground is at variance with the boundaries shown on the Map, then the location of the boundaries as they exist on the ground shall be controlling.

Where there is uncertainty as to the location of the actual boundaries of the deer wintering area on the ground, the Board of Appeals shall be the final authority as to the location. Any evidence regarding the location of existing boundaries that is presented by Maine’s Department of Inland Fisheries and Wildlife shall be given very strong consideration in any decision on the matter.

- C. Rural Residential District:** Alton’s Rural Residential District contains approximately 19,426 acres, or approximately 72% of Alton’s total acreage. All land not located within Alton’s Growth District and Wildlife Protection District is contained in the Rural Residential District.

3. Land Use Requirements

- A. Prohibitions.** 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.
- B. Conflicts.** Where one of the Districts established by this Ordinance overlies land subject to the Town’s Shoreland Zoning Ordinance, and where there is a conflict

between the provisions of this Ordinance and the provisions of the Shoreland Zoning Ordinance, the stricter provisions of the two ordinances shall govern.

4. District Purposes

A. Purpose of Growth District:

- 1) To provide an appropriately sized area for potential future development and growth that has few physical restraints, adequate soils, and is located in proximity to I-95;
- 2) To allow a variety of land uses including single family homes, apartments and multi-family dwellings, mobile home parks, and a range of non-residential uses.
- 3) To protect the Town's important sand and gravel aquifer by restricting uses which could contaminate the ground water.

B. Purpose of Rural Residential District:

- 1) To protect the rural character of the Town, the Town's valued natural resources such as forest and agricultural land, and to protect the scenic beauty, contiguous open spaces, quality of ground water, and outdoor opportunities that our residents' value
- 2) To allow low density single-family and slow-growth subdivision development, natural resource-based commercial development, home occupations, and low-impact businesses.

C. Purpose of Wildlife Protection District:

- 1) To protect the deer wintering area shown on the April 5, 2002 High Value Plant and Animal Habitat Map prepared by the Maine Natural Areas Program, from incompatible development.
- 2) To allow very low-density single-family development and low density, slow-growth cluster subdivision development, and low impact, natural resource-based commercial development.

5. Permitted Uses within Land Use Districts

- A. Standards.** Permitted uses and uses subject to planning board approval shall conform to all dimensional requirements and other applicable requirements of this Ordinance.
- B. Key to Table.** Key to Table of Permitted Land Uses by District (See table on next page)

Permit Symbols

- Y Yes; use allowed, but Town of Alton Building Notification Ordinance also remains applicable.
- PB Site Plan or Subdivision approval by the Planning Board required (see Article 4).
- N No, use not allowed

C. Table of Permitted Uses by Land Use District

	Growth	Rural Residential	Wildlife
Rural Uses			
1. Agriculture	Y	Y	Y
2. Boarding and riding stables	Y	Y	PB
3. Campground	Y	Y	N
4. Farm stand	Y	Y	Y
5. Forestry	Y	Y	Y
6. Gravel pit	PB	PB	PB
7. Outdoor recreation such as parks, playgrounds, and golf courses	Y	Y	N
8. Spreading of pre-treated septage	N	N	N
9. Spreading of biosolids (sewage treatment plant sludge)	N	N	N
Residential Uses			
1. Single-family dwelling	Y	Y	Y
2. Home occupation	Y	Y	Y
3. Accessory apartment	Y	Y	Y
4. Community living arrangement	Y	Y	Y
5. Duplex (two family)	Y	Y	N
6. Multi-family dwelling	Y **	Y	N
7. Mobile home park	PB *	N	N
8. Subdivision	PB	PB	PB
Institutional Uses			
1. Cemetery	Y	Y	Y
2. Church	Y	Y	Y
3. Day care center	Y	Y	Y
4. Governmental facilities and grounds	PB	PB	N
5. Nursing home	PB	PB	N
6. Public or private school	PB	PB	N
Commercial Uses			
1. Adult Entertainment	PB	N	N

	Growth	Rural Residential	Wildlife
2. Art gallery/craft shop/gift shop	Y	Y	N
3. Auction barn	Y	Y	N
4. Automobile/Snowmobile/Recreational vehicle sales lot	PB	N	N
5. Automobile service station and repair garage	PB	PB	N
6. Bed and breakfast	Y	Y	Y
7. Commercial complex	PB	N	N
8. Commercial greenhouse, garden	PB	PB	N
9. Communication tower	PB	PB	PB
10. Financial institution	PB	PB	N
11. Gas station	PB	PB	N
12. Grocery and variety store	Y	Y	N
13. Indoor entertainment and recreation	Y **	N	N
14. Kennel-boarding site	Y	Y	Y
15. Outdoor storage business	Y	N	N
16. Permanent yard sale	N	N	N
17. Pottery barn	PB	N	N
18. Professional office building	PB	PB	N
19. Redemption center	Y **	PB	N
20. Restaurant	PB	PB	N
21. Repair service (other than auto)	PB	PB	N
22. Retail outlet	PB	PB	N
23. Self storage building	Y	Y	PB
24. Service business	PB	PB	N
25. Signs	Y	Y	Y
Industrial Uses			
1. Automobile graveyard/junkyard	PB *	N	N
2. Bulk oil and fuel storage, in excess of 50 gallons except for onsite purposes	PB *	N	N
3. Car crushing	PB *	N	N
4. Construction equipment storage	PB	PB	N
5. Firewood processing	Y	Y	Y
6. Light manufacturing assembly plant	PB	PB	N
7. Manufacturing	PB *	N	N
8. Sawmill	PB	PB	PB
9. Solid waste transfer station	N	N	N
10. Warehouse	PB	PB	N
11. Wholesale business facility	PB	PB	N
Transportation and Utilities			
1. Major utility facilities such as transmission lines	PB	PB	N
2. Bus company, shipping company	PB	PB	N

