

**Land Use Ordinance of the Town of Baldwin, Maine
(as of 5.5.15)**

Land Use Ordinance of the Town of Baldwin, Maine

ARTICLE 1. Preamble

1.1 Short Title

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

1.2 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S.A. §3001 (Home Rule), and the State’s Comprehensive Planning and Land Use Regulation Act, 30-A M.R.S.A. §4312 *et seq.*, all as amended.

1.3 Purposes

This Ordinance is designed to promote the health, safety and general welfare of the residents of the Town of Baldwin; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to prevent housing development in unsuitable areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources and visual character; and to provide for adequate public services. This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another and it does not excuse any person of the necessity of complying with other applicable laws and regulations.

1.4 Jurisdiction

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Baldwin, exclusive of the land and water area subject to the Town’s Shore land Zoning Ordinance.

ARTICLE 2. Definitions

2.1 Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word “lot” shall include “parcel” and “plot.” The word “shall” is used to indicate the mandatory and the word “may” is used to indicate the permissive. The words “occupied” or “used” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied.”

2.2 Definitions

ABUTTING PROPERTY: Any lot which is physically contiguous with the lot in question even if only at a point and any lot which is located directly across a public street or way from the lot in question.

ACCESSORY USE OR STRUCTURE: A use or structure which is customarily and in fact both incidental and subordinate to the principal use or structure. The term “incidental” in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

AGRICULTURE (FARMING): The cultivation of the soil, production of crops including crops in commercial greenhouses, and/or raising of livestock, including animal husbandry.

ANIMAL HUSBANDRY: The growing and/or raising of livestock and/or poultry for commercial purposes.

AUTOMOBILE GRAVEYARD: A yard, field or other area used to store three or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A M.R.S.A. §101, §§42, or parts of such vehicles. It does not include any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. Automobile graveyard includes an area used for automobile dismantling, salvage and recycling operations.

AUTOMOBILE RECYCLING BUSINESS: The business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80 per cent of the business premises specified in the application is used for automobile recycling operations.

AUTOMOBILE 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, over-all painting and under-coating of automobiles.

AUTOMOBILE SALES: The sales of more than five vehicles in a 12-month period or the display of three or more vehicles for sale within a 20-day period on premises controlled by the seller. Vehicles owned and registered by the property owner for at least six months are not included for purposes of this definition.

AUTOMOBILE SERVICE STATION: A place where gasoline, or any other automobile engine fuel, kerosene, or motor oil and lubricants or grease are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame or fender straightening and repair.

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel.

BUSINESS: Any use or activity conducted for financial gain or any use or activity in which fees are charged other than municipal, religious or community based nonprofit organizations and renting of dwelling units. For the purposes of this Ordinance if a business activity is not specifically defined or mentioned in the land use table, it shall be assigned to one of the following business categories:

CONTRACTOR BUSINESS: A business engaged in the provision of a service off the premises, but which has an office and equipment/materials stored on the premises.

FINANCIAL SERVICE: A service including banking, other credit agencies, security and commodity brokers and service, insurance, real estate and investment offices.

HOME OCCUPATION: The use of a dwelling unit or structures accessory to a dwelling unit for gainful employment.

MANUFACTURING: The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations.

OFFICE BUSINESS: A business which provides administrative, professional or clerical services, such as but not limited to attorney, insurance agent, accountant, surveyor, planner engineer, but not including medical and doctors' offices.

PERSONAL SERVICE BUSINESS: A business engaged in the provision of personal services such as but not limited doctor, hairdresser, barber, beautician, masseuse, tanning salon.

RETAIL BUSINESS: A business engaged in the sale, rental or lease of goods to the ultimate consumer for his or her use or consumption and not for resale.

SERVICE BUSINESS: A business engaged in the provision of an actual service on the premises, such as but not limited to cleaning or repairing personal property, training or teaching people,

veterinary practice, pet grooming, the redemption of beverage containers or a funeral home.

WHOLESALE BUSINESS: A business engaged in the sale of merchandise to retailers and not to the ultimate consumer.

CAMPGROUND: Land upon which one or more tents are erected or trailers are parked for temporary (not more than six months in a year) use for a fee on sites arranged specifically for that purpose. The word “campground” shall include the words “camping ground,” and “tenting grounds.”

CHURCH: As used in this Ordinance, refers to a place of worship regardless of denomination. A building or structure, or group of buildings or structures, the designed primarily intended and used for the conduct of religious services, excluding school.

CLUSTERED RESIDENTIAL DEVELOPMENT: A form of housing development which allows the developer flexibility in subdivision and housing design, including use of single family detached or attached, two-family, and/or multifamily dwellings, if allowed in a given district, in return for setting aside a portion of the tract of land as permanent open space, in accordance with the provisions of Article 10, Section 10.5 of this Ordinance. All clustered residential developments shall be subject to subdivision regulations and approvals.

CODE ENFORCEMENT OFFICER: The official responsible for enforcement of this Ordinance and for other duties set forth by State statute and other ordinances. The Code Enforcement Officer shall also have all the duties of a Building Inspector.

COMMERICAL: Direct or indirect financial benefit for the use of a Shooting Range, including for profit and nonprofit entities and sporting clubs.

COMMERCIAL OUTDOOR RECREATION: Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including but not limited to standard golf courses, ice skating rinks, tennis courts and cross-country ski trails, but excluding games and activities common to amusement parks. Private outdoor recreation facilities serving exclusively a residential use shall be considered accessory to the residential use.

COMMUNICATIONS TOWER: A structure for the support of antennas and reflectors, and associated necessary accessory structures, used in broadcast, point-to-point and relay communications, including but not limited to television, radio, cellular, utility, PCS, MMDS and community repeaters.

COMMUNITY BUILDING: A private building used by a fraternal, philanthropic or other civic organization and which may be made available from time to time for community functions.

CORNER LOT: Lot located at the intersection of two streets.

DAY CARE CENTER: A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for three or more children under 13 years of age. “Day care center” does not include any facility operated as a nursery school, a home day care provider or summer camp established solely for recreational and educational purposes or formal public or private school in the nature of a kindergarten or elementary or secondary school approved by the Commissioner of Education in accordance with Title 20-A.

dBA: The sound pressure level, in decibels, as measured on a precision sound level meter on the A-weighted scale.

DWELLING: A building used as the living quarters for one or more families, containing a minimum of 600 square feet of floor area per dwelling unit exclusive of garages and similar unheated storage spaces, and equipped with a heating system and plumbing. The term includes manufactured housing as defined by 30-A M.R.S.A. §4358, as amended.

DWELLING, ATTACHED: A single family dwelling which has two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached dwellings; which has no dwelling unit above or below it; and which has no common hallway with any other dwelling unit.

DWELLING, TWO-FAMILY: A building used for residential occupancy by not more than two families

living independently of each other.

DWELLING, MULTI-FAMILY: One or more buildings used for residential occupancy by more than two families, each living independently of the other.

DWELLING UNIT: A room or group of rooms within a dwelling designed and equipped as living quarters for a person or for a family, including provisions for living, sleeping, cooking, bathing, and eating. The term includes manufactured housing but not recreational vehicles or motel units.

EATING AND DRINKING PLACE: A business establishment the principal business of which is the preparation of food or beverages for consumption on the premises and which provides seating for its customers.

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase in the floor area, building footprint, increase in the height of the structure beyond its present highest point, or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) are not considered to be enlargements or expansions.

EPA LEAD MANAGEMENT GUIDELINES: Shall mean, at any given time, the latest edition of the United States Environmental Protection Agency's Best Management Practices for Lead at Outdoor Shooting Ranges.

ESSENTIAL SERVICES: Facilities for the transmission or distribution of water, gas, electricity, or for the collection, treatment or disposal of wastes, including power lines, telephone lines, gas lines, water and sewerage systems, and road networks. The term does not include buildings which are necessary for the furnishing of such services.

EXPANSION OF USE: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use. Expansion of use also means an intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. A nonconforming outdoor use of land shall not be extended or expanded in area or function.

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding home, rooming house, or hotel. Such housekeeping unit shall not include persons not related by blood or marriage.

FIREARM(S): A weapon, including but not limited to pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

FORESTRY: The operation of timber tracks, tree farms, forest nurseries, the harvesting of forest products, or the performance of forest services.

FOREST MANAGEMENT ACTIVITIES: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activities exclusive of timber harvesting and the construction, creation or maintenance of roads.

FRONTAGE: The linear distance between the sidelines of a lot, measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of this Ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

1. a way accepted by or established as belonging to the Town of Baldwin, Cumberland County, or the State of Maine, provided access is not specifically prohibited;
2. a way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
3. a way which has not been accepted by a governmental unit but which was established prior to the effective date of the Maine Subdivision Act (September 22, 1971) and is documented in a plan or deed recorded in the registry of deeds;

4. a private way created by a deeded right-of-way which is a minimum of 60 feet in width, which serves no more than two lots, neither of which shall be part of a subdivision which meets all of the requirements for the district in which it is located, and which meets the following standards for improvement:

The roadway shall be constructed with a minimum of 12 inches of road gravel, shall have a minimum width of the surface of the travel way of 20 feet, and shall have adequate surface and subsurface drainage meeting the requirements of the municipal officers or their designated representative. In the absence of a written agreement between abutters the roadway shall be set back 10 feet from the neighbor's property.

A private way shall not serve as access to any lot in a subdivision nor shall any private way created after the date of adoption of this Ordinance be offered to the Town for acceptance as a town way, until it is brought up to the standards of Article 12 – Design Standards, 12.2.B. Street Design and Construction Standards of the Subdivision Ordinance of the Town of Baldwin, Maine, as amended, at the owners' cost.

In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property line along such way or ways.

GAMING OR GAMBLING ESTABLISHMENT: Any premises wherein or whereon gaming is done; especially any banking or percentage game played with cards, dice or any mechanical device or machine for money, property or any representative of value, and located within a casino; and as defined under 17-A M.R.S.A. §952. However, lottery tickets and other items used in the playing phases of state sponsored lottery schemes are not gambling devices within this definition.

HOME DAY CARE PROVIDER: A person who receives some type of payment to provide child care in his or her own home on a regular basis, for three to 12 children under 13 years old, who are not the provider's own children.

HOME OCCUPATION: An occupation or profession which is carried on in no more than 25percent of the ground area of a detached, single-family dwelling unit by the full-time permanent occupant of the dwelling, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include the preparation of foods such as breads, cookies or preserves; the making of rugs, birdhouses, fishing flies, and quilts.). The term "home occupation" shall include both professional and personal services, with no more than three employees. A retail sales outlet does not qualify as a home business unless the item sold is the product of the owner's labor (e.g., manufactured, produced, created, grown). Home occupation shall not include automobile sales and automobile repair. See business definition.

HOTEL OR MOTEL: A commercial building or group of buildings with sleeping rooms built to accommodate for a fee travelers and other transient guests. A hotel or motel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

JUNKYARD: A yard, field, or other area used to store the following items; excluding items which are being stored out of doors for household use within a reasonable period of time:

1. Discarded, worn-out, or junked plumbing, heating supplies, household appliances, and furniture.
2. Discarded, scrap, and junked lumber; or
3. Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.
4. Garbage dumps, waste dumps and sanitary fills

KENNEL: Six or more dogs or wolf hybrids or other pets kept in a single location for any purpose. The sale or exchange of more than one litter within a 12-month period shall be considered a kennel.

1. Types of Kennels.

a. Boarding kennel. Any place, building, tract of land or abode in or on which three or more privately owned dogs or other pets, or both, are kept at any one time for their owners in return for a fee. A person maintaining a boarding kennel must obtain a license from the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry and is subject to rules adopted by the department.

b. Breeding kennel. A facility operated for the purpose of breeding or buying, selling or in any way exchanging dogs or cats for value that exchanges more than 16 dogs or 16 cats in a 12-month period. A person maintaining a breeding kennel must obtain a license from the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry and is subject to rules adopted by the department.

