

SECTION 17
PERFORMANCE STANDARDS
SPECIFIC ACTIVITIES AND LAND USES

The following performance standards apply to the following specific activities and land uses. The general performance standards in Section Sixteen which may be applicable to the specific activities and land uses contained in this Section also apply.

A. Accessory Apartments

1. Purpose: The purpose of this standard is to allow homes in Fryeburg to accommodate one additional, 800 square foot rental dwelling unit so that the owner-occupant may have the income necessary to maintain the unit.
2. As an accessory use in a single family dwelling, the renting of a single apartment in a dwelling is permitted provided the following conditions, 3 through 10, are met.
3. There may be no new external construction to increase the size of the structure to accommodate the accessory use, except as may be required by safety codes; however, there may be construction within the home to accommodate the accessory apartment.
4. The water and sewage facilities meet all existing laws and codes.
5. The building is owner-occupied.
6. Off-street parking is provided to meet the requirements of this Ordinance.
7. All required permits are obtained for construction of the apartment and a Certificate of Completion is obtained prior to the apartment being rented.
8. The accessory apartment is no larger than 40% of the total area of the building.
9. One non-illuminated sign, no larger than two square feet in area, may be erected on the premises only during times when a vacancy exists.
10. Any apartment created under this section need not meet the requirements for multi-family housing contained elsewhere in this Ordinance.

B. Adult Businesses

1. “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:
 - a. human genitals in a state of sexual stimulation or arousal;
 - b. acts of human masturbation, sexual intercourse or sodomy;
 - c. fondling or other erotic touching of human genitals, pubic region, buttock or female breast;
 - d. less than completely and opaquely covered:
 - (1) human genitals, pubic region
 - (2) buttock
 - (3) female breast below a point immediately above the top of the areola; and

- e. human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- 2. “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 paragraph 1, above.
- 3. “Public building” means a building owned, operated or funded in whole or in part by the Town of Fryeburg 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.
- 4. Location of adult businesses restricted.

An adult business may be located only:

- a. In the General Commercial District, and
- b. In a location where the customer entrance to the adult business would be 1,000 feet or more, measured in a straight line without regard to intervening structures or objects, to the nearest point of the boundary of any property which is:
 - (1) Occupied by a residence, school, park, playground, church, or public building; or
 - (2) Occupied by another adult business.

- 5. Outside displays prohibited.

No material or devices displaying or exhibiting specified sexual activities may be visible from the exterior of the building in which the adult business is located.

- 6. 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.

- 7. Municipal review limited.

In the review of a proposed adult business in Section Two, the Planning Board’s scope of review is limited to the impacts and effects of a proposed use as determined by applying the criteria which apply to any business use. The Planning Board may not consider the type or content of the material sold, rented, exhibited, or displayed in the business and may not restrict or limit the content of such materials.

C. Animal Husbandry

- 1. Without Planning Board approval, as allowed in Paragraph 3, below, animal husbandry may only be conducted on a lot of at least two acres and all pens, stables, barns, or other shelters for animals must be set back at least 100 feet from any lot line.
- 2. No manure may be stored within 100 feet of the normal high water mark of any water body, watercourse, wetland, or potable water supply.
- 3. If the property on which the animals are kept is less than two acres and/or the applicant cannot meet the setbacks in Paragraphs 1 and 2, a permit for keeping animals may be authorized by the Planning Board if the following standards are met:

- a. All pens, stables, barns, or other shelters for animals are set back at least 100 feet from the nearest dwelling other than the applicant's.
- b. All manure is stored in a covered structure and at least 100 feet from the nearest dwelling (other than the applicant's) and at least 100 feet from the nearest potable water supply, and at least 100 feet from normal high water mark of any water body, watercourse, or wetland.
- c. All structures are set back the required number of feet as defined in this Ordinance.
- d. Manure storage structures are constructed according to plans approved by the Oxford County Soil and Water Conservation District.
- e. All feed and grain is stored in rodent proof containers.
- f. All paddocks, pastures, barnyards, or other enclosures are fenced to contain livestock, animals, or fowl.
- g. The Planning Board must set a limit on the number and species of animals permitted. In determining these limits the Board must consider the size and layout of the lot; the size of adjacent lots; the presence of vegetative screening and buffer strips; and the potential for noise, odor, and vermin problems.

D. Automobile Graveyards and Junkyards

1. Prior to issuance of the municipal permit, the applicant must present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a State permit is not required.
2. Site Considerations:
 - a. No motor vehicles, parts thereof, or fluids from the motor vehicles may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey or by a licensed geologist.
 - b. No motor vehicles, parts thereof, or fluids from the motor vehicles may be located within the 100 year floodplain, as mapped by the Federal Emergency Management Agency, the Army Corps of Engineers, or the U.S. Department of Agriculture.
 - c. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard must be established and maintained along all property lines.
 - d. No motor vehicles, parts thereof, or fluids from the motor vehicles, with the exception of the owner/occupant, may be stored within 100 feet of any dwelling or school.
 - e. No motor vehicles, parts thereof, or fluids from the motor vehicles may be stored within 250 feet of any water body.
3. Operational Considerations

Upon receiving a motor vehicle, the battery must be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant must be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle may be permitted into or onto the ground.

E. Campgrounds

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

1. Density

Campgrounds must contain at least 5,000 square feet of suitable land, not including road and driveways, per recreational vehicle site, tent site, and shelter area site. Land supporting wetland vegetation, and land below the normal high-water line of a water body, may not be included in calculating land area per site.

2. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, must be set back at least 100 feet from the normal high-water line of any great pond or a river; 75 feet from the normal high-water line of other water body, tributary streams, or the upland edge of a wetland; and must be set back at least 100 feet from the exterior lot lines of the campground. Every waterfront site must have at least 50 feet of frontage on the water.

3. All campgrounds created in unvegetated areas, open fields or otherwise open land, must 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. Campgrounds created in forested areas shall be required to preserve the forest within the 100 foot setback.

F. Farmers Market

1. The establishment and operation of a Farmers Market requires approval by the Planning Board. The Land Use Authorization application shall be submitted as required by Section 2 of this Ordinance, along with the following information:
 - a. A plot plan showing the location of the market, the size and shape of the lot, any existing or proposed structures onsite, existing and proposed parking areas, proposed vendor layout, vehicular and pedestrian travel ways, and any other applicable elements of the farmers market.
 - b. Management Plan. The management plan will include a description of the proposed location of the farmers market, the hours of operation including the set up and clean up times, the method of refuse disposal, the available sanitary facilities, methods of vehicular and pedestrian ingress and egress applicable to both vendors and customers. The management Plan will also identify a “Market Manager”, who will be responsible for general oversight and will serve as a contact person for the Town.

G. Garage and Yard Sales

1. Garage and Yard Sales are allowed in all districts. Such sales may only be held by the property owner on whose property the sale is located.
2. Garage and Yard Sales are allowed up to 15 days per year. Sales in excess of 15 days in the aggregate are classified as “Sales or Rental of Goods, Merchandise, or Equipment,” Land Use Category number 2 in the Land Use Table. These uses require additional permits, must be located in appropriate zoning districts, and must meet appropriate performance standards.

3. Signs for such sales must meet the requirements for signs in this Ordinance.

H. Ground Water and/or Spring Water Extraction and/or Storage

1. Permit Required

The removal of more than 10,000 gallons per day of ground water or spring water as part of a residential, commercial, industrial, or land excavation operation, where allowed under this Ordinance, requires approval by the Planning Board. The Planning Board must grant approval if it finds that the proposal, with any reasonable conditions, will conform with the requirements of this Section, all other requirements of this Ordinance, and all applicable codes and Ordinances.

2. Submission Requirements

The application together with site plan must include the following information:

- a. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
- b. A letter from the Maine Department of Human Services approving the facility as proposed when the Department has jurisdiction over the proposal;
- c. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required.
- d. Applicants must present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement may not increase the combined spring's catchment capacity by removing more than four cubic yards of earth and not increase the spring's depth by more than four feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report must include the following information:
 - (1) A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted, in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
 - (2) The results of the investigation must establish the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, and the cone of depression which may develop about the proposed facility. Other impacts on the water table in the tributary aquifer and such other private or public wells within 1,000 feet of the proposed extraction facilities must also be assessed.

3. Performance Standards

The following standards must be met and the applicant must clearly demonstrate that they will be met.

- a. The quantity of water to be taken from ground water sources may not substantially lower the ground water table beyond the property lines, cause undesirable changes

in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.

- b. The proposed facility may not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
- c. Safe and healthful conditions must be maintained at all times within and about the proposed use.
- d. The proposed use may not cause sedimentation or erosion.
- e. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Planning Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
- f. The operator must keep monthly operating records of the quantity of water extracted, stored, and removed from the site and make them available to the Code Enforcement Officer or a designee.
- g. Nothing in this procedure, and no decision by the Planning Board, is deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

I. Hazardous Waste Facilities

Hazardous waste facilities must comply with the following site and performance standards:

1. Site Standards

In addition to being in compliance with the most current Regulations of the Department of Environmental Protection that address the disposal of waste, the applicant must conduct a hydrogeologic investigation of the site and prepare detailed construction and site development plans and operating procedures. The site must include the following characteristics:

- a. It must consist of at least 500 acres.
- b. The disposal areas within the overall site must be at least 5,000 feet from the nearest inhabited residence or potable water supply existing at the time at which the application is filed.
- c. There must be a buffer zone of at least 1,000 feet between disposal areas and all public roads.

2. Performance Standards

If the Town does not operate the site, the site may not be operated unless the Planning Board is furnished by the owner and/or operator with:

- a. A performance bond, which must be in effect at all times the facility is in operation, and for a period of 20 years after closure or termination or default of the facility or site, conditioned on faithful performance of the requirements of this Ordinance. All such bonds must be written by an insurance company licensed to transact business in the State of Maine, and must be for a sum of at least \$1,000,000.00.
- b. A certificate evidencing proof of liability insurance covering all aspects of the solid waste disposal facility operations under this Ordinance. Such policy of liability insurance must insure against personal injury in an amount at least \$1,000,000.00

per person or \$2,000,000.00 per occurrence, and insure against property damage in an amount at least \$2,000,000.00 per occurrence. Such insurance must be in effect at all times the facility is in operation and for a period of 20 years after closure of the facility or site.

3. Transfer of Ownership

- a. In the event that any person or corporation to whom a permit has been issued, and prior to transfer of ownership or operational responsibility for the facility to another, the new owner and/or operator is required to obtain a new permit in the manner required herein. Any performance bond established under the provisions of this Ordinance for the facility may only be released by the vote of the Town Meeting.
- b. In the event of a change of ownership, the performance bond established for a facility must remain in effect until the new performance bond for the facility is in effect and presented to the Town.

J. Home Occupations

1. Purpose

To allow the residents of Fryeburg to engage in work for economic gain from within and about their residence in a manner that does not adversely affect abutting or neighboring owners.