* -- Not allowed in aquifer area of growth district

** – Requires Planning Board approval in aquifer area of growth district

D. Accessory Uses and Structures

- 1) If a structure or use in the above table is listed as an allowed use (as shown with the “Y” symbol) any accessory use or structure shall also be deemed to be allowed.
- 2) If a structure or use in the above table is listed as a use requiring Planning Board approval (as shown with the “PB” symbol) any accessory use or structure shall also be deemed to require Planning Board approval.

E. Expansion of Existing Structures and Uses

- 1) If a structure or use in the above table is listed as an allowed use (as shown with the “Y” symbol) any expansion of such use or structure shall also be deemed to be allowed, provided the requirements of Article 3, Section 4 are met.
- 2) If a structure or use in the above table is listed as a use requiring Planning Board approval (as shown with the “PB” symbol) any expansion of such use or structure shall also be deemed to require Planning Board approval.

F. Nuisances Not Permitted

No use shall be permitted or allowed to operate if it creates any of the following nuisances off the lot: noise, vibration, glare, odors, dust, smell, smoke or heat. In addition, no home occupation shall be allowed which creates a fire hazard to the premises or neighboring premise, or which creates electrical interference such that it causes visual or audible interference in any radio or television receivers off the premises, or such that it causes voltage fluctuations off the premises.

G. Non-Listed Uses

If a proposed use is not listed in the “Table of Permitted Uses by Land Use District,” above, such use may be permitted by the Planning Board if the Planning Board finds that the proposed use is similar to one or more of the uses listed as being permitted in the table.

6. Dimensional Requirements

All structures and uses in the three Land Use Districts shall meet or exceed the following minimum requirements.

A. Table of Dimensional Requirements

	Growth	Rural Residential	Wildlife
Minimum lot size	1 acre	1.75 acres	10 acres
Minimum road frontage	150 feet	175 feet	300 feet
Road setback	50 feet	60 feet	75 feet
Side and rear setbacks	15 feet	25 feet	25 feet
Minimum additional lot area per Additional Structure	½ acre	1 acre	5 acres

B. Multi-Family Dwellings. The lot size requirement for multi-family dwellings in the Growth District may be reduced to 20,000 square feet/unit by a vote of the Planning Board provided that the applicant submits proof of adequate soils for subsurface sewage disposal.

C. Road Setbacks. Road setbacks shall be measured from the center of the road.

D. Multiple Uses

- 1) Except as provided in paragraph 6.D.2, below, all lots primarily used for residential purposes may only contain a single residence and accessory structures, and all lots primarily used for commercial purposes may only contain a single commercial building and accessory structures.
- 2) Notwithstanding paragraph 6.D.1, the construction of one Additional Structure on a a lot shall be permitted if:
 - a. After taking into account the Additional Structure, the lot will be in conformance with the requirements of the Table of Dimensional Requirements, including setback, frontage and Additional Structure Requirements
 - b. All proposed uses of structures are permitted in the Land Use District in which the lot is located
 - c. The owner demonstrates to the Planning Board or Code Enforcement Officer that the property has adequate site and soil conditions for subsurface wastewater disposal as per Maine State rules, and

- d. A sketch plan, drawn to scale and in sufficient detail that it accurately represents current site conditions, is submitted to and approved by the Code Enforcement Officer (in the case of any category of use permitted without Planning Board approval in the Table of Permitted Uses) or the Planning Board (in the case of any category of use requiring Planning Board approval in the Table of Permitted Uses).

ARTICLE 3. ADMINISTRATION

1. Administering Agencies

A. Code Enforcement Officer

- 1) **Enforcement of Ordinance.** Unless otherwise provided in this Ordinance, the Code Enforcement Officer (CEO) shall enforce this Ordinance.
- 2) **Building Notification Ordinance.** No building notification application shall be approved by the Code Enforcement Officer except in compliance with the provisions of this Ordinance.
- 3) **Powers and Duties.** The Code Enforcement Officer shall have the following duties, among others, in enforcing this Ordinance:
 - a) **Building Notification Approvals.** Act upon building notifications which are under the jurisdiction of the Code Enforcement Officer as required in Article 2, Section 5, Land Use Districts, and as set forth in Alton's Building Notification Ordinance.
 - b) **Complaints and Violations.** Investigate all complaints and reported violations of this Ordinance, keep written inspection reports and thorough records of his investigations, report to the Planning Board regarding these matters, and issue violation notices where appropriate.
 - c) **Consent Agreements.** Process or act on consent agreements involving violations of this Ordinance or appear in court when necessary.

B. Planning Board

- 1) The Planning Board shall be responsible for reviewing and acting upon applications for Site Plan approval as required by in Article 2, Section 5.
- 2) Following approval by the Planning Board, the applicant shall return to the Code Enforcement Officer for any necessary approval required by Alton's Building Notification Ordinance.

C. Board of Appeals

- 1) The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Article 5 of this Land Use Ordinance.

- 2) Following the issuance of any Board of Appeals decision favorable to the applicant, the applicant shall return to the Code Enforcement Officer for any necessary approval required by Alton's Building Notification Ordinance.

