

Town of Canaan

Commercial Development Review Ordinance

Reflects Changes From Hearing of February 18, 2009

V1 February 18, 2009 Planning Board meeting

Town of Canaan

Commercial Development Review Ordinance

Table of Contents

Article	Title	Page
1	General Provisions	3
2	Purpose	4
3	Applicability	5
4	Administration and Enforcement	6
5	Review Criteria	11
6	Application Procedure	12
7	Development Standards Generally	15
8	Development Standards for Specific Activities	28
9	Definitions	29
Appendix		
A	Parking Spaces	32

Article 1: General Provisions

SECTION 1. TITLE

This Ordinance is known and cited as the Town of Canaan Commercial Development Review Ordinance and will be referred to as this Ordinance.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the provisions of Title 30-A MRSA Section 3001-3006 home rule authority, and consistent with the Town of Canaan Comprehensive plan.

SECTION 3. EFFECTIVE DATE

This Ordinance takes effect upon enactment by the citizens of the Town of Canaan. ~~The effective date is: _____.~~

SECTION 4. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute administered by the Town of Canaan, the more restrictive provision shall control. All commercial development applications are required to conform to all applicable ordinances, regulations or Comprehensive Plan of the Town of Canaan.

SECTION 5. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision does not invalidate any other section or provision of this Ordinance.

SECTION 6. AMENDMENTS

Amendments may be initiated by a majority vote of the Board of Selectmen, Planning Board, or by written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election. This Ordinance may be amended by majority vote of the legally constituted municipal governing body at a regular or special town meeting or by referendum ballot.

SECTION 7. AVAILABILITY

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

Article 2: Purpose

SECTION 1. PURPOSE

The purpose of this Ordinance is to accomplish the following:

- A. To establish a procedure whereby the Planning Board may review new proposals to use or develop land and buildings for commercial purposes. Possible uses include commercial, industrial, office, community and service uses, municipal, institutional, utility, and recreational uses.
- B. To establish a fair and reasonable set of standards for evaluating each development.
- C. To mitigate potential nuisances associated with development and from having a negative impact upon the community.
- D. To address a wide range of environmental and planning issues associated with development including: noise, odors, stormwater, erosion, phosphorus, waterbody protection, traffic, parking, light and glare, scenic resources, groundwater, historic and archeological resources, significant wildlife and aquatic resources, and other natural resources.
- E. To reduce off-site impacts of development from negatively affecting the community, and municipal services and infrastructure.
- F. To protect the water quality of all the lakes, ponds, streams, brooks, wetlands, and aquifers within the community.

Article 3: Applicability

SECTION 1. APPLICABILITY

Review by the Planning Board is required for new commercial construction or development of commercial uses or the proposed expansion of existing commercial operations as provided below.

- A. The construction or placement of any new building or structure for a non-residential use, including accessory buildings and structures, over ~~twelve hundred (1,200)~~ **eighteen hundred (1800)** square feet in aggregate.
- B. The expansion of an existing non-residential building or structure, including accessory buildings and structures that exceed twenty-five percent (25%) of the existing structure footprint or greater than twelve hundred (1200) square feet in footprint area, within any five year period.
- C. The conversion of an existing building or structure, in whole or in part, from a residential use to a non-residential use, provided the non-residential building or structure will total twelve hundred (1200) square feet in aggregate.
- D. The establishment of a new, non-residential use, even if no building or structures are proposed, including such uses as gravel pits, mining operations, cemeteries, and golf courses, provided the use will develop more than one acre of land area.
- E. The conversion of an existing non-residential use, in whole or in part, to another non-residential use.
- F. All development thirty-five (35) feet or over in height.
- G. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, roads, and parking lots involving more than five thousand (5,000) square feet of area. This shall not apply to paving or repavement of existing paved or impervious surfaces less than ten thousand (10,000) square feet.
- H. Facilities for the storage of bulk fuel, chemicals or other flammable or hazardous substances that exceed one thousand (1,000) gallons.
- I. For an existing non-residential use with at least ~~twelve hundred (1,200)~~ **eighteen hundred (1800)** square feet of development: construction or modification of any structure or use on site, such as, but not limited to signs, lighting, parking areas, or landscaping, must conform to the requirements of this Ordinance.
- J. Major Home Occupations. Refer to Article 8, Section 1.
- K. ~~The construction, alteration, enlargement or placement of three or more family dwelling, including accessory buildings or structures.~~

SECTION 2. NOT REQUIRING REVIEW

The following uses and activities do not require review:

- A. The construction, alteration, enlargement or placement of a single family or two family dwelling, including accessory buildings or structures.
- B. Minor home occupations as defined by this Ordinance.
- C. Agricultural production including structures, timber harvesting, and forest management activities.
- D. Uses or activities which would be reviewed under ~~the other~~ **Town of Canaan Subdivision Ordinances, Town of Canaan Mobile Home Park Ordinance, and**

Article 4: Administration and Enforcement

SECTION 1. TOWN OF CANAAN PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A. To administer this Ordinance.
- B. To hear and decide upon applications according to this Ordinance.
- C. To develop commercial development application forms.
- D. To exercise additional powers and duties authorized by State of Maine Statute.
- E. To review and propose updates to this Ordinance. To conduct hearings on propose updates.
- F. To conduct site visits and to review applications as authorized by this Ordinance.
- G. To develop additional criteria, standards, and requirements, as it deems necessary for the public good.
- H. The Planning Board may grant variances.
- I. To provide the Code Enforcement Officer with a written decision of each application.
- J. To issue permits.

SECTION 2. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall have the following powers and duties:

- A. To enforce the provisions of this Ordinance.
- B. To issue stop work orders and other appropriate notices of violation.
- C. To perform permit reviews.
- D. To revoke permits issued in error or which are based upon erroneous information.
- E. To investigate complaints and reported violations.
- F. To conduct site visits and to review applications as authorized by this Ordinance.
- G. To enter property at reasonable hours or enter any building to inspect the property or building for compliance with this Ordinance.
- H. To exercise additional powers and duties authorized by State of Maine Statute.
- I. To maintain an appropriate public record of all permits issued, permit applications, enforcement actions and other appropriate documents.
- J. To provide the State of Maine with information concerning permits and development activity as required.
- K. To assist the public with inquiries and other requests for information concerning this Ordinance.
- L. To assist the Planning Board with the review process.
- M. To issue occupancy permit for commercial development permit issued by the Planning Board.

SECTION 3. COMMERCIAL DEVELOPMENT REVIEW PERMITS

The Planning Board shall review and decide upon all applications and shall submit their written decision to the applicant and Code Enforcement Officer. The Planning Board shall prepare the permit approval, including any conditions and issue the permit to the applicant.