2. Home Occupations are defined in two different categories, each carrying differing performance standards.

- a. Minor Home Occupations: business activities performed or provided entirely within the owner's principle dwelling or existing structure. Such activities involve no discernable adverse impact on adjacent properties such as audible sounds, external work related lighting, or odors. The use must be secondary to the use of the dwelling unit for residential purposes.
- b. Major Home Occupations: any small business, trade, work, or services similar to a "Minor Home Occupation", but which by nature of the business cannot, or typically is not, conducted, operated, or provided from entirely within the proprietor's existing principal dwelling and/or fully enclosed accessory building such as a garage, and entails, or is likely to entail, external evidence of the existence of the business occupation such as outside processing of materials, outside display of materials, products, or inventory, or any processing, manufacturing, assembly, repair, or refurbishing operations from within or without the dwelling or enclosed accessory building which emit, transmit, dispense, or accumulate any discernable noise, dust, refuse, fumes, odors, hazardous by-products, vibrations, or utilizes exterior lighting, the intensity and coverage or which exceeds normal residential lighting schemes as exist in the general vicinity.

"Major Home Occupations" may be allowed in all districts by authorization of the Planning Board. Any such permit shall clearly define the scope and limits of the proposed activity, and any violation of the conditions of the Planning Board's approval shall be grounds for revocation of said permit and other enforcement actions. The permit shall also specify allowable days and hours of operation.

3. Performance Standards for home occupations:

Home Occupations must meet the standards listed below.

- a. There may be no external alteration of the building to accommodate for the home occupation.
- b. Any alteration of the site, including the provisions for parking, shall not detract from the residential character of the neighborhood.
- c. Signs advertising the home occupation are limited to a single, stationary, unlit announcement or professional sign which may not be larger than 6 square feet in size.
- d. Business deliveries of supplies, materials, or inventory is accomplished by mail or express parcel delivery service, and not as freight delivered by a commercial truck, or something similar.
- e. The business operations are only to be conducted by the principle residential occupants and not more than 2 non-residential employees.
- f. Off-street parking spaces shall be provided except for home occupations in the Village Commercial District. Parking areas with more than 2 spaces must be so arranged that vehicles can be turned around onsite rather than being backed into the street. If on a public street, the homeowner must comply with all applicable parking ordinances. If on a private road, adequate parking must be provided so as not to impede the normal use of the road.
- g. No more than 30% of the floor area of the principal dwelling shall be used for a home occupation.
- h. The home occupation shall not require the storage or use of any explosive, radioactive, flammable, toxic, or other hazardous materials that are not normally found in the home or in amounts that are not normally associated with a residence.
- i. There may be no more than ten customer vehicle trips per day with no more than 2 customer vehicles on the premises at any time.
- j. There shall be no more than 2 commercial vehicles kept outside of a garage overnight.
- k. Retail sales: On-site retail sales are limited to products or goods produced, fabricated, or substantially altered on the premises as a result of the home occupation or that are incidental to a non-retail home occupation such as the sale of shampoo at a beauty salon.
- l. Major Home Occupations that require outside processing of materials, or outside storage of inventory that is visible from the roadway or from abutting properties shall be landscaped with vegetative screening or fencing sufficient to minimize impact on abutting properties.

- m. Home occupations are required to meet the standards of Section 16.H relating to noise.
4. Prohibited Home Occupations: The following uses are prohibited from being home occupations: restaurants, auto repair (except small engine repair), auto painting, motor vehicles sales or rentals, commercial outdoor storage, machine shop, junkyard, salvage yard, funeral home, funeral director.

K. Lodging

1. For all new construction the building must meet the setback requirements of the district they're built in. An undeveloped buffer strip not less than 20 feet wide must be maintained with grass, bushes, flowers, and/or trees all along each side lot line, the rear lot line, and the front line, except for entrance and exit driveways. The buffer strip may not be used for parking.
2. If cooking or eating facilities are provided in any rental units, each rental unit with such facilities is considered a dwelling unit and the building is required to meet all the standards for multi-family developments in this Ordinance, including the residential density requirements of the appropriate district.
3. Accessory apartments may be provided for a resident owner, manager, or other responsible staff person.
4. Building construction plans must be reviewed and approved by the State Fire Marshall's Office.

L. Individual Private Campsites:

1. Individual Private Campsites in the Shoreland Zone must meet the standards of Section 20.
2. Campsite placement, including the area intended for a recreational vehicle or tent platform must meet the dimensional requirements of the zoning district in which it is located.
3. A written sewage disposal plan describing the proposed method and location of sewage disposal is required for each campsite and must be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
4. When a recreational vehicle, tent, or similar shelter is placed on-site and used as a dwelling unit for more than 120 days per year, all requirements for residential structures must be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Waste Water Disposal Rules.

M. Kennels and Veterinary Hospitals

1. Kennels, structures or pens for housing or containing the animals must be located at least 200 feet from the nearest residence other than the owner's existing at the time of permit.
2. All pens, runs, or kennels, and other facilities must be designed, constructed, and located on the site in a manner that minimizes the adverse effects upon the surrounding

properties. Among the factors that must be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

3. The owner or operator of a kennel must maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material may be allowed to accumulate on the premises. The premises must be maintained in a manner so as to not provide a breeding place for insects, vermin, or rodents.
4. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement must be kept tightly covered at all times, and emptied at least once every four days. Such containers must be made of steel or plastic to facilitate cleaning, and must be located in accordance with the setbacks required for outdoor runs.
5. If outdoor runs are provided, they must be completely fenced in, and must be paved with cement, asphalt, or a suitable material to provide for cleanliness and ease of maintenance.
6. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains must be located at least 400 feet from nearest residence other than the applicant's, and must have a chimney vent at least 35 feet above the average ground elevation. The applicant must also provide evidence that approval from the Maine Department of Environmental Protection has been obtained for the proposed incinerator, and that it meets State standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

N. Livestock Keeping

1. No manure may be stored within 100 feet of the normal high water mark of any waterbody, watercourse, wetland, or potable water supply.
2. All pens, stables, barns, or other shelters for the animals must meet the property line setbacks as defined in this Ordinance.
3. All paddocks, pastures, barnyards, or other enclosures must be fenced to contain animals.
4. Manure must be stored and/or disposed of in a manner that does not negatively affect the abutting property owners.