2. **Approvals Required**

It shall be unlawful to engage in any activity, or use of land or structure, requiring approval in the district in which such activity or use would occur, without first obtaining land use approval from the appropriate reviewing authority.

3. **Enforcement**

A. Duties of Code Enforcement Officer. The Code Enforcement Officer is responsible for enforcing this Land Use Ordinance. In doing so, he may:

- 1) Enter any property at reasonable hours or enter any building with the consent of the owner to inspect the property or building for compliance with this Land Use Ordinance. The Code Enforcement Officer's entry onto property under this paragraph is not a trespass;
- 2) Issue a summons to any person who violates this Land Use Ordinance; and
- 3) When specifically authorized by the municipality, represent the municipality in district court in any proceedings concerning alleged violations of this Land Use Ordinance.

B. Enforcement Statute. The enforcement of this Land Use Ordinance is governed by Title 30-A M.R.S.A. Section 4452. This statute provides, amongst other things, that:

- 1) Monetary penalties for a violator may be assessed on a per day basis;
- 2) The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500;
- 3) The violator shall be ordered to correct or mitigate the violation;
- 4) If the Town of Alton is the prevailing party in any lawsuit, the Town will be awarded reasonable attorney fees, expert witness fees, and costs;
- 5) All proceedings arising under this Land Use Ordinance shall be brought in the name of the Town of Alton. All fines resulting from those proceedings shall be paid to the Town of Alton.

C. Other Remedies. The Code Enforcement Officer, or any other appropriate authority, or any person who would be damaged by a violation of this Ordinance, may, in addition to other remedies offered by this Ordinance, institute appropriate legal procedures.

4. Non-Conformance

A. **Non-Conforming Lots of Record**

- 1) **Exemption from Lot Area and Width Requirements.** A single lot of record of one acre or more at the effective date of adoption of this Ordinance may be built upon (one dwelling unit and accessory structures only) even though such lot fails to meet the minimum requirements for lot area, lot width or road frontage, provided such lot is not contiguous with any lot or lots in the same ownership. In order to build on contiguous lots in the same ownership, such lots must be combined to meet the requirements of this Ordinance to the maximum extent possible.
- 2) **Must Comply with All Other Requirements.** Such lot shall conform to all other requirements, not involving lot area, lot width or road frontage for the district in which it is located.

B. **Non-Conforming Structures**

- 1) **Expansions.** No structure that is non-conforming with respect to the Setback Requirements, may be expanded so as to increase the non-conformity of the setback.
- 2) **Damage or destruction.** Should any building or structure that is non-conforming with respect to the Setback Requirements be destroyed or damaged by any means beyond the control of the owner, it may be rebuilt or restored within a period of one year provided that the rebuilt or restored building or structure shall not increase the non-conformity. Any rebuilding after the one-year period shall conform with the dimensional requirements of this Ordinance.
- 3) **Replacement.** If a nonconforming building or structure is demolished or removed by or for its owner, it shall not be rebuilt or replaced except in conformity with the Setback Requirements of this Ordinance.

C. **Non-Conforming Uses of Land**

- 1) **No increase.** No non-conforming use of land shall be enlarged to occupy a greater area of land than that occupied at the effective date of adoption or amendment of this Ordinance.
- 2) **Non-use.** If any non-conforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land must conform to the regulations specified by this Ordinance for the Land Use District in which such land is located.

D. Non-Conforming Uses of Structures

- 1) No existing structure devoted to a non-conforming use shall be enlarged, extended, or expanded except in changing the use of the structure to a conforming use.
- 2) Any non-conforming use may be extended throughout any parts of a building which were manifestly in existence and arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- 3) If a non-conforming use of a structure is superseded by a permitted use, the non-conforming use shall not thereafter be resumed.
- 4) If any non-conforming use of a structure ceases for any reason for a period of more than one year, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located.

ARTICLE 4. SITE PLAN AND SUBDIVISION REVIEW

1. Purpose

Substantial development or major changes in the uses of land can have a negative impact on the cost and efficiency of municipal services, and on the environment of the Town of Alton. For example, such development can have impacts on schools, liquid and solid waste disposal, police and fire protection, open space, road systems, traffic congestion, property values, water quality, the visual characteristics of the Town, and the general health, safety and welfare of the community. It is the purpose of this Article to minimize any such negative impact caused by future development.

2. Subdivisions Permitted by District

- A. **Growth District.** In the Growth District, there shall be no limit on the number of building permits issued in any subdivision during any particular time period. Cluster or open space subdivisions are not required.
- B. **Rural Residential District.** In the Rural Residential District, the number of building permits issued for any one subdivision in the course of a one-year period shall be limited to five. Cluster or open space subdivisions are not required.
- C. **Wildlife Protection District.** In the Wildlife Protection District, the number of building permits issued for any one subdivision in the course of a one-year period shall be limited to five. Proposed subdivisions shall conform to the open space (or cluster) subdivision format under which 75% of the total area being subdivided shall be retained as open space.

3. Subdivision Review – Administrative Requirements

All subdivision applications shall comply with the Subdivision Law, Title 30-A M.R.S.A. Sections 4401 through 4407.