No work or other development shall be undertaken on any use or project that requires review until the Planning Board has issued a permit. The Code Enforcement Officer shall provide a statement to the Planning Board as to work or development has or have not taken place before application was submitted to the Planning Board.

SECTION 4. PERMIT FEE

A non-refundable review fee shall be submitted with the application: \$100 per \$100,000 development cost (rounded up). The fee is doubled if the application is submitted after construction has been initiated.

SECTION 5. PERMIT EXPIRATION

Permits are valid for twelve (12) months from the date of Planning Board approval for the substantial start of construction. Permits that have expired shall become null and void and the applicant shall obtain another permit by submitting another commercial development application to the Planning Board with the permit fee. A permit is transferable to subsequent owners of the property.

SECTION 6. DECISIONS

After a review of a complete application, the Planning Board shall determine whether the proposal meets the review criteria contained in this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit its decision to the applicant and the Code Enforcement Officer.

SECTION 7. BURDEN OF PROOF

The applicant shall have the burden of proof to show that the proposal meets the applicable review criteria and the standards contained in this Ordinance.

SECTION 8. RIGHTS NOT VESTED

The submittal of the application to the Planning Board to review for a completed application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, MRSA, Section 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

SECTION 9. SITE INSPECTION

The Code Enforcement Officer and/or the Planning Board may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area. On site inspections may be postponed when the ground is covered with snow.

SECTION 10. ADDITIONAL INFORMATION AND STUDIES/INDEPENDENT EXPERT ASSISTANCE

At any time during the application review, the Planning Board may require additional studies or the hiring an independent consulting service to review the entire, or portions of the application. The cost of the additional studies or consulting services shall be borne by the applicant. The applicant shall deposit with the Town of Canaan the estimated cost of the study or consulting services, which shall be deposited in a special escrow account designated for that development application. If the balance in this special account is drawn down by sixty percent (60%), the Planning Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Planning Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by sixty percent (60%) of the original deposit amount. Failure to comply with this escrow requirement, at any time during the review process, renders the application incomplete, and precludes further review of the application. Any remaining balance in the escrow account after a final decision on the application shall be returned to the applicant. At any time during the application review the municipality shall provide the applicant, upon written request, an accounting of the expenditures from the fund.

SECTION 11. WAIVERS

- A. The Planning Board may vote to waive any of the review criteria, performance standards, development standards or submission requirements in this Ordinance when it finds one of the following:
 - 1. One or more of the review criteria, performance standards, development standards or submission requirements are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, type of project or unique features of the proposal.
 - 2. The applicant may submit alternative designs, which meets or exceeds the requirements set forth in the performance standards required under this Ordinance. Such submissions shall not be waived but may replace standard submissions.
- B. The applicant shall submit information and materials to support the waiver request with the application.
- C. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the waiver request and, if it meets the appropriate criteria, shall approve the request and submit its decision, in writing, to the applicant. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and require the applicant to revise the application, as necessary. The Planning Board may vote to suspend review of the application until the applicant can supply all information necessary. The applicant shall submit all required information to the Planning Board within sixty (60) calendar days of the denial of the waiver request unless otherwise agreed to by the Planning Board and applicant. Failure to submit the information within this time will require that a new application be submitted for review with permit fee. In no case shall the Planning Board make a final decision on the application until the applicant supplies additional information to the satisfaction of the Planning Board.
- D. All waivers approved by the Planning Board shall be documented during the review process.

SECTION 12. CONDITIONS

Upon consideration of the review criteria, the Planning Board may attach such conditions to the proposed application that it finds necessary to further the purposes of this Ordinance.

In determining whether conditions are appropriate or necessary, the Planning Board shall consider the unique features of the following: site and surrounding area, proposed use and proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance.

The conditions shall be listed in the permit and shall be made enforceable under this Ordinance.

SECTION 13. PUBLIC HEARING REQUIREMENTS

The Planning Board may hold multiple public hearings for a given application depending on the complexity of the application in order to receive orderly public comments and information concerning the application.

The Planning Board may hold a public hearing on each commercial development application as follows:

- A. The public hearing shall be held within thirty (30) days after the proposed application is deemed completed. This period may be extended for up to sixty (60) days by mutual consent by the applicant and the Planning Board. The notice of the date, time and place of the public hearing shall be made as follows:
 1. Published at least two times, in a newspaper having general circulation within the municipality. The date of the first publication shall be at least seven (7) days before the hearing.
 2. Mailed by first class mail to the applicant, at least seven (7) days prior to the hearing.
 3. Mailed by first class mail to all abutting property owners as determined from the current tax assessment data, at least seven (7) days prior to the public hearing. The Planning Board shall maintain a list of all property abutters mailed a notice in the application file and date of notice was mailed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.
- B. The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

SECTION 14. VARIANCES AND APPEALS

A. Variances may be permitted only under the following conditions:

1. Variances may be granted only from dimensional requirements including but not limited to: lot width, structure height, lot coverage, and setback requirements.
2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. The Planning Board shall not grant a variance unless it finds that the strict application of this Ordinance would result in undue hardship.
4. The Planning Board shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to variances as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

C. Appeal Procedure

An aggrieved party may appeal any final decision of the Planning Board or Code Enforcement Officer under this Ordinance to Superior Court, within thirty (30) days of the date of Planning Board issued a written order of its decision.

SECTION 15. ENFORCEMENT AND PENALTIES

- A. The Code Enforcement Officer shall keep a record of all enforcement actions and shall institute or cause to be instituted in the name of the Town any actions that might be appropriate for the enforcement of this Ordinance, including the use of administrative consent agreements.
- B. Any person, including but not limited to a landowner, landowner's agent, or contractor, who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A, MRSA, Section 4452.
- C. The Code Enforcement Officer may represent the Town in District Court. However, should the services of an attorney be required in litigation in a higher court of law, the Code Enforcement Officer shall first review the case with the Board of Selectmen.

SECTION 16. COMPLIANCE HISTORY

When making determinations regarding approval, enforcement or penalties, the appropriate review authority shall, among other criteria, consider prior history.

SECTION 17. FINANCIAL AND TECHNICAL CAPACITY

- A. The applicant shall submit evidence of adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:
 1. A list of all technical and professional staff involved with the proposal and preparation of the application including their qualification and past experience with projects of similar size and scale.
 2. A list of all persons with inspection and oversight responsibilities for the development and if available, the persons selected to construct the project, including their qualifications and past experience with projects of similar size and scale.
 3. A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the specific time period by the applicant, if requested by the Planning Board.

Article 5: Review Criteria

SECTION 1. REVIEW CRITERIA

An applicant for a commercial development permit shall demonstrate that the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings that all of these criteria have been met.