O. Manufactured Housing and Mobile Homes

1. Single unit manufactured housing and mobile homes, whether single- or double-wide, must meet all of the following requirements:
 - a. Dimensional and density requirements of the zoning district for single family dwellings.
 - b. A permanent foundation, frost wall, grade beam, gravel pad, or floating slab with skirting of permanent material which meets the requirement of United States Department of Housing and Urban Development (HUD) financing.
2. Multi-unit modular, manufactured and mobile housing must meet the same standards and requirements as site-built homes.

P. Earthmoving

1. Mineral Exploration and Extraction & Major Earthmoving Activities:

Mineral extraction and major earth moving may be permitted in any district only after a special permit for such operations has been issued by the Planning Board. Such a permit may only be issued provided that:

- a. An extraction and reclamation plan shall be submitted by the applicant and approved by the Planning Board showing existing grades in the area from which the materials are to be removed, and finished grades at the conclusion of the operations.
- b. When the removal of materials is completed, the finished grade, as specified in the plan and approved, is to be covered with not less than four inches of topsoil and seeded with suitable cover crop except where ledge is exposed.
- c. A surety company bond, or other security, in an amount and nature as approved by the Planning Board, is posted with the Town, sufficient to guarantee conformance with the requirements of the permit and this Ordinance.
- d. There is at least 75 feet between the digging and quarrying activities and the property lines.
- e. Provision is made so that dust or other pollutants are kept to a minimum by appropriate landscaping, paving, oiling, fencing or other means.
- f. Appropriate fencing or landscaping is provided to screen the site of digging operations from any public right-of-way and from any dwelling within 250 feet of the property lines of the excavation site.
- g. A Public Hearing shall be held in accordance with Section Two, F., Land Use Permit Review Procedure by the Planning Board.
- h.. The following additional requirements shall apply to all proposed mineral extraction or major earthmoving activities:
 - 1) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within seventy-five (75) feet, horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.
 - 2) Within 12 months following the completion of extraction operations at any extraction site which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site, above the seasonal high water table.
 - b. (2) The final graded slope shall be two and one half to one (2 1/2:1) slope or flatter.
- i. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

2. Minor Earth Moving Activities

The following minor earth moving activities do not require a permit:

- a. The removal or filling of less than 100 cubic yards of material from or onto any lot in any one year, unless located within 250 feet of any shoreline.
- b. The removal or filling of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto.
- c. The removal, filling, or transfer of material incidental to construction, alteration, or repair of a public or private way or essential services, such as a fire pond, unless located within 250 feet of the shoreline.

Other earth moving, processing, and storage in any district require a permit authorized by the Planning Board.

Q. Mobile Home Parks

1. Except as stipulated below, mobile home parks must meet all the requirements for a residential subdivision, and must conform to all applicable State laws and local Ordinances or regulations. Where the provisions of this Section conflict with specific provisions of the Fryeburg Subdivision Section of this Ordinance, the provisions of this Section prevail.

2. Lot Area and Lot Width Requirements

Notwithstanding the district dimensional requirements contained in this Ordinance, lots in a mobile home park must meet the following lot area and lot width requirements.

- a. Lots served by individual subsurface waste water disposal systems, as follows:

- (1) Minimum lot area: 20,000 square feet
- (2) Minimum lot width: 100 feet

- b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services, as follows:

- (1) Minimum lot area: 12,000 square feet
- (2) Minimum lot width: 75 feet

- c. The overall density of any park served by any subsurface waste water disposal system may not exceed one dwelling unit per 20,000 square feet of total park area.

- d. Lots located within the Shoreland Zone must meet the lot area, lot width, and shore frontage requirement for that district.

3. Unit Setback Requirements

- a. Structures may not be located less than 15 feet from any boundary lines of an individual lot.
- b. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within the Shoreland zoning district, structures must meet the front setback requirements found in the district dimensional requirements of this Ordinance.

4. Buffering

If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located, and if the neighboring land is undeveloped, the park must be designed with a continuous landscaped area not less than 50 feet in width which may contain no structures or streets. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the park, must contain evergreen shrubs, trees, fences, walls, or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways must be kept open to provide for vehicles entering and leaving the park.

5. General Street Design and Construction Standards Procedures and Requirements:

- a. The Planning Board shall not approve any mobile home park plan unless proposed streets are designed to be constructed in accordance with Section 23.
- b. Applicants shall submit to the Planning Board, as part of the Land Use Authorization application for Mobile Home Park approval the following information:
 - (1) Name of applicant
 - (2) Name of record owners of the land which the proposed street is to be located
 - (3) A statement of any legal encumbrances on the land which the proposed street is to be located
 - (4) The anticipated starting and completion dates of each major phase of construction
 - (5) A statement indicating the nature and volume of traffic expected to use the proposed street.
- c. Plans: The plans and illustrations submitted as part of the application shall conform to the requirements of Sections 23.
- d. The final subdivision plan shall contain a note on the filing plat which specifies the ownership and future maintenance responsibilities regarding proposed streets in the development.
- e. The application must contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation must be based on the Trip Generation Manual, 1991 Edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the applicant must also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering.