- A. **Prohibition.** No building notification approval or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development requiring subdivision approval until a subdivision plan has been approved by the Planning Board in accordance with this Ordinance.
- B. **Pre-Application.** An applicant may request a pre-application discussion with the Planning Board prior to formal submission of a subdivision plan to generally discuss the proposal and to obtain guidance in development of the plan.
- C. **Copies.** Every applicant applying for formal subdivision approval shall submit to the Planning Board five (5) copies of a subdivision application as described in Section 4.

- D. Fee Required.** All formal subdivision applications shall be accompanied by a fee of \$100 for each lot in the subdivision, or by a fee for each lot as determined by the Selectmen from time to time.
- E. Submission for Subdivision Approval.** An application for subdivision approval shall be submitted at least seven (7) days prior to the Planning Board meeting date at which the applicant wishes to be heard.
- F. Statutory Time-Fame for Review.**
- 1) **Dated Receipt.** When a subdivision application is received, the Planning Board shall give a dated receipt to the applicant and shall notify by mail all abutting property owners, and the clerk of the reviewing authority of any municipality that abuts or includes any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.
 - 2) **Review for Completeness.** Within 30 days after receiving a subdivision application, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.
 - 3) **Beginning of Review Period.** After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.
 - 4) **On-Site Inspection.** The Planning Board may schedule an on-site inspection. The on-site inspection shall be jointly attended by the applicant or his duly authorized representative and by at least one member of the Planning Board or an individual appointed by the Chairman of the Planning Board to act as the Board's representative for such inspection.
 - 5) **Public Hearing Notice.** The Planning Board may hold a public hearing on an application for a proposed subdivision. If the Planning Board decides to hold a public hearing, it shall hold the hearing within 30 days after determining it has received a complete application. The Planning Board shall have notice of the date, time, and place of the hearing:
 - a) Given to the applicant; and
 - b) Published, at least two times, in a newspaper having general circulation in the Town of Alton. The date of the first publication shall be at least seven (7) days before the hearing.
 - 6) **Decision.** The Planning Board shall, within 30 days of a public hearing or, if no public hearing is held, within 60 days of determining it has received a complete application, or within any other time limit that is otherwise mutually agreed to by the Planning Board and the applicant, issue an order:
 - a) Denying approval of the proposed subdivision; or

- b) Granting approval of the proposed subdivision; or
- c) Granting approval upon any terms and conditions that it considers advisable to:
 - Satisfy the criteria listed in Title 30-A MRSA Section 4404;
 - Satisfy any other regulations adopted by the Planning Board; and
 - Protect and preserve the public's health, safety, and general welfare.

4. **Subdivision Review – Application Contents**

The subdivision application shall include as a minimum:

- A. **Map.** A map or maps prepared at a scale of not less than 1 inch equals 20 feet. The Planning Board shall not accept or approve final maps or final documents that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32 MRSA Section 13907. The map shall contain the information shown below.
 - 1) Name and address of the applicant or his authorized agent and name of proposed subdivision and any land within 500 feet of the proposed subdivision in which the applicant has title or interest.
 - 2) Existing soil conditions as described by a soil scientist, geologist, engineer, or Soil Conservation Service medium intensity soil survey.
 - 3) Municipal tax map and lot numbers and names of abutting landowners.
 - 4) Scale, true north arrow, legend, and a space for dates of any revisions which may be required.
 - 5) Exact dimensions and acreage of parcel to be subdivided. The corners of the parcel and the corners of each lot shall be located and marked on the ground and shall be referenced on the plan.
 - 6) An actual field survey of the boundary lines of the parcel and each lot, giving complete descriptive data by bearings and distances.
 - 7) Existing and proposed locations and dimensions of any utility lines, easements, drainage ways and public or private rights-of-way.
 - 8) The size, shape and location of existing buildings on the parcel.
 - 9) An on-site soils investigation report prepared by a site evaluator licensed by the Department of Health and Human Services showing the location of soils suitable for subsurface sewage disposal.

- 10) Specification of quantities and grades of materials to be used if landfilling is proposed.

B. Written Statement. A written statement by the applicant is required and, at a minimum, shall consist of:

- 1) Evidence by the applicant of his title and interest on the land which the application covers.
- 2) Summary of existing and proposed easements, restrictions, and covenants on the property.
- 3) Methods of controlling erosion and sedimentation.
- 4) Reasonable evidence of financial capability, which should include names and sources of the financing parties.

5. Subdivision Review – Statutory Review Criteria

The Planning Board shall consider the statutory subdivision review criteria contained in Title 30-A M.R.S.A. Section 4404 and shall, prior to granting approval, determine that the proposed subdivision meets all of the statutory criteria. There are currently 20 listed statutory review criteria. These include, but are not limited to, the following:

- A. Pollution.** Will not result in undue water or air pollution on or off site;
- B. Erosion.** Will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- C. Traffic.** Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- D. Municipal Solid Waste Disposal.** Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
- E. Groundwater.** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- F. Sufficient Water.** Has sufficient water available for the reasonably foreseeable needs of the development;
- G. Sewage Disposal.** Will provide for adequate sewage waste disposal;
- H. Conformity with Local Ordinances and Plans.** Conforms with all duly adopted ordinances or regulations.
- I. Financial and Technical Capability.** The developer has adequate financial and technical capacity to meet the standards of this section.

- J. **Flood plains.** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a provision 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;
- K. **Freshwater Wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.