- A. The application is complete and application and escrow fees have been paid.
- B. The proposal conforms to all the applicable provisions of this Ordinance.
- C. The proposed activity will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that an unsound or unhealthy condition results.
- D. The proposed activity will not have an adverse impact on wetlands.
- E. The proposed activity will not have an adverse impact upon any water body such as a lake, pond or stream.
- F. The proposed activity will provide for adequate storm water management on site and off site.
- G. The proposed activity will provide for adequate sewage disposal.
- H. The proposed activity will not adversely impact any floodplain areas and will conform to the applicable requirements of the Town of Canaan Floodplain Management Ordinance.
- I. The proposed activity will not result in air or water pollution.
- J. The proposed activity has sufficient water available for the current and foreseeable needs of the development.
- K. The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- L. The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.
- M. The proposed activity will not have a significant detrimental effect on adjacent land uses, or on other properties that might be affected by waste, noise, glare, fumes, smoke, dust, odors or their effects.
- N. The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or roads existing or proposed.
- O. The proposed activity to the maximum extent possible will not have an adverse affect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Canaan Comprehensive Plan, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- P. The proposed activity shall conform to all the applicable requirements of the Town's Ordinances.
- Q. The proposed activity will not increase a great ponds phosphorus concentration, if the development is within the watershed of a great pond.
- R. The Town has the capacity to provide fire and rescue services to the development.

Article 6: Application Procedure

SECTION 1. APPLICATION PROCEDURE

- A. The applicant shall submit the commercial development application and written evidence that the abutters and those affected by off site storm water management have been notified to the Planning Board.
- B. The applicant shall pay the appropriate commercial development permit fee and **any applicable** escrow funds to the Town's Treasurer and submit a copy of the Treasurer's Receipt to the Planning Board covering the application fee and escrow funds.
- C. The applicant shall, at least fourteen (14) days prior to the scheduled meeting of the Planning Board, submit ten (10) copies of a complete commercial development application to the Town Clerk and/or the Planning Board Secretary. The applicant shall provide reduced copies of maps and plans; however, at least three full size (typically 24"x 36" depending on readability) set of plans shall be submitted. The applicant shall be issued a dated receipt. The application shall be placed on the Planning Board's agenda in order to set a Planning Board date to review application for completeness.
- D. Within forty-five (45) days of receipt of the application, the Planning Board shall make a determination whether the application is complete and notify the applicant of its determination.
 - 1. If the application is not complete, the Planning Board shall notify the applicant of the specific materials needed to complete the application. Any additional information required to complete the application shall be submitted in a timely manner by a mutually agreed upon date. The applicant failure to comply with Planning Board requests to submit additional information will be required to submit a new application. The applicant shall provide the required materials according to listed procedures.
 - 2. If the application is complete, Planning Board will place the application on the Planning Board's agenda for review and consideration, as expediently as practical.
- E. The Planning Board shall make a final decision upon the application within one hundred (100) days of the first Planning Board meeting at which the completed application had been reviewed. However, upon mutual consent of the applicant and the Planning Board, the due date for the final decision may be extended.
- F. The Planning Board shall submit its final decision in writing to the applicant and to the Code Enforcement Officer within thirty (30) days of the last Planning Board meeting at which the application was considered. Any conditions imposed upon the application shall be listed in the Planning Board's final decision.
- G. Substantive review of the application shall not be deemed to have begun until the Planning Board makes a finding that the application is complete.

SECTION 2. SUBMISSION REQUIREMENTS

All commercial development applications shall be submitted on the forms developed by the Planning Board. The following materials and information shall be included with the Commercial development Application. The applicant shall indicate those submission items that are not applicable to the proposal due to the particular location or design of the proposal.

- A. Commercial development application.
- B. Copy of Town's Treasurer receipt for commercial development permit fee and escrow funds.
- C. Waiver Request Form, if applicable.
- D. General information including the following:
 - 1. Name, address and telephone number of the applicant and applicant's agent if applicable.
 - 2. Property location, including address, map and lot number.
 - 3. Verification of the applicant's right, title or interest in the property. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the Somerset County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms, which may be omitted) whether by lease, option, contract or otherwise establishing right, title and interest shall be submitted with the application.
 - 4. Estimated cost of the proposal.
 - 5. Schedule of construction including anticipated beginning and completion dates.
 - 6. A description of the project.
- E. General location information including the following:
 - 1. A copy of the tax map showing the property and surrounding parcels. Including a list of all persons abutting the property and those effected by off site storm water management.
 - 2. A copy of the Somerset County soil map showing the property.
 - 3. A copy of the United States Geological Survey (USGS) Topographic map showing the property.
 - 4. A copy of the Town Shoreland Zoning Map showing the property, if located in a Shoreland District.
 - 5. A copy of the Federal Insurance Rate Map (FIRM) showing the property, if located in a designated flood plain.
 - 6. A copy of the Maine's Wetlands Inventory Map showing the property.
 - 7. A map drawn to scale showing the location, boundaries, elevations, uses and size of the following: developed site, type of structures, setbacks, parking areas, driveways and roads, drainage ways, easements and rights-of-way, watercourses, water bodies and wetlands, number of acres within the development, size of all impervious areas, all other significant natural and physical features and true north. (Note: the Planning Board may require the drawing be done by a licensed surveyor, a licensed engineer, or similar appropriately licensed professional, depending on the scale and extent of the project.)
- F. The location of all proposed subsurface wastewater disposal systems.
- G. Indication of the water source for the proposal including evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression. The Fire Chief shall be consulted to determine whether or not appropriate structures are required to supply a water source to handle a possible fire threat.

- H. Evidence that all other local and state permits have been obtained including but not limited to: Shoreland Zoning, and Flood plain Management.
- I. An erosion control plan as per the requirements of this Ordinance.
- J. A storm water control plan as per the requirements of this Ordinance.
- K. A phosphorus control plan as per the requirements of this Ordinance.
- L. The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Commission.
- M. The location of any significant wildlife resources or natural areas.
- N. The traffic access data for the project including an estimate of the amount of vehicular traffic to be generated on a daily basis.
- O. Any proposed areas or structures to be dedicated for public use.
- P. Scaled drawings showing the location and construction specifications for all proposed roads including drainage features such as ditches and culverts, access points, driveways, parking areas and other traffic management and control features.
- Q. Any other material to show that the applicable performance standards or other requirements of this Ordinance are followed.
- R. The estimated quantities of flammable or hazardous materials to be stored or handled on site.
- S. List of flammable or hazardous materials that would be stored or handled on site. The Planning Board may require MSDS for flammable or hazardous materials.
- T. A copy of any official decisions and pending applications of federal or state agencies regarding the use of this property, if applicable.
- U. Submit written evidence that the abutters and those effected by off site storm water management have been notified.