2. Requirements.

a. Kennel license. A person having a pack or collection of dogs shall obtain a kennel license from the town where the dogs are kept and that person is subject to rules adopted by the Department of Agriculture, Food and Rural Resources, Division of Animal Health and Industry. The sex, registered number and description are not required of dogs covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs in or outside the state. A kennel owner shall not keep more than 10 dogs per license.

b. Kennel inspection. An animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. The kennel must meet state standards.

LOT: A contiguous parcel of land in single or joint ownership described on a deed, plot plan, or similar legal document and having frontage.

LIGHT INDUSTRIAL USES: Industrial activity involving the manufacturing, packaging, assembly, or distribution of products from previously prepared material, including, by way of example only, the following: bakeries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Light industrial uses do not include the processing of raw materials or salvaging operations.

MANUFACTURED HOUSING UNIT: A mobile home manufactured after June 15, 1976, or a single-wide modular home, each of which shall comply with the residential space and bulk standards of the district in which it is located and the following additional requirements:

1. the minimum horizontal dimension as installed on the site shall be 12 feet;
2. the roof shall have a minimum pitch of three inches vertical rise for each 12 inches of horizontal run, and be covered by approved wood or asphalt composition shingles;
3. the exterior wall surfaces shall be covered with materials meeting the requirements of the BOCA/Basic National Building Code as adopted by Town meeting March 2000.

MOBILE HOMES: Factory-fabricated structures, other than manufactured housing units as defined in this Ordinance, built on permanent chassis and designed to be used as dwelling units with permanent foundations when connected to the required utilities.

MOBILE HOME PARK: A plot of land laid out to accommodate on the same parcel three or more mobile home sites, subject to the space and bulk standards of this Ordinance and to the design standards and review process of the Subdivision Ordinance and subject to all other applicable State and local codes and ordinances.

NEIGHBORHOOD STORE: A retail store that occupies less than 2,000 square feet of total floor space and within which no alcoholic beverages are consumed.

NET LOT AREA: As applied to clustered residential development, the total available acreage less the area required for streets, access and portions of the site which are not suitable for development because of sustained slopes in excess of 20 percent, water bodies, 100-year floodplains, and wetland areas. "Access"

as used herein includes all land within street right-of-way boundaries, but does not include land used for individual driveways or for parking areas.

NONCONFORMING LOT: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the lot area, lot area per dwelling unit, lot coverage, or frontage requirements of the district in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING STRUCTURE: A structure that does not meet the minimum setback standards of the district in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NONCONFORMING USE: A use of premises that is not permitted in the district in which it is located, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

NORMAL HIGH WATER MARK: That line on the shores and the banks of nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. It is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial. High water setbacks apply to all perennial streams depicted in the most recent USDA Soil Conservation Service Soil Survey for Cumberland County, Maine.

NRA RANGE SOURCE BOOK: Shall mean, at any given time, the latest edition of The Range Source Book, as published by the National Rifle Association.

NURSERY SCHOOL: A house or other place in which a person or combination of persons maintains or otherwise carries out for consideration during the day a regular program which provides for three or more children, provided that:

1. no session conducted for the children is longer than three and one-half hours in length;
2. no more than two sessions are conducted per day;
3. each child in attendance at the nursery school attends only one session per day; and
4. no hot meal is served to the children.

This term does not include any facility operated as a day care center, a summer camp established solely for recreational and educational purposes or a public or private school in the nature of a kindergarten approved by the Commissioner of Educational and Cultural Services in accordance with 20 M.R.S.A. §911.

NURSING OR CONVALESCENT HOME: A facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care but who do require, on a 24-hour basis, nursing care and related medical services.

Occupied Dwelling(s): Shall mean any residential Structure or business Structure which is legally occupied by one or more Persons.

Person(s): Any individual, corporation, association, club, firm, or partnership.

PRIMITIVE RECREATION: Recreation uses that do not require buildings or structures, or significant alteration of the terrain, such as hunting, fishing, hiking, primitive camping, snowmobiling, cross-country ski trails, and parks of primarily undeveloped, natural character.

PROFESSIONAL OFFICE: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this Ordinance.

QUASI-PUBLIC FACILITY: A facility for a recognized public purpose, such as an auditorium, library, park, or museum, which is operated by a not-for-profit organization or by a public agency other than the municipality.

RECREATIONAL VEHICLE: A vehicle, or attachment to a vehicle designed to be towed, and designed

for temporary sleeping or living quarters for one or more persons for not more than seven months in a calendar year, and which may include a pick-up camper, travel trailer, tent trailer, and motor home.

SCHOOL, COMMERCIAL: An institution for teaching and learning, which place or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, riding, gymnastics, photography, driving, or business.

SCHOOL, PUBLIC AND PRIVATE: A place or institution for teaching and learning, which place or institution teaches courses of study sufficient to qualify attendance there as being in compliance with state compulsory education requirements. A public school, as differentiated from a private school is operated by a municipal corporation or school administrative district or, for the purposes of this Ordinance, by a recognized religious organization.

SETBACK, BACK: The distance between the rear line of the lot, extending the full width of the lot, and the nearest part of any principal or accessory structure. Back or rear setback and back or rear yard are synonymous.

SETBACK, FRONT: The distance between the existing roadway center line extending the width of the frontage and the nearest part of any principal or accessory structure; provided, however, that a sign may be placed in the front setback area as long as it is outside of the road right-of-way.

SETBACK, SIDE: The distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous.

SHOOTING RANGE(S): An area designed and improved to encompass shooting stations or firing lines, Target areas, berms and baffles, and other related components.

SHOOTING RANGE FACILITY(IES): A public or private facility, safety fans or Shotfall Zones, Structures, parking areas, and other associated improvements, designed for the purpose of providing a place for the discharge of various types of Firearms.

SHORELAND ZONE: The land area within 250 feet, horizontal distance, of the normal high water mark of designated ponds, rivers, and wetlands, and within 75 feet, horizontal distance, of designated streams as written in the Town of Baldwin Shoreland Zoning Ordinance.

SHORELINE: The straight line between the points of intersection of the side lot lines with the normal high water line.

SHOTFALL ZONE(S): An area within which the shot or pellets contained in a shotgun shell typically fall.

STRUCTURE: Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground excluding driveways, walkways, patios, and other paved surfaces, and fences.

TARGET(S): Any object or area which is used as the intended recipient of the projectiles fired from a Firearm.

TIMBER HARVESTING: The cutting and removal of trees from their growing site, and the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads, and winter haul roads.

VARIANCE: A grant of permission by the Board of Appeals to exceed the space and bulk standards or performance standards of this Ordinance. Any such grant shall strictly comply with the standards and procedures of Article 7 of this Ordinance. A variance is not authorized for establishment of a use otherwise prohibited.

VEHICLE: Vehicle shall include all kinds of conveyances on all kinds of public ways for persons and for property, including special equipment, except those propelled or drawn by human power or used exclusively on tracks.

VEHICLE SALES: The sales of more than five vehicles in a 12-month period or the display of three or

more vehicles for sale within a 20-day period on premises controlled by the seller. Vehicles owned and registered by the property owner for at least six months are not included for purposes of this definition.

WETLAND, INLAND: Land which is associated with or linked to the drainage systems of inland streams, ponds, and lakes, and the soils of which are saturated, with the water table at or above surface level, for most of the year.

YARD (or GARAGE) SALE: A sale of used household goods, curios, and the like. Yard (or garage) sales, as distinguished from flea markets, shall be considered to be accessory uses under this Ordinance.

ARTICLE 3. Establishment of Districts

3.1 Land Use Map

A map entitled “Town of Baldwin Land Use Map” is hereby adopted as part of this Ordinance and shall be referred to as the Official Land Use Map. The Official Land Use Map shall be identified by the signature of the Chairman of the Board of Selectmen and attested by the signature of the Town Clerk. The Official Land Use Map shall be located in the office of the Town Clerk, and it shall be the final authority as to the current status of the districting of the land and water areas, buildings, and other structures in the Town.

3.2 Land Use Districts

The Town is divided into the following districts, as shown by the district boundary lines on the Official Land Use Map:

- Natural Resource Protection (RP) District
- Highland (H) District
- Rural (R) District
- Village Commercial (VC) District

3.3 District Boundaries

A. Uncertainty of boundaries

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Land Use Map, the following rules shall apply.

1. Boundaries indicated as approximately following the center lines of streets, highways, or rights-of-way shall be construed to follow such center line;
2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline;
5. Boundaries indicated as approximately following the center line of streams or other water bodies shall be construed to follow such center lines;
6. Boundaries indicated as being parallel to or extensions of features indicated in paragraphs 1. through 3. above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the map. Any conflict between the Official Land Use Map and a description by metes and bounds in a deed shall be resolved in favor of the description by metes and bounds;

7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in circumstances where the items covered by paragraphs 1. through 6. above are not clear, the Board of Appeals shall interpret the district boundaries.

B. Division of lots by district boundaries

Where a district boundary line divides a lot or parcel of land in the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended into the more restricted portion of the lot by not more than 50 feet, provided that the more restricted portion is not a Natural Resource Protection District, and provided, further, that minimum side yard and back yard requirements for a nonresidential use abutting a residential use shall be observed.

ARTICLE 4. Administration and Enforcement

4.1 Administrative Official

Unless otherwise specifically stated, the Code Enforcement Officer shall administer and enforce this Ordinance.

4.2 Building Permits Required

- A. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Code Enforcement Officer. No change of use or resumption of a nonconforming use shall occur without a permit issued by the Code Enforcement Officer. No other activity which may be referenced elsewhere in this Ordinance as requiring a permit shall commence without a permit issued by the Code Enforcement Officer. No permit shall be issued except in conformity with the provisions of this Ordinance and the provisions of other applicable state and local codes, and after the necessary approvals have been secured from local officials.

- B. Notwithstanding the requirements of paragraph A, no permit shall be required for repairs or improvements not involving structural changes when the reasonable cost is less than \$5,000.00.

C. Building Permit Applications

Applications for permits shall be made on forms provided by the Code Enforcement Officer. Each application for a building permit shall be accompanied by a site plan drawn to scale, showing the measurements of the lot and of all buildings, setbacks, disposal fields, the location of abutting streets or ways, existing and proposed parking spaces. The application shall include a clear statement as to the intended use of the property. The Code Enforcement Officer may request additional information, which, in his/her opinion, is necessary for a complete understanding of the application. Permit applications shall be accompanied by such fees as may be set by the Town.

D. Action on Permit Applications

The Code Enforcement Officer shall issue a written notice of his/her decision on an application for a permit within five working days from the date a complete application is filed. If the activity is in conformance with this Ordinance and other applicable codes and regulations, the Code Enforcement Officer shall issue a written permit. If the Code Enforcement Officer denies a permit he/she shall issue the denial in writing, with the reason(s) therefore.

E. Building Permit Time Limit

The work authorized by a permit must be commenced within six months of the date of issuance and must be completed, including finish grading and proper drainage, within 24 months. A permit may be renewed by the Code Enforcement Officer for an additional 24 months if reasonable need can be shown.

Following issuance of a permit, if no substantial start is made in construction, or in use of the property for which such permit has been issued, within 18 months of the date of the permit, the permit shall lapse and become void.

F. Building Permit Fee

The building permit fee shall be based on the Town of Baldwin Building Ordinance as amended.

4.3 Conditional Use Permits and Site Plan Review

A. Authorization

1. The Planning Board is hereby authorized to hear and decide upon applications for conditional use permits, in accordance with federal and state law, the provisions of this Ordinance, and the provisions of other applicable town ordinances. The Board shall approve, approve with modifications or conditions, or disapprove an application for a conditional use permit. No conditional use or site plan review approval shall be authorized unless specific provisions for such conditional use is made in this Ordinance.
2. No changes shall be made in any approved Conditional Use without approval of the change by the Planning Board.

B. Independent Consultants

The Planning Board may employ independent consulting services to review the application, after prior notification to and at the expense of the applicant, to assure compliance with all requirements of this Ordinance. The estimated costs of such services shall be deposited with the Town prior to their undertaking. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.