6. Ground Water Impacts

a. Assessment Submitted

Accompanying the application for approval of any mobile home park which is not served by public sewer must be an analysis of the impact of the proposed mobile home park on ground water quality. The hydrogeologic assessment must be

prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology and must contain at least the following information:

- (1) A map showing the basic soil types;
- (2) The depth to the water table at representative points throughout the mobile home park;
- (3) Drainage conditions throughout the mobile home park;
- (4) Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties;
- (5) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation must, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations must also be provided.
- (6) A map showing any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

b. Standards for Acceptable Ground Water Impact

- (1) Projections of ground water quality must be based on the assumption of drought conditions (assuming 60% of annual average precipitation.)
- (2) No mobile home park may increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park may increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- (3) If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant must demonstrate how water quality will be improved or treated.
- (4) If the ground water contains contaminants in excess of the secondary standards, the mobile home park may not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

c. Subsurface waste water disposal systems and drinking water wells must be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards must be included as a note on the plan.

7. No development or subdivision which is approved under this Section as a mobile home park may be converted to another use without the approval of the Planning Board, and without meeting the appropriate lot size, lot width, setback, and other requirements of this Ordinance. The mobile home park plan must be recorded at the Registry of Deeds and filed with the town and must include the following restrictions as well as any other notes or conditions of approval:

- a. The land within the park must remain in a unified ownership and the fee simple title to lots or portions of lots may not be transferred.
- b. No dwelling unit other than a manufactured housing unit may be located within the park.

R. Multi-family Dwelling Units

1. Two-family Dwelling Units

Lots for two-family units must meet the district dimensional requirements in this Ordinance and the multi-family criteria listed in paragraph 2 below.

2. Multi-family Dwelling Units

Multi-family dwelling units must meet all of the requirements for a Planning Board authorized permit, detailed in Section Two and the following criteria:

- a. The site plan must show proposed buffering and screening and provisions for playground, recreation, or open space.
- b. All multi-family dwelling units must be connected to a common water supply and distribution system, either public or private, at no expense to the Town of Fryeburg.
- c. All living areas below grade must be constructed with at least 50% of the total wall area above grade, or the total wall area of one wall entirely above grade.
- d. All developments containing 15 or more dwelling units must have appropriate fire and emergency vehicle access.
- e. Except where buildings, roads, or parking areas are to be sited, no topsoil may be removed from the site and existing vegetation must be left as much as possible to prevent soil erosion.
- f. There must be at least 40 feet between principal buildings.

S. Food and Alcohol Service

1. The application for a permit must state the maximum seating and standing capacity of the building. Any expansion or enlargement over this capacity requires a new permit.
2. When subsurface waste water disposal is proposed, completed soil evaluation forms (HHE-200) must be submitted. All proposed subsurface disposal systems must meet the State of Maine Subsurface Waste Water Disposal Rules.
3. Restroom facilities for the patrons must be provided on the premises.

T. Sawmills

1. Temporary sawmills (On a property for 60 days or less per calendar year) must meet the following standards:
 - a. Temporary sawmills must not be located within 100 feet of any dwelling not owned or occupied by the sawmill operator, school, or religious institution.
 - b. Temporary sawmills shall meet the sound level limits of this Ordinance
 - c. Temporary sawmills shall not cause the erosion and waterborne transportation of soil onto any abutting property.

2. Permanent sawmills (On a property for more than 60 days per calendar year) must meet the following standards:
 - a. The sawmill may not be located within 100 feet of any dwelling not owned or occupied by the sawmill operator, school, or religious institution.
 - b. The sawmill shall meet the sound level limits of this Ordinance.
 - c. Screening shall be provided to establish a visual buffer (such as a stockade fence or a dense evergreen hedge six feet or more in height) from abutting properties. Natural site features shall be maintained wherever possible to provide this buffer.
 - d. Wood shall not be stacked to a height that is greater than the screening.
 - e. Sawdust accumulations of greater than 20 cubic yards are not allowed.
 - f. A written soil erosion and sedimentation control plan must be submitted to the Planning Board for approval and must include, a written description of the management practices, a plan identifying the placement of any silt fence, check dams, or erosion control barriers including permanent stabilization structure, and provisions for the mulching and revegetation of any disturbed soil

U. Temporary Dwellings Used in Connection with the Construction of a Permanent Building or for some Non-recurring Purpose

1. Temporary residences used on construction sites of nonresidential premises must be removed immediately upon completion of the project.
2. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site expire within 12 months after the date of issuance, except that the CEO may renew such permit for one additional period not to exceed 12 months if the CEO determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

V. Professional Offices (Land Use Category 3.4)

Professional offices are restricted to conversion of existing structures built prior to 1960 in the Village Residential, Outlying Village Residential and Rural Residential districts and where general aesthetics, characteristics and footprint are maintained, and the applicable standards of Section 16 are met.

W. Towers

1. Permit Required:
 - a. All new telecommunication facilities, towers, or wind energy systems which exceed 35 feet in height in the shoreland zone, and all new telecommunication facilities, towers, or wind energy systems exceeding 70 feet in height in all other areas of Town must receive Land Use Authorization from the Planning Board and conform to the requirements of this ordinance.
 - b. New telecommunication facilities, towers, or wind energy systems which are less than the threshold heights listed in Section 17.W.1.a shall be considered a permitted accessory use and need a building permit from the Code Enforcement Officer, if such telecommunication facilities, towers, or wind energy systems are

accessory to a principal use on the lot and is used for the private communications or wind energy conversion for the owner of the lot or business on the lot.