6. **Site Plan Review – Administrative Requirements**

- A. **Prohibition.** No building notification approval or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development requiring site plan approval, as set forth in Article 2, until a site plan review of the proposed development has been approved by the Planning Board. Site plan review shall also be required for the expansion of existing structures and uses requiring site plan approval, as set forth in Article 2.
- B. **Pre-Application.** An applicant may request a pre-application discussion with the Planning Board prior to formal submission of a site plan to generally discuss the proposal and to obtain guidance in development of the plan.
- C. **Copies.** Every applicant applying for site plan review shall submit to the Planning Board five (5) copies of a site plan application described in Section 7 of this Article.
- D. **Required Fees.** All applications for site plan approval shall be accompanied by a fee of \$250, or by a fee as determined by the Selectmen from time to time.
- E. **Submission of Site Plan Review Application.** An application for site plan review shall be submitted at least seven (7) days prior to the Planning Board meeting date at which the applicant wishes to be heard.
- F. **On-Site Inspection.** The Planning Board may schedule an on-site inspection. The on-site inspection shall be jointly attended by the applicant or his duly authorized representative and by at least one member of the Planning Board or an individual appointed by the Chairman of the Planning Board to act as the Board's representative for such inspection.
- G. **Required Timeframe for Review.** Within sixty (60) days after the date on which the site plan application first appears on the Planning Board agenda, the Board shall act to approve, approve with conditions or disapprove the site plan application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.

- H. Notification of Decision.** Within seven (7) days of reaching its decision, the Planning Board shall notify the applicant in writing of any action and the reason for taking such action.

7. Site Plan Application

The Site Plan application shall include as a minimum:

- A. Map.** A map or maps prepared at a scale of not less than 1 inch equals 20 feet, containing the following information:
- 1) Name and address of the applicant or his authorized agent, and name of proposed development, if any.
 - 2) Existing soil conditions as described by a soil scientist, geologist, engineer or Soil Conservation Service medium intensity soil survey.
 - 3) Municipal tax map and lot numbers and names of abutting landowners.
 - 4) Scale, true north arrow, legend and a space for dates of any revisions which may be required.
 - 5) Exact dimensions and acreage of parcel to be built upon. The corners of the parcel shall be located and marked on the ground and shall be referenced on the plan.
 - 6) For any site for which construction or grading is proposed, other than an enlargement of an existing building or construction of an accessory building, the Planning Board may require that the site plan include an actual field survey of the boundary lines of the lot, giving complete descriptive data by bearings and distances made and certified by a registered land surveyor.
 - 7) Existing and proposed locations and dimensions of any utility lines, easements, drainage ways and public or private rights-of-way.
 - 8) The size, shape and location of existing and proposed buildings on the parcel.
 - 9) An on-site soils investigation report prepared by a site evaluator licensed by the Department of Health and Human Services showing the location of soils suitable for subsurface sewage disposal.
 - 10) Location and dimensions of parking areas, loading, and unloading facilities, and design of ingress and egress of vehicles to and from the site onto public streets.
 - 11) Landscaping plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening. Maintenance and replanting provisions shall be noted.

- 12) Specification of quantities and grades of materials to be used if landfilling is proposed.

B. Written Statement. A written statement by the applicant is required and, at a minimum, shall consist of:

- 1) Evidence by the applicant of his title and interest on the land which the application covers.
- 2) A description of the proposed uses to be located on the site, including the quantity and type of residential unit, if any.
- 3) Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure.
- 4) Summary of existing and proposed easements, restrictions, and covenants on the property.
- 5) Method of solid, liquid, chemical or other waste disposal.
- 6) Methods of controlling erosion and sedimentation.
- 7) Reasonable evidence of financial capability, which should include names and sources of the financing parties.
- 8) An estimate of the date when construction will start, when the development will be completed, and of the cost of development.

8. Site Plan Review Performance Standards

The site plan application shall be approved unless, in the judgment of the Planning Board, the applicant is not able to reasonably meet the review criteria contained in Title 30-A M.R.S.A. Section 4404 of the subdivision law, as well as the performance standards shown below. In all instances, the burden of proof shall be on the applicant.

A. Exterior Lighting

- 1) No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.
- 2) Lighting with a lumen output equal to or greater than a 200-watt mercury light shall not be directed toward the sky or adjacent to properties.
- 3) No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.

B. Industrial and Manufacturing Use

In addition to meeting the standards set forth in Section 8 above, applications submitted to the Planning Board for review for industrial and manufacturing uses shall include the following:

- 1) **Description of Operations.** A written description of the industrial operations proposed in sufficient detail to indicate the effects of these operations in producing traffic congestion, noise, toxic or noxious matter, vibration, odor, heat, glare, air pollution, waste, and other objectionable effects.
- 2) **Plan for Wastes.** Engineering and architectural plans for the treatment of and disposal of sewage and industrial wastes and any on-site disposal of wastes.
- 3) **Plans for Impacts.** Engineering and architectural plans for handling any traffic congestion, noise, odor, heat, glare, air pollution, fire hazard, or safety hazard.
- 4) **Fuel Use.** Designation of the fuel proposed to be used and any necessary plans for controlling the emission of smoke or particulate matter.
- 5) **Shifts and Employees.** The proposed number of shifts to be worked and the maximum number of employees on each shift.
- 6) **Landscape Features.** A plan prepared by a registered professional engineer or architect indicating trees to be retained, streams and other topographical features on the site and within one hundred feet (100') from the exterior boundaries of the property.
- 7) **Chemicals.** A list of all chemicals and all hazardous materials to be hauled, stored, used, generated, or disposed of on the site, and a list of required State and Federal permits.
- 8) **Enclosed Buildings.** All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the residential area.
- 9) **Loading Docks.** Loading docks, overhead doors and similar openings in structures shall be prohibited on sides of the structure adjacent to or across the street from a residential use or property.
- 10) **Yard Maintenance.** All other yards abutting or across a street from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.
- 11) **Sanitary Conditions.** All materials, including wastes, shall be stored, and all grounds shall be maintained, in a manner which will not attract or aid the propagation of insects or rodents, or create a health hazard.