C. Application Procedure

A person informed by the Code Enforcement Officer that he/she requires a conditional use permit or site plan review shall file an application for the permit with the Planning Board on forms provided for the purpose. Every application shall be accompanied by a fee which shall be established by the Board of Selectmen. This application fee shall be paid to the Town of Baldwin. No permit shall be issued until the fee is paid. All plans for Conditional Uses and Site Plan Review presented for approval shall be presented as outlined in Article 8 Conditional Uses and Article 11 Site Plan Review.

D. Public Hearing

Following the filing of an application, the Planning Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant in writing of the information needed to make the application complete. The Planning Board shall hold a public hearing on the application within 35 days of determining that the application is complete. The Board shall notify the Code Enforcement Officer and Municipal Officers, and shall publish notice of the time, place and subject matter of hearing at least 10 days in advance in a newspaper of general circulation in the area.

1. The Board shall notify by regular U.S. mail, first class, postage prepaid, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.
2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
3. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material deemed appropriate for an understanding of the application.

4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

E. Decision

Within 35 days of the public hearing the Planning Board shall reach a decision on the Conditional Use application and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and shall prepare a detailed finding of facts and conclusions. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Board, or deny a Building Permit. The decision of the Planning Board may be appealed to the Board of Appeals as an administrative appeal pursuant to Article 7, Section 7.3.

F. Performance Guarantees

1. Types of Guarantees. At the time of approval of the application for conditional use or site plan approval, the Planning Board may require the applicant to provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs:

- a. either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- b. a performance bond payable to the municipality issued by a surety company, approved by the municipal officers;
- c. an irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the road commissioner, municipal officers, and/or municipal attorney.

2. Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.
3. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.
4. Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought.
5. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the project and may not be used for any other project or loan.
6. Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other

qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the project for which the release is requested.

7. Default. If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the Code Enforcement Officer, the municipal officers, the Planning Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.
8. Improvements Guaranteed. Performance guarantees, when required, shall be tendered for all improvements required under this Ordinance, including but not limited to, sidewalks, drainage and storm water management facilities, parking areas, lighting, signs, landscaping and buffer areas, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures. Upon satisfactory completion of the prescribed improvements, the applicant shall file a defect guarantee with the Town. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction. It shall also ensure the proper installation of any required tree plantings or landscaping which were not installed prior to the filing of the defect guarantee. The defect guarantee shall be filed prior to the release of the performance guarantee.

G. Conditional Use Permit and Site Plan Review Permit Time Limit

Following issuance of a permit, if no substantial start is made in construction, or in use of the property for which such permit has been issued, within 24 months of the date of the permit, the permit shall lapse and become void.

If the use lapses for a period of 24 months then the Conditional Use Permit shall cease to be in force.

4.4 Violations

If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall notify by certified mail the property owner and such other person as may be responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct it. The Municipal Attorney, on notification by the Chairman of the Board of the Selectmen shall institute, in the name of the Town, any and all actions, legal and equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance. Any person, firm or corporation owning or having control of any building or premises or part thereof who violates any provision of this Ordinance, or who fails to take the required corrective measures, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$100 per day for each day of the violation. Each day such violation exists shall constitute a separate offense.

ARTICLE 5. Nonconformance

5.1 Purpose

The purpose of this article is to regulate nonconforming lots, uses, and structures, as defined in this Ordinance, such that they can be reasonably developed, maintained, or repaired, or changed to other less nonconforming uses or to conforming uses.

5.2 Nonconforming Lots

A. Vacant Lots

A nonconforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except

lot size and road frontage can be met. If two or more vacant, contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the minimum lot size, minimum lot area per dwelling unit, or minimum road frontage standards, the lots shall be combined to the extent necessary to meet these standards, except where the contiguous lots front onto different streets.

B. Lots with Structures

1. A structure built on a lot prior to enactment of this Ordinance, which lot does not conform to lot size, lot area per dwelling unit, or road frontage requirements, may be repaired, maintained, or improved, and may be enlarged in conformity with the applicable space and performance standards other than minimum lot size or minimum road frontage. Structures shall not be enlarged in a manner that violates or worsens the standard relative to minimum lot area per dwelling unit.
2. If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the minimum lot or minimum road frontage requirements, and if a principal use exists on each lot, or if the lots were legally created and recorded after the effective date of and pursuant to the Maine Subdivision Act, the nonconforming lots may be conveyed separately or together, providing all other State law and local ordinance requirements are met.

C. Uses on Nonconforming Lots

1. Only permitted uses shall be allowed on nonconforming lots.
2. All uses on nonconforming lots, other than single family dwellings, shall be reviewed by the Planning Board as a conditional use.

5.3 Nonconforming Uses

A. Continuance

Except as provided in paragraph 3 below, the use of lands, building, or structure, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue, although such use does not conform to the provisions of this Ordinance.

B. Resumption

Whenever a nonconforming use of land and/or a structure is superseded by a permitted use, such structure and/or land shall thereafter conform to the provisions of this Ordinance and the nonconforming use shall not be resumed.

C. Discontinuance

A nonconforming use which is discontinued for a period of two years shall not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

D. Expansion of Nonconforming Use

A nonconforming use in lawful existence as of the effective date of this Ordinance, including a nonconforming outdoor use of land, shall not be extended or expanded except upon the following conditions:

1. the expansion or extension shall occur only on the lot of record on which the nonconforming use existed as of the effective date of this Ordinance;
2. the person proposing such expansion or extension shall document to the Code Enforcement Officer his/her right, title, or interest in the land as of the effective date of this Ordinance; and
3. no expansion or extension of a nonconforming use shall be permitted after a period of seven years after the effective date of this Ordinance.

E. Enlargement of Nonconforming Use of Land

A nonconforming use of land shall not be enlarged to cover more land that was utilized by that use when it became nonconforming.

F. Change of Use

An existing nonconforming use may be changed to another nonconforming use with approval of the Board of Appeals provided that the proposed use is no more nonconforming or have no greater adverse impact.

5.4 Nonconforming Structures

A. Maintenance and Enlargement

A structure in existence as of the effective date of this Ordinance that does not meet the minimum setback requirements of the district in which it is located, including shoreland area standards may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that the enlargement or accessory structure itself meets the prescribed setback requirements; or, if located within the same yard as the nonconforming part of the existing structure, is no closer to the front, side, or rear lot line than the nonconforming structure and contains no more than 25 percent of the ground floor area of the nonconforming structure.

B. Reconstruction

Any nonconforming building or structure which is hereafter damaged or destroyed by fire or any cause other than the willful act of the owner or his agent may be restored or reconstructed and used as before within 12 months of the date of said damage or destruction; provided, however, that such reconstruction and use shall not be more nonconforming than the prior nonconforming building, structure, or use.

C. Change of Use of a Nonconforming Structure

The use of a nonconforming structure may not be changed to another use unless the Board of Appeals determines that the proposed use is no more nonconforming or have no greater adverse impact.

5.5 Transfer of Ownership

Ownership of nonconforming lots, structures, or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

5.6 Changes in Nonconforming Lots, Structures, and Uses

Upon approval of the Board of Appeals, a nonconforming aspect of a lot, structure, or use may be changed upon a finding by the Board of Appeals that such a change will bring the lot, structure, or use into closer conformance with the provisions of this Ordinance or will make the nonconforming aspect no worse. A lot or structure will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if its dimensions are unchanged or more nearly meet the prescribed standards. A use will be deemed to have been brought into closer conformance with the provisions of this Ordinance, or have been made no worse, if it is less or no more intense than the previous nonconforming use, as measured by volume and type of traffic expected to be generated, size of building or structure housing the use, number of potential customers, number of bedrooms, and similar measures of intensity of use.

ARTICLE 6. District Regulations

6.1 Natural Resource Protection District (RP)

A. Purpose

The purpose of the natural resource protection district is to protect fragile ecological systems, which, if intensively developed or substantially altered, would damage water quality, wildlife and aquatic habitat and biotic systems, and ecological relationships. To accomplish this purpose, uses are permitted which avoid disruption of the natural environment, while allowing productive use to be made of the land.

B. Permitted Uses in the Natural Resource Protection District

The following uses are permitted in the Natural Resource Protection District:

- Emergency and fire protection activities
- Forest management
- Harvesting of wild crops
- Primitive recreation
- Wildlife management

C. Conditional Uses in the Natural Resource Protection District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

- Agriculture
- Essential services
- Public nonresidential facility related to education in or research of natural sciences
- Structures accessory or essential to permitted uses
- Timber harvesting

D. Prohibited Uses in the Natural Resource Protection District

Uses not allowed as permitted or conditional uses are prohibited within this district.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.

6.2 Highland District (H)

A. Purpose

The purpose of the highland district is to recognize the inherent limitations for development posed by the higher elevations and steep slopes in this district, while allowing very low intensity development compatible with physical capability of the land.

B. Permitted Uses in the Highland District

The following uses are permitted in the Highland District:

- Accessory uses or structures
- Agriculture

- Emergency and fire protection activities
- Essential services
- Forest management
- Harvesting of wild crops
- Home occupations
- Mobile homes
- Primitive recreation
- Single family detached dwellings
- Structures accessory or essential to permitted uses
- Timber harvesting
- Two-family dwellings
- Wildlife management

C. Conditional Uses in the Highland District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

- Campgrounds
- Clustered residential development
- Commercial outdoor recreation
- Communications towers; colocation required unless the applicant can prove that it is not feasible to do so
- Mineral extraction
- Public nonresidential facility related to education in or research of natural sciences
- Temporary dwelling in accordance with Article 10, Section 10.9 Temporary Dwellings

D. Prohibited Uses in the Highland District

Uses not allowed as permitted uses or conditional uses are prohibited within this district. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:
 - Minimum lot area----- 10 acres
 - Minimum lot area per dwelling unit----- 10 acres
 - Minimum road frontage ----- 400 feet
 - Minimum setbacks
 - Front yard
 - Routes 113, 5, 11, and 107----- 100 feet
 - all other approved ways ----- 75 feet
 - Side yard----- 50 feet

Back yard-----50 feet

From normal high water mark -----50 feet

3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, forestry activity including timber harvesting, and agriculture shall not be subject to this requirement.

6.3 Rural District (R)

A. Purpose

The purpose of the rural district is to conserve the qualities of the open rural open space, including agricultural and forestry uses while encouraging low intensity development compatible with the physical capability of the land.

B. Permitted Uses in the Rural District

The following uses are permitted in the Rural District:

- Accessory uses or structures
- Agriculture
- Emergency and fire protection activities
- Essential services
- Forest management
- Harvesting of wild crops
- Home occupations
- Mobile homes
- Primitive recreation
- Single family detached dwellings
- Structures accessory or essential to permitted uses
- Timber harvesting
- Two-family dwellings
- Wildlife management

C. Conditional Uses in the Rural District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance:

- Adult business
- Automobile graveyard, automobile recycling business and junkyard
- Automobile repair garage
- Automobile sales consisting of no more than eight vehicles
- Business

Contractor business
 Financial service
 Manufacturing
 Office business
 Personal service business
 Retail business; maximum commercial floor area shall not exceed 40,000 square feet total
 Service business
 Wholesale business
 Campgrounds
 Churches
 Clustered residential development
 Commercial outdoor recreation
 Commercial wood processing and sales
 Community building
 Communications towers; colocation required unless the applicant can prove that it is not feasible to do so
 Day care centers or nursery schools
 Eating and drinking places
 Funeral homes
 Hotels and motels
 Hospitals and clinics
 Kennels and veterinary clinics
 Light industrial uses
 Mineral extraction
 Multifamily dwellings
 Municipal uses not listed elsewhere
 Neighborhood stores
 Nursing homes
 Public nonresidential facility related to education in or research of natural sciences
 Quasi-municipal uses
 Schools
 Temporary dwellings in accordance with Article 10, Section 10.9 Temporary Dwellings
 Warehousing, storage, distribution

D. Prohibited uses in the Rural District

1. Uses not allowed as permitted uses or conditional uses are prohibited within this district.
2. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.