Article 7: Development Standards Generally

SECTION 1. AIR QUALITY

No development is permitted which will cause emissions of dust, ash, smoke, or other particulate matter likely to damage human or animal health, vegetation, or property, by reason of concentration or toxicity. Evidence that relevant state and federal regulatory requirements have been met shall be required. This shall not be construed to regulate dust or odors generated by agricultural practices conducted using accepted Best Management Practices (BMPs). A development requiring a major air emissions permit will require approval by a majority of the townspeople.

SECTION 2. ACCESS TO PUBLIC STREETS

This section shall apply to all developments requiring a permit that directly access Public Streets. Compliance with this section shall not relieve the applicant of the need for permitting under State Access Management Regulations.

A. General Provisions:

1. The number of access points shall be the minimum necessary to assure safe and proper vehicular access to the site. As a general rule, no more than two access points onto any single road will be allowed. Where more than one road abuts the development site, the Planning Board may require the developer to access the site from the road with less potential for congestion and traffic hazard.
2. All streets which can be expected to carry traffic to and from the development shall have sufficient capacity or be suitably improved to accommodate the amount and types of traffic generated by the development:
3. Access points shall be of a design and have sufficient capacity to avoid the stopping or standing of vehicles attempting to enter the development from the street. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, or other traffic controls within public streets. All such installations shall conform to standards in the Manual on Uniform Traffic Control Devices published by the American Traffic Safety Services Association.
4. The Planning Board may require the developer to plan or install direct access to adjoining properties where it will serve to reduce demand for vehicular movement on public roads.
5. Visibility triangle: In order to provide adequate visibility, all access points shall be kept free from visual obstructions, including signs and snow, within a triangular area defined by legs of twenty-five (25) feet measured along the driveway and street lines.

B. Location and Design of Access Points

1. Sight Distances: All access points shall be located to provide minimum sight distance of ten (10) feet for each mile per hour of posted speed limit in both directions. Sight distance is measured from a point ten (10) feet behind the edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.5 feet above the street surface.

2. Access points shall be designed and constructed to a standard consistent with their estimated volume as follows:

Low Volume: Peak hour volume of ten (10) or fewer vehicles.

Medium Volume: Any access that is not a low volume or high volume.

High Volume: Peak hour volume of one hundred (100) or more vehicles.

3. Design Criteria:

- a. All portions of an access point within the right-of-way of the street shall be consistent with the surface of the existing roadway.
- b. All access points entering a curbed street shall be curbed to the full radius of the access point to a minimum distance of fifty (50) feet back from the edge of the existing curb line.
- c. All access points shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than seventy-five (75) degrees
- d. The curb radius for two-way access points shall be at least twenty (20) feet. The curb radius for one-way access points or access points with median islands shall be between five (5) and ten (10) feet on the inside corner and at least thirty (30) feet on the outside corner.
- e. The width of a low volume driveway shall be no more than twenty (20) feet. The width of a medium or high volume driveway may be between twenty (20) and twenty-six (26) feet; for driveways with a median island, the width shall apply to each side. Where truck traffic is a major element, the width may be increased to thirty (30) feet. The width of individual, "right turn only" channels shall be no more than twenty (20) feet.
- f. From the edge of the traveled way, the access point should not exceed a grade of two (2) percent for a minimum of forty (40) feet, or, where a traffic study has been done, for the full distance of the predicted queue of vehicles at the peak hour.

4. Median and Channelization Islands:

Medians or channelization island(s) are required for high volume access points and may also be required for medium volume access points at the discretion of the Planning Board. Median islands shall be between six (6) feet and ten (10) feet in width and shall create a throat (entry lane) of adequate length based on the traffic study, but in no case less than sixty (60) feet. All islands shall be curbed with sloped curbing, with proper signs installed to direct traffic.

5. Spacing Standards:

- a. No low or medium volume access point shall be located within one hundred (100) feet of any street intersection. No high volume access point shall be within two hundred fifty (250) feet of any intersection. Distance shall be measured from the point of tangency for the intersection curb radius to the point of tangency for the access point curb radius.
- b. All roads with access onto an existing state or local road shall not be located within one hundred (100) feet of an existing intersection or driveway, unless conditions warrant otherwise.
- c. No access point shall be located within fifteen (15) feet of a property line.
- d. Any access point which intersects an existing or planned sidewalk shall incorporate ramped access curbing in accordance with the Americans with Disabilities Act.

SECTION 3. EROSION CONTROL

- A. All soil disturbances must be conducted in a manner which avoids sediment leaving the property. Development must employ Best Management Practices (BMPs) for erosion control unless the Code Enforcement Officer certifies in writing that the nature of the site poses very little risk of erosion. Erosion of soil and sedimentation of watercourses, including intermittent drainage swales, and water bodies shall be avoided by employing BMPs as established by the most recent version of "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices" .
- B. The least possible amount of disturbance will occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas. Temporary erosion control measures shall be installed prior to the start of any development. The applicant shall be responsible for the proper installation and operation of all erosion control measures. Permanent measures shall be installed as appropriate upon completion of the development.
- C. Exposed soils on slopes ten percent (10%) or greater will be initially stabilized (i.e., mulched, covered, or reseeded) within two working days of disturbance. All exposed soils on slopes less than ten percent (10%) shall be stabilized within fifteen (15) days of disturbance.
- D. All watercourses, water bodies and wetlands will be protected from sedimentation by the installation of silt fence barriers or other appropriate means. Such barriers shall be installed before digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within five hundred (500) feet of a watercourse, water body or wetland or on slopes greater than ten percent (10%). The barriers shall be installed at all points immediately down slope of soil exposing activities.
- E. Hay bale barriers are not to be used as a primary means of erosion control, but may be used as reinforcement or back-up to silt fencing or other effective primary erosion control. Erosion control mix placed as a berm may be used in lieu of silt fencing as a sediment barrier, especially on frozen ground.
- F. All erosion controls must be inspected by the applicant and repaired every week, and before and after any significant rainfall events (0.5 inches or greater).
- G. Ditches or swales with slopes from 0-3% need to be vegetated, those at 3-5% require a geotextile mat and appropriate seeding, and those at 5% or greater require stone lining with an appropriate geotextile underlayment. All ditches not stabilized by vegetation before October 15th shall be stone lined.
- H. Areas within five hundred (500) feet of water bodies must receive final stabilization within five (5) days of final grading. Other disturbed areas must have final stabilizing measures in place within ten (10) days of final grading.
- I. After September 15, or if construction activities are to be suspended for more than thirty (30) days, additional stabilization measures must be installed which include seeding, and mulching (including securing of mulch), and water diversions necessary to minimize on-site drainage contribution to erosion.