- 12) **Noise.** The noise level of the industrial process shall not exceed 60 decibels at any property line from 10:00 p.m. to 7:00 a.m. and 70 decibels from 7:00 a.m. to 10:00 p.m.
- 13) **Deliveries.** There shall be no deliveries or shipments of hazardous materials in quantities large enough to cause a public health hazard in case of accidental release.

9. **General Provisions**

- A. **Waivers of Site Plan Review (but not subdivision) Requirements.** The Planning Board may modify or waive any of the above application requirements or performance standards for site plan review (but not dimensional requirements), with or without conditions, when the Planning Board determines that because of the special circumstances of the site, or the size of the project, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant, provided that such a waiver would also not adversely affect the abutting landowners or the general health, safety and welfare of the Town.
- B. **Buildings and Conformance to Subdivision or Site Plan.** All construction performed under the authorization of a building notification approval shall be in conformance with the approved subdivision or site plan application.
- C. **Expiration of Site Plan Approval.** Approval of the site plan and any building notification approval issued for development within the scope of this Ordinance shall expire after a period of twelve (12) months if development has not begun within that period.
- D. **Technical Expertise.** The Planning Board, after reviewing and finding specific technical deficiencies which prevent the Planning Board from properly reviewing the subdivision or site plan application, may hire its own civil engineer, soil scientist, geologist or other expert to review the plan submitted by the applicant. If the hiring of such an expert is deemed by the Planning Board to be necessary, the applicant shall pay for this expense.
- E. **Conditions.** For site plan and subdivision approvals, the Planning Board may, in order to carry out the purposes of this Section, require reasonable and additional conditions necessary to protect the public interest. Such conditions shall be written as part of the site plan or subdivision approvals issued by the Planning Board.
- F. **Other Approvals.** The Planning Board's decisions shall be made independently of and concurrently with State and Federal agencies' reviews but may be subject to their stricter requirements.

ARTICLE 5. APPEALS

1. Appointment and Composition

- A. **Membership.** The Board shall consist of three (3) members and one associate member serving staggered terms of three (3) years.
- B. **Officers.** The Board shall elect annually a Chairman and Secretary from its membership. The Secretary shall keep the minutes of the proceedings which shall show the vote of each member upon each question. All minutes of the Board shall be public record.

2. Powers and Duties

A. **Administrative Appeals**

The Board of Appeals may, upon application of an aggrieved party, after a hearing, affirm, modify, or set aside an administrative decision, order, rule or failure to act by the Code Enforcement Officer or the Planning Board, which is contrary to the provisions of this Ordinance, except as follows:

- 1) All enforcement actions taken by the Code Enforcement Officer, including stop orders and administrative consent agreements, may be appealed by an aggrieved party only to the Superior Court pursuant to Rule 80.B of the Maine Rules of Civil Procedure.
- 2) All subdivision and site plan review application decisions, including approvals or denials by the Planning Board pursuant to Article 4 must be appealed by an aggrieved party only to the Superior Court pursuant to Rule 80.B of the Maine Rules of Civil Procedure.

B. **Variance Appeals:**

The Board of Appeals may authorize variances upon appeal, subject to the following:

- 1) Variances may be granted only from the dimensional requirements set out in Article 2 of this Ordinance such as frontage, lot area, lot width, height, and setback requirements.
- 2) Variances shall not be granted for uses otherwise prohibited by this ordinance.
- 3) The Board shall not grant a variance unless it finds that:
 - a) The proposed structure 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

- b) The strict application of the terms of this ordinance would result in undue hardship.
- c) The term "undue hardship" shall mean all of the following:
 - i. That the land in question cannot yield a reasonable return unless a variance is granted;
 - ii. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - iii. That the granting of a variance will not alter the essential character of the locality; and
 - iv. That the hardship is not the result of action taken by the applicant or a prior owner.
- 4) The Board may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5, Section 4553, and the term "structures necessary for access to or egress from the property" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- 5) 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 may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- 6) If a variance is granted 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. The certificate must be recorded in the local Registry of Deeds within ninety (90) days of the final approval of the variance or the variance is void.
- 7) The variance is not valid until recorded as provided in this provision. Proof of recording shall be submitted by the applicant to the Code Enforcement Officer prior to approval of the Building Notification application.

- 8) In areas subject to Alton's Shoreland Zoning Ordinance, a copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection by the Board of Appeals within fourteen (14) days of the decision. This provision shall not be considered to be a condition of the validity of the variance.

3. Appeal Procedure

A. Time limit

An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from a decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.

B. Written Notice

An appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- 1) A concise written statement indicating what relief is requested and why it should be granted.
- 2) 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 requested.
- 3) An appeal for a variance shall be put into the form of an agenda by the Board of Appeals and advertised in a local newspaper at least seven (7) days before the deliberation of the Board or before any public hearing held by the Board respecting said appeal. All abutters to the property in question shall also be notified at the same time by certified mail (return receipt requested).
- 4) A fee of twenty (\$20.00) plus the current cost of advertising and notification shall accompany the appeal.