3. Maximum commercial floor area shall not exceed 40,000 square feet total.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:

Minimum lot area..... 2 acres
Minimum lot area per dwelling unit..... 2 acres
Minimum road frontage 200 feet
Minimum road frontage multifamily 200 feet for first dwelling unit
..... 100 feet for additional units

Minimum setbacks

Front yard

Routes 113, 5, 11, and 107----- 100 feet

all other approved ways ----- 75 feet

Side yard----- 10 feet

Back yard----- 25 feet

From normal high water mark ----- 100 feet

3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, forestry activity including timber harvesting, and agriculture shall not be subject to this requirement.

6.4 Village Commercial District (VC)

A. Purpose

The purpose of the village commercial district is to provide for neighborhood and compatible commercial development in the vicinity of East Baldwin, West Baldwin and North Baldwin.

B. Permitted Uses in the Village Commercial District

The following uses are permitted in the Village Commercial District:

Accessory uses or structures

Agriculture

Emergency and fire protection activities

Essential services

Forest management

Harvesting of wild crops

Home occupations

Mobile homes

- Primitive recreation
- Single family detached dwellings
- Structures accessory or essential to permitted uses
- Timber harvesting
- Two-family dwellings
- Wildlife management

C. Conditional Uses in the Village Commercial District

The following uses may be permitted only upon approval as conditional uses in accordance with the appropriate provisions of this Ordinance.

- Adult business
- Automobile graveyard, automobile recycling business and junkyards
- Automobile repair garage
- Automobile sales
- Automobile service stations
- Business
 - Contractor business
 - Financial service
 - Manufacturing
 - Office business
 - Personal service business
 - Retail business; maximum commercial floor area shall not exceed 40,000 square feet total
 - Service business
 - Wholesale business
- Churches
- Clustered residential development
- Commercial wood processing and sales
- Communications towers; limit to 70 feet in Village/Commercial. Colocation is required unless the applicant can prove that it is not feasible to do so.
- Community building
- Day care centers or nursery schools
- Eating and drinking places
- Funeral homes
- Hospitals and clinics
- Hotels and motels
- Kennels and veterinary clinics
- Light industrial uses
- Mineral extraction

- Multifamily dwellings
- Municipal uses not listed elsewhere
- Neighborhood stores
- Nursing homes
- Public nonresidential facility related to education in or research of natural sciences
- Quasi-municipal uses
- Schools
- Temporary dwelling in accordance with Article 10, Section 10.9 Temporary Dwellings
- Warehousing, storage, distribution

D. Prohibited uses in the Village Commercial District

1. Uses not allowed as permitted uses or conditional uses are prohibited within this district.
2. The occupancy of recreational vehicles for more than seven months in a calendar year is prohibited.
3. For retail and warehousing, storage, and distribution the maximum commercial floor area shall not exceed 40,000 square feet total.

E. Standards

1. The general performance standards of Article 9 shall be observed.
2. The following standards shall apply:

- Minimum lot area..... 2 acres
- Minimum lot area per dwelling unit..... 2 acres
- Minimum road frontage 200 feet
- Minimum road frontage multifamily 200 feet for first dwelling unit
- 100 feet for additional units
- Minimum setbacks
 - Front yard
 - Routes 113, 5, 11, and 107----- 100 feet
 - all other approved ways ----- 75 feet
 - Side yard----- 10 feet
 - Back yard----- 25 feet
 - From normal high water mark ----- 100 feet

3. All uses in the shoreland zone shall comply with the standards in the most current revision of the Town of Baldwin Shoreland Zoning Ordinance.
4. Any use in this district involving new construction of more than 5,000 square feet of floor area or clearing or grading or other earth moving activity affecting more than two acres of land not to be revegetated shall first be subject to Site Plan Review under Article 11 of this Ordinance provided, however, that single family detached or attached homes, shall not be subject to this requirement.

ARTICLE 7. Board of Appeals

7.1 Appointment and Composition

- A. There shall be a Board of Appeals in accordance with the provisions of 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- B. The Board of Appeals shall consist of five members serving staggered terms of five years, appointed by the Board of Selectmen. The Board of Selectmen may appoint two associate members to serve in the absence of regular members. The Chairman of the Board of Appeals shall designate which associate member shall serve in the stead of the absent member.
- C. The Board of Appeals shall elect annually a chairman and secretary from its membership.

7.2 Procedure

- A. The Board of Appeals shall conduct its meetings in accordance with the provisions of 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- B. The presence of three members of the Board of Appeals shall constitute a quorum. An appeal may be granted or a decision of the Code Enforcement Officer may be overruled only upon an affirmative vote of at least three members of the Board of Appeals.
- C. Before rendering a decision on any appeal, the Board of Appeals shall conduct a public hearing, which shall be advertised at least seven days in advance in a local newspaper and posted in other places usually used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the appeal to be addressed. The Board, or the Town Clerk on behalf of the Board, shall notify by mail the owners of properties lying within 500 feet of the property for which the appeal or application is being made. The owners of properties shall be considered to be those persons against whom taxes are assessed.
- D. The Code Enforcement Officer, unless prevented by illness or other good cause, shall attend all hearings of the Board.
- E. The Board of Appeals shall not continue hearings to a future date except for good cause.
- F. Written notice of the decision of the Board of Appeals shall be set to the appellant and the Code Enforcement Officer within seven days of its decision.
- G. An appeal may be taken from any decision of the Board of Appeals to the Superior Court within 30 days after the decision, as provided by 30-A M.R.S.A. §4353, as the same may be amended from time to time.
- H. The Board of Appeals shall keep records of its proceedings, and such records shall be kept public.

7.3 Powers and Duties

The Board of Appeals shall have the following powers and duties:

A. Administrative Appeals

To affirm, modify, or set aside the action of the Code Enforcement Officer or Planning Board in issuing or denying building or other permits, when it is alleged that there is an error in any order, requirement, decision, or determination in the enforcement of this Ordinance. An administrative appeal shall be taken within 30 days of the date of the decision or action of the Code Enforcement Officer or Planning Board, or within 60 days of the date of application, if no action has been taken by the Code Enforcement Officer or Planning Board. The appeal shall be filed at the office of the Town

Clerk, who shall notify the Chairman of the Board of Appeals, the Code Enforcement Officer, and the Chairman of the Planning Board. When conducting a hearing on an administrative appeal of a Planning Board decision, the Board of Appeals shall limit its consideration to the record that was before the Planning Board and shall not hold a hearing *de novo*.

B. Variances

To approve, approve with conditions, or disapprove appeals from variances from the strict enforcement of the provisions of this Ordinance only as they relate to the space and bulk standards of the district regulations and the performance standards of this Ordinance, according to the terms of Section 7.4 of this Article. A variance shall not be granted to allow a use or an expansion of a use in a district in which the use is prohibited.

C. Changes in Nonconforming Lots, Structures, and Uses

To approve, approve with conditions, or disapprove requests to change a nonconforming aspect of a lot, structure, or use such that it is less nonconforming or no more nonconforming than the existing situation, as authorized in Article 5, Section 5.6 of this Ordinance.

7.4 Variances

A. Application for Variance

Application for a variance shall be made to the Code Enforcement Officer on forms provided for that purpose, accompanied by a fee as may be established by the Town for such applications. The application shall clearly state the location of the property, the relief sought, and the reason(s) for requesting the variance. The application shall include a scale drawing showing the proposed location of the building or structure and its relationship to the lot's property lines and any adjacent road or right-of-way.

B. Standards

Prior to voting to grant a variance, the Board of Appeals shall review the application and find that the following standards have been met:

1. that a literal interpretation of the requirements of this Ordinance will impose an undue hardship on the property owner. The term "undue hardship" shall mean specifically that:
 - a. the land in question cannot yield a reasonable return unless a variance is granted; and
 - b. the need for the variance is due to unique circumstances of the property and not to the general conditions of the neighborhood; and
 - c. the hardship is not the result of action taken by the applicant or a prior owner;
2. that the grant of the variance will not alter the essential character of the locality;
3. any variance granted by the Board of Appeals shall be the minimum variance from the terms of the Ordinance as will relieve the hardship pleaded.

C. Reapplication

If the Board of Appeals shall deny a variance, a second request of a similar nature shall not be brought before the Board within two years from the date of the first request, unless in the opinion of the majority of the Board, substantial new evidence can be brought forward, or unless the Board finds that an error of law or misunderstanding of facts has been made, or unless amendment has been made to this Ordinance which changes the status, circumstances, or conditions of the matter which was appealed.

D. Duration of Variances

Provided all conditions and standards of approval are met, a variance shall be a permanent grant of

permission and shall “run with the land.”

ARTICLE 8. Conditional Uses

8.1 Conditional Use Permit

A building, structure, or parcel of land may be employed for a conditional use if the use is specifically listed in the regulations governing the district in which the use is proposed, and if a conditional use permit is approved by the Planning Board.

An application for a conditional use permit or site plan review approval must be denied for any property where a violation exists until such violation has been corrected or resolved.

8.2 Application for Conditional Use

- A. Application for a conditional use permit shall be made by the property owner to the Code Enforcement Officer on forms provided for the purpose accompanied by such fee as may be established by the Town for such applications. The applicant shall:
1. clearly specify the location of the proposed use, including assessor’s tax map and lot number and location map;
 2. describe the exact nature of the proposed use;
 3. present a scale drawing of the lot with the locations of any existing or proposed buildings, structures, natural features, driveways, and parking areas;
 4. submit such other materials as will enable the Planning Board to determine that the standards for approval of a conditional use have been met. The burden for providing the information upon which the Planning Board bases its findings and decision shall be the applicant’s.
- B. Before rendering a decision on any conditional use, the Planning Board shall conduct a public hearing, which shall be advertised at least seven days in advance in a local newspaper and posted in other places usually used for public notices, at the expense of the applicant. The notice shall contain a clear and concise statement of the proposed conditional use. The Planning Board, or the Town Clerk on behalf of the Planning Board, shall notify by mail the owners of properties lying within 500 feet of the property for which the conditional use proposal is being made. The owners of properties shall be considered to be those persons against whom taxes are assessed.

8.3 Standards for a Conditional Use Permit

A conditional use may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Planning Board that:

- A. Neither the proposed use nor the proposed site upon which the use will be located is of such a character that the use will have significant adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from such a use in the district. In reaching a determination on this standard, the Planning Board shall consider:
1. the size of the proposed use compared with surrounding uses;
 2. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;
 3. the potential generation of noise, dust, odor, vibration, glare, smoke, litter and other nuisances;
 4. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which may tend to aggravate adverse impacts upon surrounding properties;

5. the degree to which landscaping, fencing, and other design elements have been incorporated to mitigate adverse impacts on surrounding properties.
- B. Municipal or other facilities serving the proposed use will not be overburdened or hazards created because of inadequate facilities. In reaching a determination on this standard, the Planning Board shall consider:
1. the ability of traffic to safely move into and out of the site at the proposed location;
 2. the presence of facilities to assure the safety of pedestrians passing by or through the site;
 3. the capacity of the street network to accommodate the proposed use;
 4. the capacity of the storm drainage system to accommodate the proposed use;
 5. the ability of the Town to provide necessary fire protection services to the site and development.
- C. The natural characteristics of the site, including topography, drainage, and relationship to ground and surface waters and flood plains, shall not be such that the proposed use when placed on the site will cause undue harm to the environment or to neighboring properties.

8.4 Conditions of Approval

The Planning Board may attach conditions to its approval of a conditional use permit. These conditions may include, but are not limited to, such requirements as: street improvements; access restrictions; hours of use; buffering and screening; utility improvements; performance guarantees for required off-site improvements; professional inspection and maintenance; sureties; performance bonds; type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance. In evaluating each application the Board may request the assistance of the County Soil and Water Conservation District, a state or federal agency, or consultant which can provide technical assistance.