- c. All telecommunication facilities, towers, or wind energy systems proposing to locate on existing towers or alternative tower structures below the threshold heights listed in Section 17.W.1.a shall only require a building permit from the Code Enforcement Officer
- d. All other telecommunication facilities, towers, or wind energy systems below the threshold heights of Section 17.W.1.a shall receive Land Use Authorization from the Planning Board.

2. Application Procedure

- a. Applications for Land Use Authorization for telecommunication facilities, towers, or wind energy systems must be submitted in accordance with Section 2.D of this Ordinance.
- b. Additionally the applicant shall submit the following items:
 - i. A construction detail of the telecommunication facility, tower, or wind energy system including the dimensions of the tower, structural supports, lighting, color, and equipment located on the tower, if any. The detail shall also include any accessory structures that are necessary for the operation of the telecommunication facility, tower, or wind energy system.
 - ii. A visual impact analysis prepared by a landscape architect or other qualified professional that quantifies the amount of visual impact on properties located within 2 miles of the proposed structure. This analysis shall include recommendations on how to mitigate adverse impacts on such properties, if necessary.
 - iii. An analysis prepared by a qualified professional that describes why this site and structure is critical to the operation for which it is proposed. The analysis shall address existing and proposed service area maps, how this structure is integrated with other company operations in Fryeburg or surrounding towns, future expansion needs in the area, other sites evaluated for location of this structure and how such sites compare to the proposed site, and other options to deliver similar services particularly if the proposed equipment can be co-located.

All existing and proposed (on file with the Town Office) telecommunications facilities and/or towers in Fryeburg and within 1 mile of Town boundaries shall be identified. Evidence that there is insufficient antenna space on such towers or that access to the towers is denied must be provided.

It shall be demonstrated that adequate communication service utilizing such existing telecommunications facilities and/or towers cannot be provided.

- iv. Certification by a structural engineer that the construction of the structure shall satisfy all Federal, State, and local building code requirements.
- v. Payment of all required performance guarantees as a condition of plan approval, with a note on the plan so stating.

- c. If applicable, ten days prior to the date of the public hearing scheduled by the Planning Board, the applicant must give written notice to all property owners of record, as reflected by the municipal tax records, located within 1000 feet of the property for the structure is proposed. Written notice to property owners within the first 500 feet shall be delivered either personally which is dated and signed by recipient, or by certified mail, return receipt request. Notice to the remaining property owners may be delivered by first class mail or personally which is dated and signed by recipient.
3. The Planning Board, in its review of the Application for Land Use Authorization for a telecommunication facility, tower, or wind energy system shall consider the following:
 - a. The safety and utility of any proposed ingress and egress to the site.
 - b. The availability of suitable existing telecommunication facility, tower, or wind energy system or alternate locations for the telecommunication facility, tower, or wind energy system.
 - c. The visual impacts on view sheds, ridgelines, and other impacts from the telecommunication facility, tower, or wind energy system, including tree and foliage cleaning and placement of accessory structures, power lines, and access roads.
 - d. The visual impacts on the view from any public park, natural scenic vista, historic building or major view corridor.
 - e. That the proposed telecommunication facility, tower, or wind energy system be constructed in a manner so as not to result in needless height, mass, and/or guy wire supports. The height of the tower should not exceed that which is necessary for its intended use and public safety.
 - f. The proposed telecommunication facility, tower, or wind energy system will minimize potential impacts on wildlife.
 - g. The nature of uses on adjacent properties and the impact of the proposed construction on those properties.
 - h. The proximity of the proposed development to residential development and potential impacts to the value or uses of properties in such residential areas.
 - i. The surrounding topography and tree cover/foilage and the impact of the proposed construction on the existing site features.
4. Performance Standards
 - a. Height: Telecommunication facilities, towers, or wind energy systems shall not exceed a height of 150 feet.
 - b. Setbacks: All telecommunication facilities, towers, or wind energy systems shall be setback from the lot lines a distance equal to at least 125% of the tower height. Tower guys, and accessory structures shall meet the minimum zoning district setback requirement. Rotor blades on wind turbines must maintain at least 24 feet of clearance between their lowest point and the ground.
 - c. Telecommunication facilities, towers, or wind energy systems shall have a galvanized, rust resistant steel finish or be painted a neutral color which is non-reflective to reduce visual obtrusiveness.

- d. No telecommunication facility, tower, or wind energy system shall have any signage, writing, or pictures that may be construed as advertising. No flags, streamers, or banners shall be attached.
 - e. The required setbacks shall be maintained as an undisturbed buffer. Additional plantings may be required to enhance the quality and effectiveness of the buffer to serve as a visual screen.
 - f. Structures accessory to telecommunication facilities, towers, or wind energy systems shall, to the extent possible, use materials, colors, screenings, and landscaping to blend into the natural environment.
 - g. Telecommunication facilities, towers, or wind energy systems shall not be lighted unless required by the FAA.
 - h. Road access to the telecommunication facilities, towers, or wind energy systems shall be the minimum size necessary to allow safe access.
 - i. The base of the telecommunication facility, tower, or wind energy system may not be located in a wetland or floodplain.
 - j. A security fence of not less than 8 feet in height from the finished grade shall be provided around the telecommunication facility or tower. Wind energy systems are exempt from this criteria.
 - k. Co-location: The applicant and owner shall allow other future wireless service carries, to co-locate antennae, equipment, and facilities on a telecommunications facility or tower and site, unless satisfactory evidence is presented and the Planning Board concurs that technical constraints prohibit co-location. Space shall be provided at no charge to public agencies namely police, fire, rescue, if requested at the time of the review by the Planning Board.
 - l. The owner shall ensure that the structure is designed, constructed, and maintained in conformance with applicable State, Federal, and local building, electrical, and safety codes.
5. Performance Guarantees and Removal of Unused Facilities
- a. No building permit may be issued until the applicant has filed a performance guarantee with the Town, equal to 100% of the cost of completing the construction of any drainage systems, erosion and sedimentation control measures, and other site improvements required by the Planning Board.
 - b. Removal of Unused Facilities: The owner of a telecommunication facilities, towers, or wind energy systems shall be required to remove the telecommunication facilities, towers, or wind energy systems should it not be used for the use or uses approved for a period of twelve consecutive months. An applicant for a permit under this section shall post a performance guarantee with the Town prior to obtaining a permit that is equal to 125% of the cost of removing the structure. Private, residential use towers are exempt from posting a performance guarantee.
 - c. The CEO may extend the removal timeframe if proof of extenuating circumstances is submitted and approved by the CEO.