C. Record of Case

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 papers constituting the record of the decision appealed from.

D. Public Hearing

The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

E. Decision

The provisions of Title 30-A MRSA Section 2691 (3) shall govern the procedures of the Board of Appeals with respect to its meetings, hearings, deliberations, and decisions. These provisions include the following

- 1) **Quorum:** A majority of the board shall constitute a quorum. A member who abstains shall not be counted in determining whether a quorum exists.
- 2) **Majority Vote:** The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to decide on any matter which it is required to decide.
- 3) **Burden of Proof:** The person filing the appeal shall have the burden of proof.
- 4) **Action on Appeal:** Following the public hearing on an appeal, the Board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer or Planning Board. The Board may reverse the decision, or failure to act, only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Land Use Ordinance. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer or Planning Board for correction.
- 5) **Time Frame:** The Board shall decide all appeals within 30 days of the hearing and shall issue a written decision on all appeals within seven (7) days of its decision.
- 6) **Findings:** All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis for it, and the appropriate order, relief, or denial thereof.

F. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may 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.

G. Reconsideration

The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision and may conduct additional hearings and receive additional evidence and testimony.

ARTICLE 6. DEFINITIONS

1. Construction of Language

For the purpose of this Land Use Ordinance, the following words or terms shall apply:

The present tense includes the future tense, the singular includes the plural, and the plural includes the singular.

The word "shall" is mandatory; the word "may" is permissive.

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The word "lot" includes the word "plot" or "parcel", and the word "building" includes the word "structure."

The word "used" or "occupied" shall be construed to include the words "intended, arranged, or designed to be used or occupied."

2. Definitions

In this ordinance, the following terms shall have the following meanings:

Abutter – An owner of property bordering a subject lot or structure, including the owner of land located across a road or street from the subject property.

Accessory apartment – A housing unit that is self-contained but is incorporated within and is accessory to a single-family dwelling. The major criterion for defining the accessory apartment shall be the existence of separate cooking facilities.

Accessory structure or use - A use or structure which is incidental and subordinate to the principal use or structure.

Additional Structure – a residential or commercial structure, other than an accessory structure, built on a lot which already contains one residential commercial or structure.

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.

Aggrieved party - An owner of land whose property is directly or indirectly affected by the granting or denial of a permit, approval, 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.

Approval of Building Notification Application – Approval granted by the Code Enforcement Officer according to the provisions of the Town of Alton Building Notification Ordinance.

Art gallery – A building or structure which is designed to show to the public works of art, whether they be paintings, sculptures, or other works of art.

Auction barn - A building or facility in which periodic or regular public sales of property to the highest bidder are held.

Automobile graveyard - A yard or field used as a place of storage in which there are three or more unregistered, uninspected, or junked vehicles or bodies or engines thereof.

Automobile/Snowmobile/Recreational Vehicle sales lot – A lot arranged, designed, or used for the storage and display of passenger vehicles and/or trucks, snowmobiles, and recreational vehicles, and where no repair work is done except minor incidental repair of vehicles displayed and sold on the premises.

Automobile service station/repair garage – 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; overall painting and undercoating of vehicles.

Bed & breakfast - A dwelling structure which offers sleeping quarters and breakfast to temporary guests for payment.

Boarding and riding stable – A structure that is used commercially for the shelter and riding of horses.

Building - 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.

Bulk oil and fuel storage – That portion of a property where petroleum products are received by tank vehicles and are stored or blended in bulk for the purpose of distributing such petroleum products.

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.

Church - A place or structure whose primary use is for public religious services or assembly by a person or organization with tax exempt status.

Code Enforcement Officer (CEO) - Person responsible appointed by the Alton Board of Selectmen for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Commercial complex (shopping mall)– A commercial premises owned or managed as a single entity, which accommodates more than one retail or service business, including professional offices, and which contains more than twelve thousand (12,000) square feet of gross floor area.

Commercial greenhouse, garden (nursery) – An enterprise which conducts the retail and wholesale sale of plants grown on the site, as well as accessory items (but not power equipment such as gas and electric lawnmowers and farm implements and supplies directly related to their care and maintenance). The accessory items normally sold are clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels.

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.

Communication facility/tower- Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, and personal communications service (PCS) or pager services.

Community living arrangement – A housing facility for eight or fewer persons with disabilities that is approved, authorized, certified, or licensed by the State. A community living arrangement may include a group home, foster home, or intermediate care facility.

Construction equipment storage - Keeping, in an unenclosed area, of vehicles, equipment and materials used in a construction or landscaping business.

Day care center – A facility offering daytime care for preschool or school age children.

Deer wintering area - A forested area used by deer when snow depth in the open/hardwoods exceeds 12 inches, deer sinking depth in the open hardwoods exceeds 8 inches, and mean daily temperatures are below 32 degrees Fahrenheit. Non-forested wetlands, non-stocked clearcuts, hardwood types, and stands predominated by Eastern larch are included in the DWA only if they less than 10 acres in size. Agricultural and development areas within DWAs are excluded regardless of size.

Development - Any change caused by individual or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, equipment, or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

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

Duplex – A building designed to contain two separate dwelling units.

Dwelling - A building used for permanent living quarters for one or more families.

Dwelling unit - A dwelling or portion thereof providing permanent functional unit living quarters for one or more persons living as a single housekeeping unit.

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.