8.5 Reapplication

If the Planning Board shall deny a conditional use application, a second request of a similar nature shall not be brought before the Planning Board within two years from the date of the first request, unless in the opinion of the majority of the Planning Board, substantial new evidence can be brought forward, or unless the Planning Board finds that an error of law or misunderstanding of facts has been made, or unless amendment has been made to this Ordinance which changes the status, circumstances, or conditions of the matter which was brought before the Planning Board,

8.6 Duration of Conditional Use Permit

Provided all conditions and standards of approval are maintained, a conditional use permit shall be a permanent grant of permission and shall “run with the land.” However, if the use lapses for a period of two years then the Conditional Use Permit shall cease to be in force.

ARTICLE 9. Performance Standards

9.1 Applicability

The performance standards contained in this article shall apply to all uses and activities in the Town unless otherwise specified, whether or not specific approval or a permit is required.

9.2 Access to Property

Each property shall be provided with vehicular access to the property by abutting public or private ways or roads. Private rights-of-way shall be protected by permanent easements.

9.3 Access Limitations

Any lot created after the effective date of this Ordinance, as part of a subdivision as defined by the Town of Baldwin and State of Maine shall have its required road frontage on a way other than Routes 11, 107, and 113, the Douglas Hill Road, and the River Road unless the Planning Board determines that conditions particular to a parcel justify a waiver from this requirement. A waiver shall be granted only if there will be no further subdivision of the parcel and one of the following conditions is met:

- A. There is too little road frontage to reasonably allow for the creation of a new way.
- B. The shape or physical condition of the parcel does not permit access to or creation of a way.

9.4 Dust, Fumes, Vapors and Gases

Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

9.5 Glare

No land use or establishment shall be permitted to produce a stray, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any public way so as to impair the vision of the driver of any vehicle upon that way.

9.6 Industrial Odors

No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

9.7 Off-Street Parking Standards

A. Applicability

In all new construction, expansions or changes of use there shall be provided off-street parking for their use.

B. Requirements

Off-street parking shall be considered an accessory use when required or provided to serve conforming uses located in any district. An off-street parking space shall be 10 feet wide by 20 feet long exclusive of maneuvering space. The following minimum number of spaces shall be provided and maintained:

- Dwellings2 spaces per dwelling unit
- Hotels, motels, inns, tourist homes,
rooming houses 1 space per sleeping unit
- Campground 1 space per site
- Hospitals, sanatoria, nursing home 1 space per 2 beds
- Retail, and personal
service establishments 1 space per 200 square feet of gross floor area
- Eating and drinking establishments 1 space per 3 seats
- Theaters, auditoria, churches 1 space per 3 seats where fixed seating is provided, and 1
space per 100 square feet of assemblage space if no fixed

seating

Industry, manufacturing, 1 space for each 500 square feet of gross floor area
distribution exclusive of storage area

Offices, professional buildings 1 space per 250 square feet of gross floor area

Mixed uses the sum of requirements for the individual uses

Uses not specifically listed or able sufficient number of parking spaces as determined to be
placed into one of the above by the Planning Board during site plan review or by categories
..... the Code Enforcement Officer if there is no site
..... plan review to eliminate the necessity of on-street
..... parking

C. Off-Street Parking

In any district where permitted or allowed, commercial industrial uses shall provide, as necessary off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers or containers shall not be located for loading or storage upon any public way.

9.8 Sewage Disposal

Any use which relies on the soils for treatment of wastewater shall comply with the requirements of the Maine State Plumbing Code. The discharge of wastewater other than to soils shall be in compliance with the regulations of the Maine Department of Environmental Protection.

9.9 Soils and Earth-Moving

No person shall perform any act or use of the land in a manner which would cause substantial or avoidable erosion, create a nuisance, or significantly alter existing patterns of natural water flow in the Town.

9.10 Stormwater Drainage

- A. Stormwater drainage systems shall be designed to minimize the volume and rate of outflow from the development.
- B. Design of drainage facilities shall accommodate, at a minimum, a 25-year storm frequency.

ARTICLE 10. Performance Standards for Specific Activities and Land Uses

10.1 Adult Business

- A. "Adult Business" means any business, a substantial or a significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in obscene materials which depict or describe any of the following:
 - 1. human genitals in a state of sexual stimulation or arousal;
 - 2. acts of human masturbation, sexual intercourse or sodomy;
 - 3. fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
 - 4. less than completely and opaquely covered:
 - a. human genitals, pubic region
 - b. buttock
 - c. female breast below a point immediately above the top of the areola; and

5. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- B. "Viewing booth" means any booth, cubicle, room or stall within the premises of an adult business used to display, by audio or visual reproduction, projection or other means, any of the materials described in subparagraph (2) above.
- C. "Public building" means a building owned, operated or funded in whole or in part by the Town of Baldwin which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the town hall, the public library, the police station and fire stations.
- D. Location of adult business restricted. No adult business shall be located:
 1. In any location other than within 150 feet of any state highway in existence as of the date of this Ordinance.
 2. In any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - a. occupied by a residence, school, child care facility, park, playground, church or public building or
 - b. occupied by another adult business.
- E. Outside displays prohibited. No materials described in subsection (2) above shall be visible from the exterior of the building in which the adult business is located.
- F. Design of viewing booths. Viewing booths shall be designed, located and lighted so that the interior of each viewing booth is clearly visible from the interior common areas of the premises and visibility into the viewing booths shall not be blocked or obscured by any doors, curtains, partitions, drapes or any other visual barriers.

10.2 Automobile Graveyard, Automobile Recycling Business and Junkyards

Automobile graveyards, automobile recycling facilities and junkyards shall meet the following standards:

- A. The site of the yard must be enclosed by a visual screen at least six feet high and built in accordance with rules adopted by the Department of Transportation pursuant to 30-A M.R.S.A. §3759.
- B. A vehicle with an intact engine or motor shall not be stored within 100 feet of any body of water or freshwater wetland, as defined by 38 M.R.S.A. §436-A, §§5.
- C. A vehicle shall not be dismantled or stored within 500 feet of a school, church, or public playground or park that existed on the date the permit was issued.
- D. A vehicle shall not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.
- E. A vehicle containing fluids shall not be dismantled or stored within the 100-year flood plain.
- F. A vehicle shall not be dismantled or stored within 100 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.
- G. A vehicle shall not be located or dismantled closer than 20 feet from any lot line unless the operator has notarized written permission from the abutting property owner.
- H. Dismantling of a vehicle shall be performed in accordance with the following standards.
 1. The battery must be removed.
 2. Engine lubricant, fuel, transmission fluid, brake fluid and engine coolant must be drained into

watertight, covered containers and must be recycled or disposed of in accordance with applicable federal or state laws, rules or regulations.

3. Fluids from a vehicle shall not be permitted to flow or be discharged into or onto the ground. A clay lined or concrete barrier must be utilized and maintained.
4. A recycling operation must comply with all applicable federal or state laws related to hazardous materials.

10.3 Automobile Repair Garage and Automobile Service Station

All automobile repair garages and automobile service stations shall meet the following provisions.

- A. For safety reasons, in repair garages, floors shall be nonflammable and nonabsorbent. The applicant shall inform the fire department of storage of more than five gallons of inflammable liquids and more than four tanks of inflammable gases or oxidizers.
- B. The applicant shall maintain a waste disposal plan for tires, antifreeze, batteries and oil and maintain secondary containment for waste fluids. Provision shall be made for proper drainage so that contaminated material, rust or other noticeable effluent does not go beyond actual building site.
- C. The applicant shall maintain a neat and businesslike appearance with inside storage of parts and materials. The Planning Board may limit the number of vehicles for sale. The Planning Board may limit the number of vehicles parked on the lot and the number of parking spaces.
- D. Signs shall not exceed 25 square feet or be more than ten feet above ground.

10.4 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. Areas containing water-carried sewage facilities

Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:

1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways.
2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
3. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.

- B. Areas without water-carried sewage facilities

Recreational areas without water-carried sewage facilities shall contain a minimum of 20,000 square feet, not including roads and driveways, for each recreational vehicle, tent or shelter site.

- C. Setbacks

The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet from the normal high water elevation of any water body.

- D. Screening

All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six feet in height.

10.5 Clustered Residential Development Standards

A. Definition

Clustered residential development is a form of housing development which allows the developer flexibility in subdivision and housing design, including use of single-family attached dwellings, in return for setting aside a portion of the tract of land as permanent open space, in accordance with this section.

B. Purpose

Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions in Rural and Village Commercial Districts may modify provisions relating to space and bulk to permit innovative approaches to housing and environmental design in accordance with the following standards. Such modifications of space provisions shall not be construed as granting variances to relieve hardship. The purpose of this section shall be to encourage housing development that will result in:

1. open space and recreation areas;
2. variety and choice of housing;
3. a pattern of development in harmony with the natural features of the land;
4. efficient use of the land, with small networks of utilities and streets

C. Procedure

Proposed clustered residential development shall be considered residential subdivisions and shall be reviewed by, and final decisions shall be made by, the Planning Board in the same manner as subdivisions. The applicant must demonstrate right, title, or interest in the land which is the subject of the application.

D. Standards

The standards of review of a clustered residential subdivision shall be those of subdivision review and the following:

1. Each building shall be an element of an overall plan for site development. For any proposed development designed pursuant to the standards of this section, the Planning Board may approve the use of single family attached as well as detached dwellings, but not multi-family dwellings unless otherwise allowed as a permitted use or a conditional use in the district.
2. No clustered residential development shall exceed the allowable residential densities otherwise permitted in the district. For the purposes of this section, residential density shall be calculated as the number of units per net lot area, as defined by this Ordinance.
3. If the development is of individual lots for single family detached dwellings:
 - a. the development shall contain a minimum of five lots;
 - b. lot size shall not be reduced to less than 50percent of that required by the district requirements;
 - c. minimum frontage requirements for each lot shall not be reduced by more than 75percent
 - d. front yard setbacks shall not be reduced to less than 50percent
 - e. side yard setbacks shall together contain a total of at least 20 feet;
 - f. no structure shall be located within 25 feet of the development's perimeter boundary line.
4. If the development does not include creation of individual lots for single family detached dwellings:

- a. the parcel of land proposed for development shall contain a minimum gross lot area of ten acres and shall have a minimum of 400 feet of frontage;
- b. no building or structure shall be located within 25 feet of the tract's perimeter boundary line;
- c. the minimum distance between principal structures on the same lot shall be equivalent to the height of the taller building;
- d. attached dwellings shall include no more than six such dwellings attached in any single series, and no more than an average of four per series for the development as a whole.

E. Common Open Space

- 1. The common open space accumulated by modifying space and bulk requirements in the clustered residential development shall be shown on the subdivision plan with appropriate notation that it shall not be used for future building lots.
- 2. The common open space shall be accessible to the residents of the development, and shall be used to preserve natural features, protect wildlife cover, and for outdoor living purposes.
- 3. The formation and incorporation by the developer of a homeowners' association shall be a condition of final subdivision approval, with evidence of its accomplishment submitted to the Planning Board prior to final plat approval. Covenants for mandatory membership in the association shall be included in the deed for each lot or unit. The association shall have the responsibility of maintaining the common open space and other private facilities dedicated to the use in common by the development's residents.

F. Site Considerations

In addition to the standards of subdivision review, proposed clustered residential developments shall provide the following:

- 1. Where possible, building shall be oriented with consideration for scenic vistas, natural landscape features, topography, and potential solar access.
- 2. All utilities shall be installed underground, unless specifically waived by the Planning Board.
- 3. Development proposals shall include a landscape program to illustrate the proposed treatment of roads, paths, service and parking areas, and buffers from surrounding uses, and the way in which important natural features are to be preserved. The proposals shall detail any alterations to or improvements to be located in the common open space.
- 4. Adequate provision shall be made for erosion control and management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Drainage facilities shall be designed to accommodate the 25-year storm.