- J. If any portion of the designed impervious area falls within five hundred (500) feet of a watercourse, water body or wetland larger than one acre and the designed impervious area exceeds ten thousand (10,000) sq. ft. in area; or If the Planning Board initiates a review in conjunction with the DEP, or other qualified water quality experts and it is determined that because of the slope, soil erodibility, designed impervious area, and site location, there is a demonstrated need, the following will occur: A temporary or permanent sedimentation control mechanisms shall be utilized by which sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods in accordance with the current "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices".
- K. The top of a cut or the bottom of a fill section shall not be closer than fifteen (15) feet to an adjoining property.

SECTION 4. HISTORIC AND ARCHEOLOGICAL RESOURCES

If any portion of the site has been identified, or is found to contain historic or archaeological resources, the development plan shall include appropriate measures for protecting these resources, including, but not limited to, modification of the proposed building and site layout and design.

SECTION 5. MATERIALS STORAGE

- A. All outdoor storage areas, including areas used for the storage or collection of solid waste, automobiles, auto parts, building materials, machinery, or other such items, shall be screened to minimize impact on neighboring and other properties in the area. Walls, fencing, dense plant material, or a combination of techniques can be used to achieve this intent. A dense evergreen hedge six (6) feet or more in height at the time of planting shall be the preferred means of attaining this standard.
- B. Where a potential safety hazard to children is recognized by the Planning Board, a physical barrier sufficient to deter small children from entering the area shall be provided and maintained in good condition.
- C. No bulk storage of flammable or explosive liquids, solids, or gases shall be permitted unless storage facilities are located at least seventy-five (75) feet from any property line if above-ground, or forty (40) feet if underground. All materials shall be stored in compliance with requirements of the Maine Department of Public Safety and other appropriate Federal, State, and local regulations. Propane gas tanks in two hundred (200) pound cylinders or smaller and heating fuel tanks of 330 gallons or smaller are not considered bulk storage for the purpose of these standards except where three or more are aggregated.
- D. All above-ground storage facilities for toxic, flammable, or explosive liquids shall be located on impervious surfaces and shall be completely enclosed by a dike high enough to contain the total capacity of the storage tank(s) plus the rain falling into the area during a twenty-five (25) year, 24-hour duration storm, or hundred fifty (150) percent of the volume of the storage facility, whichever is greater.

SECTION 6. NATURAL RESOURCE PROTECTION

A. Natural Features

Site development shall minimize, insofar as possible, disturbance of natural features. This shall be done by designating on the site plan the limits on development-related clearing. Outside of the limits, there shall be no tree removal, water channelization, soil disturbance, or grading and filling.

B. Habitat Protection

1. If any portion of the site is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and develop measures to protect these areas from environmental damage and habitat loss. Wildlife Habitat areas shall include the following:
 - a. Habitat or endangered species appearing on the official state or federal list of endangered or threatened species.
 - b. High or moderate value waterfowl and wading bird habitats as defined by the Maine Department of Inland Fisheries and Wildlife.
 - c. Deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

C. Wetlands

If any portion of the area to be developed includes wetlands, as determined by the Town of Canaan, the Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, or mitigate impacts on the wetland both during and after construction.

D. Groundwater Protection

1. Any development which will generate a demand of five thousand (5,000) gallons per day or greater out of groundwater supplies shall not affect groundwater availability beyond the boundaries of the property.
2. Commercial and industrial uses require a Spill Prevention and Management Plan developed at the time of application and approved by the Planning Board
3. The following new commercial and industrial uses are prohibited within sand and gravel aquifer areas:
 - a. Auto washing facilities
 - b. Auto or other vehicle service and/or repair operations, including body shops
 - c. Chemical and bacteriological laboratories
 - d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households
 - e. Commercial painting, wood preserving, and furniture stripping
 - f. Dry cleaning establishments
 - g. Electronic circuit assembly
 - h. Laundromats
 - i. Metal plating, finishing, or polishing
 - j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs
 - k. Activity involving the production, use, or storage of hazardous or toxic chemicals or petroleum products.

SECTION 7. NOISE

- A. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the most recent American National Standards Institute "Specification for General Purpose Sound Level Meters". Sound levels shall be measured at least 4 feet above ground at the property boundary.
- B. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency or public safety devices are exempt from these provisions.
- C. Development construction shall be staged so that exterior activities are not conducted between the hours of 8 p.m. and ~~7~~ 6 a.m.
- D. Audible noise shall not exceed forty-five (45) dBA for more than eight (8) days in any 365-day period, when measured at any occupiable structure existing on the date of application of the commercial or industrial use.
- E. Audible noise at the property line shall not exceed fifty-five (55) dBA for more than eight (8) days in any 365-day period.
- F. The Planning Board may require additional measures for noise suppression.

SECTION 8. OUTDOOR LIGHTING

A development shall employ outdoor lighting which serves security, safety, and operational needs to the extent that it does not impair the vision of vehicle operators on adjacent streets or infringe on the enjoyment of neighboring properties. Lighting fixtures shall be shielded or hooded so that the lighting elements are not in view of motorists, pedestrians, or adjacent dwellings. Intensity should not exceed one (1) foot-candle at the property line, and under no circumstances be located or directed so as to create a nuisance to abutting residential properties.

SECTION 9. PARKING

A. General

No new or expanded development shall be permitted unless adequate off street parking is provided.

B. Parking Lot Design Criteria:

1. Location

- a. All parking spaces and aisles shall be at least fifteen (15) feet from any side or rear lot line. This shall not be construed to eliminate the requirement for screening (See Section 10).
- b. Aisles and parking spaces shall not be located within the right-of-way of the public road.

2. Interior Circulation:
 - a. The entry lane(s) should be designed to allow continuous and uninterrupted traffic movement on the public road, through the provision of adequate throat length, deceleration lanes, or other measures. The entry lane shall not provide direct access to parking spaces.
 - b. No parking spaces shall be directly accessible from the public road, nor shall motorists be required to use the public road to enter or exit a space. All spaces shall be accessible from an aisle without the necessity of moving other vehicles.
3. Layout of Parking Stalls and Aisles:

Parking stalls shall be a minimum of nine (9) feet in width by eighteen (18) feet in length. Stalls designated for handicapped use shall be a minimum of twelve (12) feet in width by eighteen (18) feet in length and marked appropriately. Stalls may be angled, provided aisles are designated one-way, and each stall contains the minimum rectangular dimensions. Stalls for parallel parking shall be no less than nine (9) feet in width by twenty-two (22) feet in length.