Expansion of use - The addition of months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Farm stand - A booth or stall from which produce, and farm products are sold to the general public.

Financial institution - A bank, savings and loan institution, or credit union.

Firewood Processing - A place where firewood is delivered, cut, and split, and from which it is sold for commercial purposes.

Forestry - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer applications, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, as well as timber harvesting and the construction, creation, or maintenance of roads.

Fraternal order/service club - A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal membership requirements.

Frontage – (see road frontage)

Gas Station – Any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels, and including, as an accessory use the sale and installation of lubricants, tires, batteries, and similar accessories.

Government facility and grounds - 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.

Gravel pit – A place where sand, gravel or other earth materials are extracted and taken from the site and used elsewhere. A gravel pit may include processing operations.

Grocery and variety store – A store, generally of less than 2,000 square feet of floor space intended to serve the convenience of a rural area or residential neighborhood with items such as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

Height of a structure - The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home occupation: Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

Indoor Entertainment and Recreation - A facility that includes, but is not necessarily limited to, the following commercial uses: arcades, bowling alleys, indoor sports, arenas, tennis courts, racetracks and indoor animal exhibits, and/or facilities and equipment for exercising and physical training.

Junk yard - A yard or field used as a place of storage for discarded material such as worn-out, or junked plumbing supplies, heating supplies, household appliances, furniture, lumber, rags, batteries, paper, trash, tires, or metal.

Kennel/Kennel-boarding site - Any commercial establishment where dogs, cats, or other pets are kept, offered for sale, or boarded for a fee.

Light manufacturing assembly plant- Fabrication or processing related to the stamping, cutting, or otherwise shaping processed materials into useful objects/products. Light manufacturing does not include the refining or initial processing of basic raw materials.

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

Manufacturing – Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

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 transports the product removed, away from the extraction site.

Mobile home - As defined by and in compliance with MRSA Title 30-A, Section 4358.

Mobile home park – A parcel of land under unified ownership approved by the Town of Alton for the placement of three or more manufactured homes.

Multi-family dwelling- Three or more dwelling units within a single structure.

Municipality - the Town of Alton.

Non-conforming lot - A lot of record which, at the effective date of the adoption of this Ordinance, does not meet the dimensional requirements set out in Article 2.

Non-conforming structure - A structure which does not meet one or more of the setback requirements of the Ordinance, but which is allowed because it was in lawful existence at the time this Ordinance took effect.

Non-conforming use - Use of buildings, structures, premises, or land which is not permitted in the district in which it is situated as set forth in Article 2, but which is allowed to remain because it was in lawful existence at the time this Ordinance took effect.

Nursing home – A facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed or performed under the general direction of persons licensed to practice medicine or surgery in the State, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term “nursing home” or “nursing facility” is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.

Outdoor storage business – A commercial operation for the keeping, in an unenclosed area, of goods, merchandise or vehicles for more than twenty-four hours.

Principal structure - A building in which the principal use of the lot is conducted.

Principal use – The primary or predominant use of any lot.

Professional office building – A building used primarily by professionals with expertise such as doctors, lawyers, accountants, architects, surveyors, psychologists, but not including financial institutions.

Redemption center – A stand-alone facility licensed by the Maine Department of Agriculture which collects beverage containers and refunds the statutory deposit pursuant to Title 32 MRSA Section 1861.

Restaurant – A business principally engaged in serving prepared foods and drinks to the public on the premises during set business hours.

Retail outlet – Any facility connected with the sale of goods to the ultimate consumer for direct use and consumption and not for trade.

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.

Road frontage – That side of a lot abutting on a road; the front lot line.

Road setback – The distance between the center line of the street/road and the front of a building or any projection thereof, excluding uncovered steps.

Roadway - A commonly traveled way.

Sawmill – A mill or machine for sawing logs for commercial purposes.

School:

1. **Public and Private - including Parochial School:** An institution for education or instruction where any branch or branches of knowledge is imparted, and which satisfies either of the following requirements:
 - a. the school is not operated for a profit or a gainful business; or
 - b. the school teaches courses of study which are sufficient to qualify attendance thereby in compliance with State compulsory education requirements.
2. **Commercial School:** An institution which is commercial or profit oriented. Examples thereof are dancing, music, riding, correspondence, aquatic schools, driving or business.

Self storage building – Any building containing separate storage compartments, with exterior access to each compartment, that are rented to the public for the storage of household items, vehicles, or other materials.

Service business - Any business or establishment such as, but not limited to, a repair service, which provides a commercial service of a non-retail nature conducted through the application of some specialized knowledge, training, skill, or talent.

Setback Requirements – The requirements set forth in the Table of Dimensional Requirements with respect to setback from the road and from the side and rear of the lot.

Side or rear setback - The distance between the side or rear lot line and the building or any projection thereof, excluding uncovered steps.

Single-family dwelling - A free standing building serving as a dwelling unit, including a mobile home or a pre-manufactured home.

Solid waste transfer station – A facility for the bulk collection, temporary storage, and eventual transfer or recycling of household and business wastes to another facility.

Structure - 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.

Subdivision - The division of a tract or parcel of land into 3 or more lots within a five-year period, whether accomplished by sale, lease, development, building or otherwise, as defined in MRSA Title 30-A, Sections 4401-4407.

Town - The Town of Alton.

Warehouse - A structure or room for the storage of commercial or industrial merchandise.

Water body - Any great pond, river, stream, or tidal area.

Wholesale business facility – A business selling to retailers rather than to customers.