10.6 Extractive Industry

A. Permit Required. Topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a Conditional Use Permit for such operations has been issued by the Planning Board. The following earth-moving activities shall be allowed without a Conditional Use Permit from the Planning Board.

- 1. The removal, or transfer of less than 100 cubic yards of material from or onto any lot in any 12 month period.
- 2. The removal, or transfer of material incidental to construction, alteration or repair of a building for which a permit has been issued or in the grading and landscaping incidental thereto; and
- 3. The removal, or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.

All other earth-moving, processing and storage shall require a Conditional Use Permit from the

Planning Board.

B. Submission Requirements

1. Applications to the Planning Board for a Conditional Use Permit, for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits shall be accompanied by a plan prepared according to the performance standards herein.
2. Plans for the proposed extraction site shall include
 - a. A standard boundary survey of the property lines
 - b. Names and addresses of owners of abutting property
 - c. Existing elevations, at not greater than five foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation
 - d. Proposed fencing, buffer strips, signs, lighting.
 - e. Parking and loading areas, entrances and exits.
 - f. A written statement of the proposed method, regularity, working hours.
 - g. Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation.
 - h. An estimate of the elevation of the seasonal high water table within the excavation site shall be submitted. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

C. Performance Standards

1. No part of any extraction operation shall be permitted within 150 feet of any property or street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line. Natural vegetation shall be left and maintained on the undisturbed land. For an extraction which is in excess of 3000 cubic yards of material per year, no part of any Quarry operation shall be permitted within 1000 feet of any property line, or within 2500 feet of any existing dwelling, or within 500 feet of any street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line.
2. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.
3. No slopes steeper than three feet horizontal to one foot vertical (3:1) shall be permitted at any extraction site unless a fence at least six feet is erected to limit access to such locations.
4. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
5. Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
6. Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.
7. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure.
8. No vehicle or equipment, other than passenger vehicles, shall operate at the location outside of the

approved hours of operation. The hours of operation at any Quarry or Mineral Extraction site shall be prominently displayed at the entrance to the site. Hours of operation shall not exceed 7a.m. to 5p.m., Monday thru Friday, and 7a.m. to 1p.m. on Saturdays. No Sunday operations shall be permitted. In the event of an emergency request from public safety officials for sand or gravel, the Town selectmen may temporarily authorize alternative hours of operation.

9. Excavation shall not extend below five feet above the seasonal high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table permit excavation within two feet above the water table.
10. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
11. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.
12. Subject to 10.6.C.13, no materials, debris, or junk intended to be processed, stored, or disposed at the site may be brought in from a location outside of the property. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
13. Within six months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board.
 - a. All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
 - b. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
 - c. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - d. At least four inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices", published by the Cumberland County Soil and Water Conservation District.
 - e. No slope greater than three feet horizontal to one foot vertical (3:1) shall be permitted.
14. No part of any Quarry operations, access / egress roads shall be permitted within 1000 feet of any existing dwellings. Both Quarry and Mineral Extraction operations, which are in excess of 3000 cubic yards of materials per year, shall meet the following conditions:
 - A. All unpaved public ways used to access the site shall be paved and brought up to Town standards for a paved road at the expense of the site's operator to reduce dust, noise and damage from heavy truck traffic.
 - B. All access roads on the site shall be treated with suitable materials and maintained at the expense of the operator to reduce dust.
 - C. The operator is responsible for the costs of upgrading roadways to safeguard against the hazards of slowly accelerating truck traffic where access roads or public ways used by the operator join those roadways, including the cost of conducting a traffic study.
15. A bond submitted by the Quarry or Mineral Extraction operator shall be established and maintained covering the cost of the reclamation plan.

16. The following studies shall be conducted and paid for by the applicant prior to the granting of a conditional use permit:
 - A. A hydrological study which shows the depths of the ground water and establishes that the site operation will not cause any pollution to ground water and/or surface water:
 - B. A traffic study which sets forth what the maximum estimated volume of traffic into and out of the site will be, which describes the kinds of trucks and equipment which will be going into and out of the site, which describes any existing or potential traffic hazards on roads servicing the site and applicant's plans to address them and which describes the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual existing traffic condition in the vicinity of the site;
 - C. A noise study shall be conducted.
17. A buffer strip of one hundred {100} feet from all rights-of way and two hundred {200} feet from all other boundaries of the property is required. No extraction or operation is permitted within the buffer strip. Natural vegetation shall be retained within the buffer area, except as recommended by a professional forester pursuant to Best Forest Management Practices and approved by the Planning Board. To the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide screening, berm, or a combination where there is an inadequate natural buffer.
18. The applicant shall provide satisfactory plans to control dust, noise and unsightly appearances due to the operations of the site. The Planning Board may require such items as the sweeping, paving and watering of the access roads, or the maintenance of the existing vegetation, growth or in-fill planting to increase density of vegetation, or the placement of the earth berm, or the use of water bars on crushing equipment to control dust or other best management practices.
19. A reclamation plan must be submitted to the Planning Board, and the site shall be reclaimed in accordance with the requirements of this section. The reclamation work shall be completed within twelve {12} months of the closing of a site {or a portion of a site with regard to phased reclamation plans} or approval of the reclamation plan, which ever occurs later. Reclamation of continuing operations shall be conducted in Phases, so that there is never open more than five {5} acres of pit area or fifty {50} percent of the pit area for pits less than five {5} acres in size. Failure to remove more than four hundred {400} cubic yards of material from a pit within any 24 month period shall trigger the obligation of the site operator to commence reclamation. The following requirements shall be met:
 - A. Upon default of any obligation to reclaim a site under this section, the Town may, after written notice and an opportunity to be heard by the Board of Appeals, cause the site operator's reclamation plan to be implemented pursuant to the bond referred to in Section 10.6.C.15.
 - B. Reclaimed areas shall be guaranteed for a period of eighteen {18} months following the substantial completion of reclamation, during which the bond shall remain in full force and effect. All reclamation plans shall state specific time requirements for commencement and substantial completion, which times may be staggered for phased extraction work.
20. No Quarry or Mineral Extraction site shall be permitted within 2500 feet of the boundary of a Resource Protection Zone.
21. The following terms are defined as follows:
 - A. Quarry- a site where rock is blasted or excavated from the ground.
 - B. Mineral Extraction- a site where sand, gravel or loam are excavated from the ground.

D. Existing Operations

1. Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this section becomes effective, and which meets the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety days of the effective date of this section, a map indicating the area within which earth removal activity is anticipated within the five year period, and the area which has already been subject to earth removal activity. Failure to submit the above map within 90 days shall result in the loss of grandfathered status for that operation. Within 30 days of the effective date of this section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his knowledge, contain existing operations, informing them of the requirements of this section.
2. Discontinuation of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than ten cubic yards of material.
3. Upon effective date of this Ordinance and every five years thereafter the Code Enforcement Officer shall Publish notice and require all grandfathered Quarry and Mineral Extraction operations to report on their activities at the site and the Code Enforcement Officer shall inspect each site to ensure that each site is in operation. Failure to comply shall result in loss of grandfathered status.

10.7 Kennels and Veterinary Hospitals

- A. Structures or pens for housing or containing the animals shall be located not less than 100 feet from the nearest residence existing at the time of permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationships of the use to the topography, natural and planted horticultural screening, the direction and intensity of prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- D. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor dog “runs” are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he/she has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.
- G. All other relevant performance standards in Article 9 of this Ordinance shall also be observed. The Department of Agriculture, Food and Rural Resources Division of Animal Health and Industry Rules Governing Animal Welfare shall apply.

10.8 Barking Dog

- A. No owner or keeper of any dog kept within the legal limits of the Town of Baldwin shall allow such dog to unnecessarily annoy or disturb any person by continued or repeated barking, howling or other loud or unusual noises anytime day or night.
- B. Upon written complaint by the person disturbed, signed and sworn to, any constable, duly qualified law enforcement official, animal control officer or person acting in that capacity of the Town of Baldwin may investigate and may give written notice to the owner or keeper of such dog that such annoyance or disturbance must cease. The warning shall be made part of the complaint. Thereafter, upon continuance of such annoyance or disturbance, such owner shall be guilty of a civil violation and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first conviction shall be punished by a fine of \$50.00. All fines so assessed and attorney fees shall be recovered for the use of the Town of Baldwin through District Court.

10.9 Temporary Dwellings

- A. In those districts in which temporary dwellings are allowed as a conditional use, the Planning Board may permit the placement of a temporary dwelling on a lot, without an increase in lot area, under the following conditions:
 - 1. It is documented to the satisfaction of the Board that the temporary dwelling will house a relative of the resident of the principal dwelling on the lot, and that the relative, due to medical necessity, must be near the resident of the principal dwelling.
 - 2. It is certified in writing by the applicant that the temporary dwelling will be removed from the lot when it is no longer needed by said relative.
 - 3. It is certified in writing by the local plumbing inspector that the wastewater disposal system serving the lot is sufficient to accept additional wastewater flows from the temporary dwelling, and that the temporary dwelling meets all requirements of the local and state plumbing and building codes.
 - 4. The temporary dwelling contains at least 400 square feet of living area, and all space and bulk standards other than minimum lot area per dwelling unit are met.
- B. Approval by the Planning Board of a conditional use permit for a temporary dwelling shall not also require a variance or a demonstration of undue hardship.
- C. In the event a primary residence is rendered uninhabitable due to fire or other catastrophic event. The Code Enforcement Officer may immediately issue a permit for a temporary dwelling. Such dwelling shall conform to safety standards and shall be connected to on-site water and subservice waste disposal.

The duration of this temporary permit shall be no longer than 12 months and may be renewed for no more than one 12-month period. Within 30 days of issuance of an occupancy permit for the primary dwelling, the temporary dwelling shall be removed from the lot and the permit extinguished. There will be no charge for the temporary permit.

10.10 Shooting Ranges

- A. **PURPOSE:** This Shooting Range Ordinance is to regulate the establishment and operation of outdoor Shooting Range Facilities pursuant to 12 M.R.S.A. § 13201 (1) and 25 M.R.S.A. § 2011 (3), as they may be amended, and 30-A M.R.S.A. § 3001 *et seq.* (Maine's Home Rule Law). Due to their potential noise impacts and safety concerns, Shooting Range Facilities merit careful review to minimize adverse effects on adjoining properties. This Ordinance does not otherwise apply to the general discharge of

Firearms or the use of bows and arrows in accordance with all other applicable laws or regulations. This ordinance also does not apply to Target practice areas on private property, including shooting positions, shelters, or shot containment structures for family or family friends that are used on an occasional, non-commercial basis.

- B. APPLICABILITY:** This Ordinance is applicable to all Shooting Range Facilities in the Baldwin.
- C. PERMITTING, REGISTRATION, AND COMPLIANCE:** New Shooting Range Facilities shall only be established and operated in accordance with a valid conditional use permit issued by the Baldwin Planning Board.
- D. SHOT CONTAINMENT:** Each Shooting Range Facility shall be designed to contain the bullets, shot, and ricochets of same discharged at or within the Shooting Range Facility.
- E. NOISE MITIGATION:** Each Shooting Range Facility shall be designed to minimize off-site noise impacts generated by the activities conducted on the Shooting Range Facility. Noise levels measured at the property line where the Shooting Range Facility is operated or, in the case of leased land, at the property line of any leased parcel, shall not exceed sixty-five (65) dBA when said property line is located within one thousand (1,000) feet of an Occupied Dwelling, subject to the limitations of 30-A M.R.S.A. 3011, as it may be amended.
- F. MINIMUM DESIGN REQUIREMENTS:** Where not otherwise specified within this Ordinance, Shooting Range Facilities shall meet or exceed the design standards specified by the NRA Range Source Book.
- G. SETBACKS:** The following setbacks shall apply.
 - 1. All shooting stations and Targets on a Shooting Range Facility shall be located a minimum of three hundred (300) feet from any property line; and
 - 2. The Surface Danger Zone shall be contained within the property boundary line.
- H. WARNING SIGNS:** Warning signs meeting or exceeding the standards set forth in the NRA Range Source Book shall be posted at one hundred-foot intervals along the entire perimeter of the Shooting Range and along the entire perimeter of the property lines in the same intervals.
- I. DISTANCE FROM OCCUPIED DWELLING:** All shooting stations, Targets, and firing lines shall be located at least one-half (1/2) mile (two thousand six hundred forty (2,640) feet) from any existing Occupied Dwelling.
- J. ACCESS TO SHOOTING RANGE FACILITY:** Access to the Shooting Range Facility and Shooting Range shall be secured and controlled, with ingress and egress permitted only during those operating hours.
- K. MAINTENANCE:** Where not otherwise specified within this Ordinance, Shooting Range Facilities shall be operated and maintained in a manner that shall meet or exceed the standards specified in the latest edition of the NRA Range Source Book.
- L. LEAD MANAGEMENT PRACTICES:** Each Outdoor Shooting Range Facility shall provide a plan outlining its management practices relating to lead management. Said plan shall meet or exceed the standards set forth in the EPA Lead Management Guidelines.
- M. HOURS OF OPERATION:** Shooting Range Facilities shall be allowed to operate between 9:00 AM and 5:00 PM daily.