4. Standards for Number of Parking Spaces

Basic Requirements for Parking Space: Adequate off-street parking shall be provided. The table in Appendix A shall be interpreted as a guide, subject to adjustments in Subsection **5 2, f**Flexibility in **s**Standards, **following**. For uses not listed, the publication *Parking Generation, 3rd Edition* (ITE, 2004 or most recent edition) shall be consulted. Within each development, at least one space, plus one additional space for every twenty-five (25) required, shall be designated as available for handicapped persons.

5. Flexibility in Standards:

The Planning Board is permitted to modify these standards as minimum requirements, under the following circumstances:

- a. By up to ten percent (10%), based upon a showing that similar uses under similar circumstances generate greater or less demand.
- b. The Planning Board may allow any applicant to meet its parking requirement through contributions to the development and maintenance of a municipal or public parking lot. Alternatively, the Planning Board may reduce the required parking by up to 30 percent, upon the condition that provided off-street parking not be restricted to patrons/tenants of the development.
- c. The following specified uses, because their peak hour/day varies from conventional parking demand, may meet up to fifty percent (50%) of their parking requirement through a shared-use agreement with another use: churches, clubs, restaurants, theaters, sports facilities.
- d. A development may include as a portion of its parking requirement, the provision of parking spaces not located on the same lot provided a) that the spaces are located within two hundred fifty (250) feet of the property, b) that a written agreement is in place for long-term use of the spaces, and c) that the spaces would not be among the minimum required for the use already existing on that lot.
- e. The provision of spaces for vehicles used in the ordinary conduct of the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the above calculations.

- f. The Planning Board may waive the installation of parking spaces provided that adequate provision is made for the development of these spaces as needed in the future, specified by conditions of the permit. Such conditions may require permanent set-aside of adequate space, and provision of construction plans along with specified conditions under which the installation will be triggered.
- 6. Impact on Physical and Environmental Resources. Parking lots shall not be excessively large, nor contain an area more than twenty-five percent (25%) greater than the minimum set by these standards.
- 7. The Planning Board may require use of pervious or semi-pervious materials as an alternative to pavement in order to reduce quantity or improve quality of storm water runoff.
- 8. Loading bays shall be provided as necessary. Loading bays shall be a minimum dimension of twelve (12) feet by fifty-five (55) feet and be designed and delineated so as not to interfere with traffic flow or other parking spaces.

SECTION 10. SCREENING OF STRUCTURES, PARKING LOTS, AND OTHER COMMERCIAL USES

A. Buffering from the Main Road:

New commercial uses shall be separated from the street by a vegetative buffer. The purposes of this buffer include, but are not limited to, visual attractiveness, to maintain rural character, to filter out noise and dust, and to separate abutting land uses and structures from the dense development pattern.

- 1. Requirements for buffering are not intended to prevent any commercial establishment from having adequate visibility from the main road to promote its name and its products and services.
 - 2. The placement, species, and beginning size of vegetation specified for the planned buffer must be included in the applicant's plot plan, must be consistent with the Town of Canaan's comprehensive plan, and are subject to final approval by the Planning Board.
 - 3. The buffer shall include a mixture of native shrubs and trees selected for adaptability to roadside conditions. The owner shall be responsible for maintenance of the buffer planting, and shall replace deceased plant material within one growing season
- B. In cases where a parking lot exceeds one hundred fifty (150) spaces, additional landscaping shall be placed within the lot, sufficient to divide the lot into two (2) or more smaller units of no more than one hundred (100) spaces each. Landscaped islands shall consist of fifteen (15) feet planted width, except that a pedestrian walkway may be placed within the area, provided that it occupies no more than one-half the width.

C. Screening of Adjacent Properties

Screening shall be required wherever a proposed commercial use abuts a residential development or pre-existing home, and in other instances where the Planning Board determines uses may be incompatible.

1. Screening shall consist of a natural (preferred) or artificial visual buffer sufficient to ensure continuous year-round screening. Screening shall be sufficient to minimize the impacts of large buildings, vehicle movements, outdoor storage areas, glare, noise, and related commercial activity. Areas shall be maintained and vegetation replaced as necessary. The following is intended as a guide:
 - a. A fifty (50) foot minimum will be required if the buffer will consist of natural woodland, provided that the Planning Board may require supplemental plantings to achieve an effective visual screen.
 - b. A twenty-five (25) foot minimum will be required if the buffer will consist primarily of dense planting of native coniferous trees.
 - c. Where no vegetation can be maintained, or due to unusual site conditions, the Planning Board may approve a screen consisting of fences, walls, berms, vegetation, or combinations thereof.

SECTION 11. SIGNS

The purpose of this section is to allow advertising and informational signs that will not, by their nature and location, endanger the safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger the public health or safety.

A. Abandoned Signs:

Any free-standing sign which advertises a business conducted, product sold, or activity no longer in existence, or which, through lack of maintenance or other reason, becomes a hazard shall be removed by the owner, agent, or person responsible for the lot upon which the sign is located.

B. Illuminated Signs:

Signs may be illuminated internally or externally by lights which are shielded or hooded so that the light source is not a nuisance to traffic or neighboring properties. Lighting shall be constant in color, location, and brightness. Signs shall not give off or reflect light at intensity greater than fifty (50) foot candles as measured one hundred (100) feet from the sign.

C. Sign Area and Placement:

1. No more than two signs, projecting or free-standing, which in combination are not more than sixty-four (64) square feet on each side in size, shall be permitted per development. The height of any sign shall not exceed twenty-five (25) feet from the elevation of the road adjacent to the sign.

2. A sign may be placed in the front setback area but may not protrude beyond the property line. All signs must be mounted on buildings or secured to the ground in such a manner as to prevent them being dislodged by strong winds. Signs in the vicinity of an access point shall be placed so as not to obstruct driver vision. Such signs shall comply with standards specified in Article 7, ~~section 2-A5~~ Section 2A5 and Article 7, Section B1.

SECTION 12. STORM WATER MANAGEMENT

- A. All new construction and development shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity, and location of runoff. All systems shall be designed so as to have no significant adverse effect on neighboring properties, downstream water quality, soil stability, or the public drainage system. Where possible, existing natural features, such as berms, swales, terraces, and wooded areas shall be retained in order to control runoff and encourage infiltration of storm water.
- B. Storm water drainage systems shall be designed to minimize the volume and rate of outflow from the development, including engineered measures and off-site improvements such that the downstream system can accommodate any additional runoff. The storm water management system shall be designed to accommodate the peak discharge of two (2) year, ten (10) year, and twenty-five (25) year frequency, twenty-four (24) hour duration storms.
- C. A storm water control plan prepared according to the requirements of DEP Regulation chapter 500, "Storm Water Management" and Chapter 502 "Direct Watersheds of Water bodies most at Risk from New Development" shall be deemed suitable to meet these standards. Adherence to these standards does not negate the requirement that the systems be designed so as to have no significant effect on neighboring properties, downstream water quality, soil stability, or the public drainage system.
- D. Within lake watersheds, storm water systems shall include runoff from roof drains and camp roads to encourage infiltration and minimize phosphorus loading.
- E. Storm water systems shall be maintained as necessary to ensure proper functioning.