X. Portable Storage Containers

1. Portable storage containers may be used for storage. The following standards shall be met:
 - a. The storage container meets the dimensional requirements for the zoning district in which it is located.
 - b. The storage container will be adequately screened from neighboring properties and the street.
 - c. The use of the storage container is not intended to circumvent the limitations for the zoning district for which it is located or prolong the use of facilities which have been outgrown.
 - d. The storage container will not be used as or intended for advertising on or off premises purposes.
 - e. The storage container may not be used for retail sales, human habitation, refuse storage, or the storage of hazardous materials.
 - f. No storage containers may be stacked on top of each other or on any other structure.
 - g. The storage container may not be located in the front yard unless no practicable alternative exists. If necessary to be located in the front yard, then it must be kept at the furthest accessible point from the street.
2. The above provisions do not prohibit the use of portable storage containers as construction or job site office or equipment storage facilities during construction.

Y. Adult Use Marijuana Operations

1. Purpose: The purpose of this standard is to regulate the location, licensing and operation of adult use marijuana operations authorized by the Marijuana Legalization Act within the Town of Fryeburg under the general authority granted pursuant to and consistent with Article VIII-A of the Maine Constitution and Title 30-A Section 3001 (Home Rule), as from time to time amended. Adult use marijuana and marijuana operations is often referred to as “recreational marijuana”. This section does not apply to medical marijuana uses allowed per Section 17.Z of this ordinance and which are in compliance with the Maine Medical Use of Marijuana Act.
2. All marijuana operations shall follow and be in compliance with The State of Maine – Marijuana Legalization Act Title 7, Chapter 417.
3. Application Procedure:
 - a. Applications for Land Use Authorization for Marijuana Operations must be submitted in accordance with Section 2.D of this Ordinance.
 - b. Additionally the applicant must submit the following:
 - i. Proof of receipt of license from the State of Maine to provide evidence of compliance with State licensing criteria.
 - ii. A site plan depicting the shape, size, and location of the lot on which the structure is, or is proposed to be, located, and the shape, size, and location

on the lot of the structure or additions, precisely located and noted as to distances and dimensions.

- iii. A building plan depicting the interior layout of the structure. Include secured areas, areas open to the public, entrances/exits, hazardous materials storage areas, and all other operational features.
- iv. An Operating Plan which demonstrates the proposed size and layout of the marijuana operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area (or number of plants for Tier 1 cultivation facilities).
- v. For indoor operations, an Odor Mitigation Plan approved and stamped by a Maine licensed engineer.
- vi. If applicable, a description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created, and how such materials will be stored.

- c. A separate Application for Land Use Authorization must be submitted for each proposed adult use marijuana facility.
- d. Following receipt of Land Use Authorization the applicant must also obtain a license from the Board of Selectmen as required by the Town of Fryeburg Adult Use Marijuana Cultivation, Products Manufacturing, and Testing Ordinance. Land Use Authorization alone will not constitute “municipal authorization” per The State of Maine – Marijuana Legalization Act Title 7, Section 2447.
- e. A Land Use Authorization Revision After Approval: The following shall apply if there are changes to the approved site plan, building plan, or operating plan, or if an increase in cultivation tier is proposed:
 - i. If the Code Enforcement Officer determines that the change would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed change by the Planning Board is required.
 - ii. If the Code Enforcement Officer shall determine that the change would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the change of the plan.

4. General Performance Standards for Adult Use Marijuana Operations: (This Section does not apply to Home Cultivation for Personal Use)

- a. Location, setbacks, and buffers: In addition to the dimensional requirements for each zoning district, retail marijuana operations must also meet the following dimensional requirements.
 - i. Marijuana operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries, churches, public parks, and licensed day-care centers. This measurement is taken from the lines of the property on which the marijuana operation is located.
 - ii. Adult use marijuana operations shall operate from a fixed, permanent location and may not be permitted to be operated from a moveable or mobile location. If an application for an adult use marijuana operation is approved, the approval is for that location only; relocation of the operation would require new Land Use Authorization.
 - iii. Tier 1, Tier 2 and nursery outdoor cultivation operations must be setback 50 feet from all property lines, have secure fencing around the growing area and may not be visible from the street.
 - iv. Tier 3 and Tier 4 outdoor cultivation operations must be setback 100 feet from all property lines, have secure fencing around the growing area and may not be visible from the street.
 - v. Adult use marijuana operations shall not occur in rented housing, apartments, condominiums.
 - vi. Existing tree and shrub cover screening and buffering the proposed marijuana operation shall be retained to the maximum possible extent. The Board may require additional visual buffering per Section 16.J of this Ordinance.

- b. Odors/Ventilation
 - i. Indoor marijuana businesses shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property.
 - ii. Indoor marijuana businesses shall have an odor mitigation system installed that has been approved and stamped by a Maine licensed engineer indicating that the system will provide sufficient odor control measures.