- N. LIABILITY INSURANCE:** The shooting range permit holder shall be required to carry a minimum of Three Million Dollars (\$3,000,000.00) per occurrence of liability insurance. Such insurance shall name the Town as an additional insured and shall save and hold the Town, its elected and appointed officials, and employees acting within the scope of their duties harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a Person or group's members or employees or third parties on account of any property damage arising out of the acts or omissions of the permit holder, his/her group, club, or its agents or representatives. The Town shall be notified of any policy changes or lapses in coverage.
- O. PERMIT APPLICATION:** An application to establish and operate a Shooting Range Facility shall be submitted by the legal property owner(s) to the Baldwin Planning Board. Such permit shall be obtained prior to application for any grading, building or improvement permit from the Town (*but any permit holder may thereafter construct any Structure or other improvement deemed necessary for the purpose of issuing said permit*)
- P. REQUIRED INFORMATION:** The applicant shall provide sufficient information to demonstrate compliance with these provisions. These shall include but not be limited to the following:
- Q. SITE PLAN:** A site plan for the entire Shooting Range Facility which shows the following applicable information drawn to an appropriate scale, shall accompany the permit application:
1. Property lines for any parcel upon which the Shooting Range Facility is to be located, north arrow, plan scale, date, and ownership information for the site;
 2. Complete layout of each Shooting Range Facility, including, shooting stations or firing lines, Target areas, shot-fall zones or backstops, berms, and baffles, if any;
 3. Projected noise contours sufficient to demonstrate compliance as determined by an engineer;
 4. Existing and proposed Structures; Occupied Dwellings within one-half (1/2) mile (two thousand six hundred forty (2,640) feet)); roads, streets, or other access areas; buffer areas; and parking areas for the Shooting Range Facility; and
 5. Any other appropriate information related to the specific type of Shooting Range Facility, whether existing or proposed.
- R. ABANDONMENT AND DISCONTINUANCE:** When a Shooting Range Facility is discontinued without the intent to reinstate the Shooting Range use, the property owner shall notify the Town of such intent. In any event, the discontinuance of the Shooting Range Facility or non-use of the Shooting Range Facility for a period in excess of one year shall create the presumption said Shooting Range Facility is abandoned, and any current, valid permits issued shall terminate.
- S. BACKGROUND CHECK:** Upon receipt of an application for a new Shooting Range Facility, the selectmen will commission a criminal records check on the owner and lessee, if any, of the property on which the Shooting Range Facility is to be located and on the individual designated by the owner to operate the Shooting Range Facility, if different from the owner. Upon completion of the criminal records check, the Police Department will forward its findings to the Selectmen.
- T. MUNICIPAL HEARING:** Following receipt of the Firing Range permit application, the planning board shall hold a public hearing to determine whether to issue a conditional use permit. A Firing Range permit shall be conditional for the first year after which the Planning Board will issue a final permit if no violations of this ordinance have occurred.
- U. CHANGES OR EXPANSIONS:** If any Shooting Range Facility is intended to be changed or expanded to include types of Shooting Ranges, operations, or activities not covered by an existing permit, a new permit for the entire facility shall be secured in accordance with all of the provisions of this Ordinance. Further, any permit issued hereunder does not relieve the permit holder of compliance with all other applicable Town ordinances.

V. ENFORCEMENT, REMEDIES, AND PENALTIES:

- 1. ENFORCEMENT AND REMEDIES:** The Town’s Code Enforcement Officer shall be responsible for the enforcement of this Ordinance. Any violation of this Ordinance or of any condition or requirement adopted pursuant to these provisions may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings as allowed by state law. Any permit issued under this Ordinance may be suspended or revoked following a public hearing before the municipal officers following a review and recommendation by the Planning Board.
- 2. CIVIL PENALTIES:** Any Person who violates any of the provisions of this Ordinance shall be subject to a civil penalty of not less than \$100.00 per violation plus costs of prosecution, including but not limited to attorney’s fees. No penalty shall be assessed until the Person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation and any such penalty shall be recovered for the use of the Town.

ARTICLE 11. Site Plan Review

11.1 Applicability

This section shall apply to:

- A. proposals for new construction or enlargement of nonresidential buildings or structures and of multi-family dwellings, including accessory building or structures, if such new construction or enlargement has a total area for all floors of more than 5,000 square feet.
- B. proposals to pave, remove earth materials from, or grade areas more than two acres within a five-year period, when there is no plan to revegetate the disturbed area.

This section does not apply to single-family detached, single-family attached, or two-family dwellings, to agricultural land management practices and forest management practices.

11.2 Procedure

- A. No building permit or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this Article until a site plan of development has been approved by the Planning Board.
- B. Every applicant applying for site plan approval shall submit to the Code Enforcement Officer two copies of a complete site plan of the proposed development, which shall be prepared in accordance with Article 11, Section 11.3, accompanied by the appropriate.
- C. Within 45 days after the date on which the site plan application first appears on the Planning Board agenda, the Planning Board shall act to approve, approve with conditions or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant. During this 45-day period the Planning Board may schedule an on-site visit.
- D. No application for site plan development shall be considered complete or may be acted upon by the Planning Board until all special exceptions and/or variances which may be required for the proposed development first have been obtained from the Board of Appeals.
- E. Within seven days of reaching its decisions, the Planning Board shall notify the applicant in writing of its action and the reason for taking such action.

11.3 Site Plan Content

When the owner of the property or his authorized agent makes formal application for site plan review, his

application shall contain at least the following exhibits and information:

- A. A fully executed and signed copy of the application for site plan review;
- B. Two copies of a site plan drawn at a scale sufficient to allow review of the items listed under the approval criteria, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
 - 1. owner's name and address;
 - 2. names and addresses of all abutting property owners;
 - 3. sketch map showing general location of the site within the Town;
 - 4. boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
 - 5. zoning classifications of the property and the location of zoning district boundaries if the property is located in two or more zoning districts or abuts a different zone;
 - 6. the bearings and distances of all property lines of the property to be developed and the source of this information. The Planning Board may require a formal boundary survey when sufficient information is not available to establish, on the ground, all property boundaries;
 - 7. the location of all building setbacks required by this Ordinance;
 - 8. the location, dimensions, and ground floor elevations of all existing and proposed buildings on the site;
 - 9. the location and dimensions of driveways, parking and loading areas, and walkways.
 - 10. location of intersecting roads or driveways within 200 feet of the site.
 - 11. the location and dimensions of all provisions for water supply and wastewater disposal;
 - 12. the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained and of any new landscaping planned;
 - 13. the direction of drainage across the site, both existing and proposed;
 - 14. location, front view, and dimensions of existing and proposed signs;
 - 15. location and dimensions of any existing easements and copies of existing covenants or deed restrictions;
 - 16. location and type of exterior lighting;
 - 17. copies of applicable State approvals and permits, provided, however, that the Planning Board may approve site plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of site plan review.

11.4 Supplemental Information

The Planning Board may require any or all of the following submissions where it determines that, due to the scale, nature of the proposed development or relationship to surrounding properties, such information is necessary to assure compliance with the intent and purposes of this Ordinance.

- A. Existing and proposed topography of the site at two-foot contour intervals, or such other interval as the Planning Board may determine.
- B. A stormwater drainage and erosion control plan showing:
 - 1. the existing and proposed method of handling stormwater run-off;
 - 2. the direction of flow of the run-off through the use of arrows;

3. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
 4. engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed;
 5. methods of controlling erosion and sedimentation during and after construction.
- C. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
- D. A planting schedule keyed to the site plan and indicating the varieties and sizes of trees, shrubs, and other plants to be planted on the site.

11.5 Waiver of Submission Requirements

The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town.

11.6. Approval Criteria

The following criteria are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved unless in the judgment of the Planning Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

A. Preserve and Enhance the Landscape

The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, and by retaining existing vegetation during construction. After construction is complete, landscaping shall be designed and planted to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures and to minimize the encroachment of the proposed use on neighboring land uses.

B. Erosion Control

Filling, excavation, and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:

1. preservation and protection of natural vegetation where possible;
2. keeping duration of exposure of disturbed soils to as short a period as possible and stabilizing the disturbed soils as quickly as practicable;
3. use of temporary vegetation or mulching to protect exposed critical areas during development;
4. where appropriate or necessary, use of debris basins, sediment basins, silt traps or other acceptable methods to trap the sediment from stormwater runoff;
5. no storage of fill materials within 50 feet of the banks of any stream, intermittent or perennial, or water body;
6. no removal of topsoil from any lot, except for that removed from areas to be occupied by buildings, paving, or other surfaces that will not be revegetated.

C. Vehicular Access, Parking and Circulation

The proposed site layout shall provide for safe access to and egress from public and private roads:

1. any exit driveway shall be so designed as to provide the following minimum sight distance measured in each direction, as measured from the point 12 feet behind edge of traveled way.

Required Site Distance

| Posted Limit (miles per hour) | Distance (feet) |
|-------------------------------|-----------------|
| 25 | 250 |
| 30 | 300 |
| 35 | 350 |
| 40 | 400 |
| 45 | 450 |
| 50 | 500 |
| 55 | 550 |

2. the streets serving the site shall be adequate to carry the anticipated traffic, and the site plan shall locate points of access to avoid hazardous conflicts with existing turning movements and traffic flows;
3. pedestrian ways shall be safely separated from vehicular traffic;
4. the layout and design of parking and loading areas, including the number of spaces provided, shall conform with the off-street parking and loading standards of this Ordinance.

D. Surface Water Drainage

Adequate provision shall be made for surface drainage so that removal of storm waters will not have an unreasonably adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm drain system. Whenever possible, on-site absorption of runoff waters shall be used to minimize discharges from the site. Drainage facilities shall be designed for a 25-year storm frequency.

E. Utilities

The development shall not impose an unreasonable burden on existing utilities.

F. Special Features of Development

Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have setbacks and screening to provide a buffer to sight and sound sufficient to minimize their adverse impact on other land uses within the development area and on surrounding properties.

G. Exterior Lighting

All exterior lighting shall be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.

H. Emergency Vehicle Access

Provisions shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times of the year, including 20 foot wide fire lanes at locations as may be recommended by the fire department.

11.7 Expiration of Approval

Approval of the site plan and any building permit issued for development within the scope of this Ordinance shall expire after a period of 24 months after the date of site plan approval if development has not begun.

ARTICLE 12. Amendment and Other Legal Provisions

12.1 Interpretation

Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the comprehensive plan.

12.2 Conflict with Other Ordinances

Whenever a provision of this Ordinance conflicts or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the provision imposing the greater restriction upon the use of the land, buildings or structures shall control.

12.3 Severability

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.