SECTION 13. WASTES

- A. Solid Waste:

The development shall provide for the disposal of all solid wastes on a timely basis and in an environmentally safe manner, consistent with current Town of Canaan policy regarding solid waste and recycling. The development will not produce wastes that exceed the capability of the transfer station, in either volume or type of waste. Any toxic, hazardous, or special waste must be disposed of in compliance with state and federal regulation and in a manner approved by the Planning Board.

B. Sanitary and Liquid Wastes:

1. A completed site evaluation form (HHE-200) which evidences adequate soil conditions for wastewater disposal shall be a prerequisite to approval.
2. At the time of application, the developer shall specify the amount and exact nature of all industrial or chemical wastes to be generated by the development, and a plan to discharge such wastes only and in such quantities and/or quality as to be able to be accepted into the disposal system or shipped to an approved facility off site. All such plans shall be in conformance with applicable State and Federal regulations.

SECTION 14. WATER QUALITY

A. General Standard:

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, toxicity, or temperature that run into or mix with surface or ground waters so as to contaminate, pollute, or degrade such waters with objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

B. Impact on Groundwater:

1. The Planning Board shall require an assessment of the impact of a development on groundwater quality and quantity based on the proposed size or nature of the development in cases where the development is projected to generate demand of more than five thousand (5,000) gallons per day from groundwater sources. This assessment shall contain at least the following:
 - a. A map showing the basic soils types, and the location of any subsurface wastewater disposal systems and drinking water wells within the development and within three hundred (300) feet of the development boundaries.
 - b. Depth to the water table at representative points throughout the development.
 - c. Data on the existing groundwater quantity and quality, either from test wells or from existing wells on neighboring properties.
 - d. An evaluation of the effect of the development on groundwater. This evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within one thousand (1,000) feet from potential contamination sources.
2. The assessment shall demonstrate that the development will comply with the following standards:
 - a. No development shall increase any contaminant concentration in the groundwater to more than one half ($\frac{1}{2}$) of the Primary Drinking Water Standards, nor to an amount to exceed the Secondary Drinking Water Standards as established by the Maine Dept. of Health and Human Services at the time of the permit issuance.
 - b. If existing groundwater contains contaminants in excess of the primary standards, the applicant shall demonstrate no significant further deterioration. If groundwater contains contaminants in excess of the secondary standards, the development shall not cause the concentration of contaminants to exceed one hundred fifty (150) percent of the pre-existing concentration.

- c. Groundwater withdrawals or alteration of surface recharge characteristics by a proposed development shall not lower the water table beyond the boundaries of the development. No proposed development shall result in a lowering of the water table at the development boundary
 - 3. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If any measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Plan, and as restrictions in the deeds to the affected lots.
- C. Impact on Lake Water Quality:

Any new or expanded development within the watershed of Lake George or any other “great pond” shall be designed to limit the post-development phosphorus export consistent with the most recent edition of the Maine DEP manual: “Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, herein after referred to as “Phosphorus Control Method””.

SECTION 15. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC ROADS AND DRAINAGE SYSTEMS

- A. Applicants shall identify all county, city or township roads to be used for the purpose of transporting parts, cement, and/or equipment for construction, operation or maintenance of the development and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.
- B. Applicant shall conduct a pre-construction survey, in coordination with the impacted local road authority(ies) and Code Enforcement Officer to determine existing road and drainage system conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- C. Applicant shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) and the Code Enforcement Officer sufficient to restore the road(s), bridges, and drainage systems to pre-construction conditions.
- D. The applicant shall be responsible for repair of damage to roads, bridges, and public drainage systems stemming from construction, operation or maintenance of the commercial development. Such repairs must be completed within the time frame directed by the Code Enforcement Officer or his designee. Such repairs must be completed in a manner satisfactory to the Code Enforcement Officer.

SECTION 16. DISCONTINUANCE AND DECOMMISSIONING OF COMMERCIAL ACTIVITY

A. Discontinuance: Applicable where hazardous conditions exist.

The Code Enforcement Officer may mail, via certified mail, a written inquiry to the owner of any commercial activity asking why that activity has been unused or out of service. The owner must respond, in writing, to that inquiry within forty-five (45) days from the mailing date of the inquiry. In the response, the owner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. The Code Enforcement Officer will then provide this written response to the Planning Board. If the Planning Board deems the timetable unreasonable, it shall notify the owner that it requires remedy or removal of the commercial project within a reasonable time frame.

In the event that the owner does not remove current hazardous conditions within that reasonable time frame, the Town of Canaan shall seize the property, and the cost of that removal shall be a lien against the property.

B. Decommissioning: Applicable where the commercial activity is by nature temporary.

Each commercial activity shall have a decommissioning plan outlining the anticipated means and cost of correcting the hazardous conditions at the end of its serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a contractor deemed, by the Planning Board, as competent to do so. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the activity and accessory facilities. The Planning Board may require a surety bond to ensure funds are available for decommissioning.

SECTION 17. ELECTROMAGNETIC INTERFERENCE

Commercial activity shall not interfere with electromagnetic communications, such as radio, telephone or television signals caused by any commercial activity.

SECTION 18. BOND

The Planning Board shall require the furnishing of a bond or other performance guarantee it deems of equivalent security to secure the applicant's obligations under this Ordinance.

Article 8: Development Standards for Specific Activities

SECTION 1. HOME OCCUPATIONS

~~1. A home occupation is an occupation or profession which is carried on in a dwelling unit or an accessory building which is clearly incidental and secondary to the residential use of the dwelling. It is carried on by a member of the family residing in the dwelling unit and it does not alter the residential character of the dwelling or the neighborhood. A home occupation is further defined as a minor or major home occupation. Only major home occupations are required to be reviewed and permitted under this Ordinance.~~

- ~~2~~ 1. A major home occupation **as defined in this ordinance** shall meet the following standards:
- a. Off-street parking shall be provided for all employees and customer use.
 - b. One non-illuminated sign no larger than six (6) square feet may be erected on the premises.
 - c. Outside storage, processing or display of item/products shall be prohibited.
 - d. No more than **eighteen hundred (1800) two thousand five hundred (2,500)** square feet of the dwelling and any accessory building shall be used for the home occupation.
 - e. The residential character of the property shall be maintained.
 - f. **Accessory Structures shall be no more Footprint less** than twelve hundred (1200) square feet.