12.4 Amendment

No land use regulation or amendment thereof or change in the Official Land Use Map shall be adopted until after the Planning Board has held a public hearing thereon at least ten days before it is submitted to the legislative body for consideration. Public notice of the hearing shall be made at least ten days prior to the hearing. Amendments to this Ordinance shall be considered following petition, recommendation of the Planning Board, or motion of the Selectmen. The petitioner shall bear the cost of advertising and of any postage for notification of neighboring property owners.

12.5 Effective Date

The Land Use Ordinance herein shall be enacted and be of full force and effect on the day of approval of this Land Use Ordinance by the voters of the Town of Baldwin at a town meeting.

**Town of Baldwin
Growth Ordinance
Adopted March 8, 2003
Amended March 26, 2005**

1. Title

This ordinance shall be known as the "Growth Ordinance of the Town of Baldwin, Maine" and shall be referred to herein as the "Ordinance".

2. Legal Authority

This Ordinance is adopted pursuant to the home rule powers as provided for in VIII-A of the Maine Constitution, 30-A M.R.S.A. section 3001 and 30-AM.R.S.A. section 4323.

3. Purpose

The purpose of these Amendments is to further protect the health, safety and general welfare of the residents of Baldwin by ensuring that applicants are fairly treated and that no person shall gain advantage in the permit process by commencing construction of a residential structure prior to obtaining a growth permit.

- A. to provide for the immediate housing needs of the existing residents of the Town of Baldwin;
- B. to ensure fairness in allocation of building permits;
- C. to plan for continued residential population growth in Baldwin which will be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, and waste disposal services;
- D. to avoid circumstances in which the rapid development of new residences, potentially housing many families with school age children, would outpace the Town's, and region's, capability to expand its schools and other necessary services soon enough to avoid serious school overcrowding and a significant reduction in the level and quality of other municipal services.

4. Definitions

A. Applicant: The person or entity in whose name a growth permit application is submitted to the Code Enforcement Officer.

1) If the named applicant is a natural person, the term "applicant" shall also include: all persons related to the named applicant and all entities in which the named applicant, or

any person related to the named applicant, owns or controls a 10% or greater interest:

2) If the named applicant is other than a natural person, the term "applicant" shall also include: all persons related to stakeholders of the named applicant and all entities in which a stakeholder or any person related to a stakeholder owns or controls a 10% or greater interest.

B. Building permit: A permit issued by the Code Enforcement Officer pursuant to Article 4.2 of the Land Use Ordinance of the Town of Baldwin.

C. Code Enforcement Officer: The Town Of Baldwin Code Enforcement Officer, as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin, or an authorized agent thereof

D. Dwelling Unit: A dwelling unit as defined in Article 2.2 of the Land Use Ordinance of the Town of Baldwin.

E. Elderly household: A household which includes at least one elderly person and no occupant less than 55 years of age other than a full-time caregiver to or a spouse Of companion of the elderly person.

F. Elderly person: A person aged 55 years or older.

G. Family Gift Lot; A lot which is not within a subdivision (as defined herein) and which has been created by a gift from a parent (or grandparent) to a child (including an adopted child, or stepchild or grandchild) or from a child (or grandchild) to a parent (including an adoptive parent; stepparent or grandparent:)

H. Gift: The conveyance of property for which the grantor receives no money, property or any other value as consideration for such conveyance.

I. Giftee: A person receiving a gift of a family gift lot.

J. Gifto: A person who gifts a family gift lot.

K. Growth Permit: A permit, issued in accordance with the provisions of this Ordinance, which allows the issuance of a building permit for the construction, creation or placement of one new dwelling unit within the Town of Baldwin.

L. Persons related to: A person who is a spouse, parent, brother, sister or child by blood, marriage or adoption.

M. Subdivision: A subdivision as defined in 30-A M.R.S.A. section 4401, as such may be amended from time to time, and approved by the Baldwin Planning Board pursuant to the Subdivision Ordinance on or after March 10, 2001.

5. Applicability

Except as provided in Section 6 below, this Ordinance shall apply to the construction, creation or placement of any new dwelling unit within the Town of Baldwin.

6. Exemptions

This Ordinance shall not apply to:

- A. the repair, replacement, reconstruction or alteration of an existing dwelling unit.
- B. construction of dwelling units in housing for the elderly which is constructed, operated, subsidized or funded (in whole or in part) by any agency of state or federal government.
- C. construction of dwelling units in the village commercial district as set forth by the Town of Baldwin's Zoning Map.
- D. a dwelling unit on a family gift lot, provided that the giftor has maintained legal ownership of the family gift lot for a minimum of five(5) consecutive years prior to the gift and provided that no more than one building permit can be issued to anyone giftee pursuant to this exemption during any rolling five (5) year period.

7. Administration

- A. Maximum number of growth permits per calendar year.

1. Commencing on January 1, 2004, the maximum number of growth permits issued between January 1st and December 31st each year shall be fifteen(15) plus any growth permit available at the end of the previous calendar year.

For the calendar year 2003 only, from March 8, 2003 to December 31, 2003, the maximum number of growth permits shall be Fifteen (15) minus the number of building permits issued during the calendar year 2003 before effective date of this Ordinance March 8, 2003.

2. Until October 1st of each year, no more than 4 growth permits shall be issued for lots Within subdivisions; and no more than 15 growth permits shall be issued for lots not within subdivisions.

Between October 1st and December 31st of each year, any growth permits not yet issued, up to the maximum number established by subparagraph 1 above, may be issued without regard to whether the lot for which application is made is "within a subdivision" or not within a subdivision.

3. During each calendar year no more than 4 growth permits shall be issued for lots within any one subdivision.

B. A growth permit application must be completed and signed by a record owner of the lot for which the growth permit is sought, on a Growth Permit Application form provided by the Code Enforcement Officer.

2. The growth permit application shall be accompanied by:

A. A nonrefundable application fee as specified in the Schedule of License, Permit and Application fees established by order of the Town Selectmen, which shall be credited toward the building permit fee if the growth permit is replaced by a building permit under Section 7 (C) (2) below;

B. A deed or other instrument establishing the applicants ownership interest in the property; and

C. either a copy of the completed subsurface wastewater disposal system application (Form HHE-200) for the lot for which the growth permit is sought or evidence that the lot will be served by public sewer.

3. The growth permit application shall be submitted to the Code Enforcement Officer either by mail or by hand during normal business hours at the Town Office. The Code Enforcement Officer shall endorse each application with the date and time of receipt. In the event two (2) or more growth permit applications are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.

4. The Code Enforcement Officer shall review growth permit applications for completeness and accuracy in the order in which they are received. If an application is incomplete, the Code Enforcement Officer shall notify the applicant of the additional information or material needed to complete the application and shall resume review of the application only when such additional information or materials are provided. Once the Code Enforcement Officer determines that an application is complete, he or she shall approve the application as complete, endorsing the date and time of such approval on the application.

5. A separate growth permit application is required for each dwelling unit.

6. No growth permit application shall be accepted from an applicant who already holds the maximum number of permits allowed under this Article, subsection D. If such an application is submitted, the application will be rejected and the Code Enforcement Officer shall notify the applicant of such.

7. No growth permit application shall be accepted by the Code Enforcement Officer within six (6) months of the commencement of any construction on the lot which was not authorized by a building permit at the time that such construction commenced.

8. The Code Enforcement Officer shall ensure that the issuance, or the reissuance (after surrender or expiration) of any growth permit, shall be part of a public process which is perceived to be fair by members of the public. To that end, no growth permit shall be issued

except at the time and place described in a public notice published at least seven(7) days prior to the date that such permits are made available to the public. To ensure that permits are issued first come, first served basis, the Code Enforcement Officer shall accept applications only from persons in the order that they first appear, or the order in which they are queued at the front entrance to said appointed place at the appointed time.

C. Issuance procedure

1) Growth permits shall be issued first- come, first-served basis according to the dates and times the applications are approved as complete by the Code Enforcement Officer under section 7 (B) (4) above. If a growth permits available under section 7 (A) on the date the Code Enforcement Officer approves an application as complete, the Code Enforcement Officer shall issue the growth permit by endorsing the date of issuance on the application and mailing a copy to the applicant at the address provided by the applicant on the application. If no growth permit is available at the time the application is approved as complete, the application shall remain pending, and as growth permits subsequently become available, the Code Enforcement Officer shall issue permit in the order in which the applications were approved as complete, mailing the issued permits to the applicants as provided above.

2) Once issued, a growth permit must be replaced by a building permit for construction, placement or creation of a dwelling on the specific lot for which the growth permit was issued, no later than 90 days after date of issuance. A growth permit may not be extended or renewed beyond 90 days after issuance. A growth permit which is not replaced by a building permit within such 90 day period shall automatically expire. If a growth permit expires, a subsequent application for a growth permit on the same lot shall be processed and ranked as a new application pursuant to Section 7 (B) above. Expired growth permits shall not be counted in determining the maximum number of permits which may be issued during any calendar year.

3)At the end of each calendar year: (a) if the number of approved applications for growth permits exceeds the number of permits available for issuance, such approved applications shall remain pending into the next calendar year and shall retain their ranking according to the order in which they were approved as complete; (b)if the number of available growth permits exceeds the number of growth permits issued, such unissued growth permits shall be added to the maximum number of growth permits available during the next calendar year.

4) At any time prior to the issuance of a building permit or the expiration of a growth permit, the holder of a growth permit may surrender the permit and receive a refund of 50% the growth permit fee. Surrendered growth permits shall not be counted. in determining the maximum number of permits which may be issued during any calendar year.

5) At any time after an application for a growth permit is made and prior to the issuance of a growth permit; the applicant may withdraw the application and receive a refund of 75% the growth permit fee.

D. Applicant maximums

There will be a limit of three (3) growth permits issued per applicant per calendar year. No applicant may hold more than two (2) unused growth permits at anyone time. For the purposes of this section, a growth permit shall be considered "used" when the Code Enforcement Officer has issued a certificate of occupancy for the dwelling unit for which it was issued.

E. Transferability

Growth permits are issued only for a specific lot identified in the growth permit application. A growth permit may be transferred to a new owner of the lot; provided notice of the transfer of ownership is given in writing to the Code Enforcement Officer before the growth permit is replaced by a building permit and transfer does not result in anyone person having more growth permits than allowed under this Article. Transfer of ownership does not change the date of the issuance or the ranking of an issued growth permit. An application for a growth permit is not transferable.

8. Periodic review of Ordinance

Prior to December 31, 2005 the Town Selectmen shall conduct a review of this Ordinance to evaluate whether the rate of residential growth remains constant with the Town's ability to absorb the growth, and shall determine whether the number of growth permits available under this Ordinance should be adjusted by amendment to this Ordinance: The Town Selectman may, at their discretion, seek assistance or advice from the Planning Board, and/or hold public hearings, in connection with such review. If the Town Selectmen do not conduct such review, this Ordinance shall expire December 31, 2005. If the Town Selectmen conduct such review, this Ordinance shall continue in effect, reviewing this Ordinance prior to December 31st of each year or this Ordinance shall expire on December 31st of that year. This Ordinance may only be amended at the annual Town meeting.

9. Violation, Penalties and Enforcement

Any person who constructs, creates or places a dwelling unit within the Town of Baldwin without a growth permit required by this Ordinance or who owns or occupies a dwelling unit constructed, created or placed within the Town of Baldwin without a growth permit required by this Ordinance commits a civil violation and is subject to the fines, penalties and remedies provided in 30-A M.R.S.A. section 4452. Each day a violation continues to exist after notice of the violation constitutes a separate violation. This Ordinance shall be enforced by the Town of Baldwin Code Enforcement Officer in the manner provided for enforcement of violations of the Land Use Ordinance of the Town of Baldwin as is set forth in Article 4.4 of such Land Use Ordinance.

10. Appeals

An applicant for a growth permit who is adversely affected by a decision or action of the Code Enforcement Officer in the administration of this Ordinance may appeal to the Baldwin Board of Appeals under provisions governing administrative appeals under Articles 7.2 and 7.3 of the Land Use Ordinance of the Town of Baldwin.