Article 9: Definitions

Words and phrases, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary definition.

Abutter: Any lot which is physically contiguous with the lot in question and any lot which is located directly across the public or private street from the lot in question. The Planning Board may be vote to expand the definition of ‘abutter’ to include, any lot within 500 feet horizontal distance of the lot line, even if only at a point when the nature of the development is determined to be warranted.

Accessory building, accessory structure or use: A detached, subordinate building or structure, the use of which is clearly incidental and related to that of the principal building or structure and which is located on the same lot as that of the principal building, structure or use.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture (Agricultural Production): The production, keeping or maintenance for sale or lease, of plants and /or animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products, livestock; fruits and vegetables; and ornamentals and green house products.

Applicant: A person, group of people, business or corporation applying for a permit under this Ordinance.

Aquifer: A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

Building: Any structure having a roof supported by columns or walls that is intended to shelter or house people, animals, business processes or activities, equipment, goods or materials of any kind or nature.

Building footprint: The area of land covered by a building. This area is measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above the grade level on post or similar devices, the building footprint is the area the building would cover if it were located at ground level.

Campground: A plot of ground upon which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes, including erection of tents, trailers, lean-tos, overnight cabins, or similar structures and parking facilities.

Critical Natural Area: Any area identified and listed by the Natural Areas program of the Maine Department of Conservation as containing rare or unique botanical features or habitat for rare, threatened, or endangered plant species or rare and unique natural communities.

Developed Area or Disturbed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

Development: Any man-made changes to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

Essential Service: The construction, alteration, and/or maintenance of gas, electric, communication facilities; steam, fuel, or water transmission; distribution, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, call boxes, traffic signals, hydrants, and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

Extraction (or “water extraction” or “extraction of water”): Withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar means.

Extraction Point or Extraction Facility: The physical location where water is extracted, whether by well, pump, pipeline, catchments, or other method.

Farmland: A parcel of land meeting all the requirements for farmland classification as described in the current Maine Revenue Services' Farm and Open Space Tax Law.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Historic or Archeological Resource: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archeological resource.

Impervious Surface: Land covered by buildings and associated constructed facilities, areas which have been or will be covered by a low permeability material, such as asphalt or concrete; and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability.

Large-Scale Water Extraction: Extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of five thousand (5,000) gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

Level of Service: A term used by traffic engineers, indicating a scale of “A” to “F”, measuring the volume of vehicular traffic in relation to the capacity of an intersection or road segment. Levels of service “E” to “F” describe road situations with severe problems attributable to traffic congestion.

Major Home Occupation: An occupation or profession conducted in the dwelling unit or accessory building by members of the family residing in the dwelling and no more than 6 outside employees.

Minor Home Occupation: An occupation or profession conducted wholly within the home, or in a building auxiliary to and smaller than the home, and (a) in no way identified as, or having the appearance of a commercial establishment, (b) not receiving bulk deliveries of supplies or pickup of products, but using only regular mail services, to include UPS deliveries and similar types of services, usually on a once a day basis. (c) not conducting retail sales to customers coming to the premises.

Occupiable: Space in a structure that can be lived in, worked in or used for any significant human purpose such as residences, places of worship, business establishments, schools, hospitals or municipal buildings.

Peak Hour Volume: The highest number of vehicles found to be passing over a section of a lane or roadway during any sixty (60) consecutive minutes. Typically there is a peak hour condition in the A.M. and a peak hour condition in the P.M. for which the roadway or intersection is analyzed for capacity and level of service.

Sight Distance: The visible distance available to a motorist at an access point to a public road, sufficient to allow a vehicle to enter the road without inhibiting the progress of other vehicles. For the purpose of calculation, sight distance is measured from the height of a hypothetical driver 3 ½ feet above the driveway at a point ten (10) feet behind the street line, to an object 4 ½ feet above the street.

Sign: An advertising message, graphic illustration, or insignia erected or inscribed for public view for the purpose of promoting the interests of the occupant of the premises or owner of the sign.

Sign Area: The surface area of that portion of the sign containing the advertising matter. Signs which have no separate sign surface shall be measured by taking the smallest area of a rectangle or circle which encloses the advertising matter. For two-sided signs, only one side of the sign shall be counted towards sign area.

Sign, canopy or projecting: A sign that is a part of, or attached to, an awning, canopy, or other fabric or plastic, over a door, entrance, window or outdoor service area. It also means a sign that is attached to the building wall and extends more than six inches (6") from the face of such wall.

Sign, freestanding: A sign that is directly and permanently supported, and physically separated from any other structure.

Street, Public: An existing state, county, or town way; dedicated for public use and shown upon a plan approved by the Planning Board and recorded in the County Registry of Deeds.

Structure: Anything constructed or erected on the ground or which is attached to something located on the ground.

Substantial Start: The completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Water body or watercourse or surface water(s): Any river, stream, brook, pond, lake or wetland.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland includes swamps, marshes, bogs, certain forest areas and similar areas.

Appendix A: Parking Spaces

Number of Spaces	Land Use Activity
<i>Places of Residence or Accommodation</i> -- spaces per room or dwelling unit	
1/3	Dedicated Retirement Home, Nursing Care Facility
1	Overnight accommodations
2	Multifamily buildings
<i>Places of Public Assembly</i> -- spaces per seat based on maximum seating capacity	
¼	Theater, with fixed seating
1/3	Church
½	Restaurant, Convention Center, Meeting Hall, Grange, Bottle Club
<i>Places of Commerce and Industry</i> -- spaces per 1,000 square feet of gross floor area	
1	Warehousing, Inside Sales of Motor Vehicles
1 ½	Industrial and Manufacturing Facilities, Wholesaling
3	Grocery Stores over 5,000 square feet, Offices, Professional, and Personal Services, except as noted.
4	Retail Sales except as noted
5	Banks, Medical and Dental Offices, Fitness Clubs, Child Care
<i>Public and Institutional Facilities</i> -- spaces per 1,000 square feet of gross floor area	
2	Elementary Schools
4	Secondary School, Community Center, Municipal Office.
6	College, Hospital
<i>Miscellaneous</i> -- criteria as specified	
1 per 1,000 sf	Indoor Sports Facility (Tennis, Fitness, etc.) -- no spectators
1 per 4 seats, based on max seating capacity	Stadiums, Arenas, Racetracks, and other spectator sport venues
30 per acre	Mini-golf, Go-Carts, and other Outdoor Amusements
5 per lane	Bowling Alley
3 per service bay + 1 per 10 vehicles displayed	Motor Vehicle Sales and Service