- c. Hazardous Substances
 - i. Any inherently hazardous substances, hazardous materials, solvents, or flammables must be kept safe, be stored and used in compliance with all applicable laws, and not create a danger to any person.
 - ii. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

- d. Refuse/Product Waste Disposal

- i. Marijuana product waste must be made unusable and unrecognizable prior to leaving the premises and shall be disposed of in accordance with State law, including, to the extent applicable, rules adopted pursuant to Title 7 M.R.S.A §2448(7)(G).
 - ii. Solid, liquid and hazardous wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.
 - e. Lighting
 - i. Exterior lighting, including required security lighting shall meet the standards of Section 16.G of this ordinance.
 - ii. Interior lighting: Grow lamps and lighting may not be visible from the exterior of the building.
 - f. Signage
 - i. Exterior signs must be in compliance with the regulations of the Section 16.M of this ordinance, and also shall not advertise marijuana brand names or utilize graphics related to marijuana or paraphernalia on the exterior of the marijuana retail business or the building in which the business is located.
 - ii. There may be no display of marijuana and paraphernalia so as to be clearly visible from the exterior of a facility.
- 5. Specific Performance Standards for Adult Use Marijuana Cultivation Facilities (This does not apply to Home Cultivation for Personal Use)
 - a. A cultivation facility may only cultivate adult use marijuana for sale and distribution to products manufacturing facility, marijuana store, or other cultivation facility. Retail sales at a cultivation facility is prohibited. A marijuana cultivation facility may not give away adult use marijuana to consumers.
 - b. Marijuana extraction without a separate products manufacturing approval is prohibited.
 - c. Adult use cultivation facilities may also include cultivation of medical marijuana under the Maine Medical Use of Marijuana Act and in compliance with The State of Maine – Marijuana Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.
 - d. The building design of structures housing cultivation facilities, including greenhouses, in the Rural Residential zoning district must be approved by the Planning Board. The structure shall be designed, located, constructed and buffered to blend in with its surroundings and mitigate significant adverse impacts on adjoining properties. If the structure is visible from a street then New England style architecture is encouraged. Industrial or warehouse designs should be avoided.

- e. There may be no increases to Tier 4 cultivation facilities.
 - f. Nursery Cultivation Facility:
 - i. A nursery cultivation facility may not sell or distribute mature marijuana plants. Direct sales to consumers must be in compliance with The State of Maine – Marijuana Legalization Act.
 - ii. A nursery is limited to not more than 1,000 square feet of plant canopy.
6. Specific Performance Standards for Adult Use Marijuana Products Manufacturing Facilities (This does not apply to Home Cultivation for Personal Use)
- a. A marijuana products manufacturing facility may only manufacture adult use marijuana for sale and distribution to marijuana stores, social clubs or other manufacturing facilities. Retail sales at a marijuana products manufacturing facility is prohibited. A marijuana products manufacturing facility may not give away adult use marijuana products or marijuana to consumers.
 - b. Marijuana cultivation without separate approval for a marijuana cultivation facility is prohibited.
 - c. Marijuana products manufacturing facilities may also include manufacture of medical marijuana products under the Maine Medical Use of Marijuana Act and in compliance with The State of Maine – Marijuana Legalization Act. This must be disclosed to the Town during the Land Use Authorization process.
 - d. Marijuana extraction must be completed in a safe manner and in compliance with Marijuana Legalization Act.

7. Adult Use Home Cultivation for Personal Use:

All home cultivation for personal use shall be in compliance with The State of Maine – Marijuana Legalization Act and subsequent amendments.

8. Planning Board Review:

The Planning Board will review this Section and the State of Maine – Marijuana Legalization Act every 3 years after adoption by the Town, and prepare any amendments it deems appropriate for presentation to the Town of Fryeburg at the next annual Town meeting.

9. Indemnity:

By applying for or accepting a permit issued pursuant to this ordinance, all applicants for adult use marijuana operations, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of an adult use marijuana operation that is the subject of this approval. Furthermore, by accepting a permit issued pursuant to this ordinance, all adult use marijuana operators, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool against all liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that party in defense of such liabilities, claims and demands.

Z. Medical Use Marijuana Operations

1. Purpose: The purpose of this standard is to regulate the location, licensing and operation of medical marijuana operations authorized by the Maine Medical Use of Marijuana Legalization Act within the Town of Fryeburg under the general authority granted pursuant to and consistent with Article VIII-A of the Maine Constitution and Title 30-A Section 3001 (Home Rule), as from time to time amended.
2. All medical use marijuana operations shall follow and be in compliance with Maine Medical Use of Marijuana Act Title 22, Chapter 558-C.
3. Application Procedure:
 - a. Applications for Land Use Authorization for Medical Use Marijuana Operations must be submitted in accordance with Section 2.D. of this Ordinance.
 - b. Additionally the applicant must submit the following:
 - i. Proof of receipt of one or more registry identification cards issued by the State of Maine pursuant to 22 M.R.S.A. §2425-A to provide evidence of compliance with State registration criteria.
 - ii. A site plan depicting the shape, size, and location of the lot on which the structure is, or is proposed to be, located, and the shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions.
 - iii. A building plan depicting the interior layout of the structure. Include secured areas, areas open to the public, entrances/exits, hazardous materials storage areas, and all other operational features.
 - iv. An Operating Plan which demonstrates the proposed size and layout of the marijuana operation; plans for wastewater and waste disposal; plans for providing electricity, water and other utilities necessary for the normal

operation of the facility; plans for securing the proposed facility, hours of operation and plans for compliance with applicable building code and federal and state environmental requirements. An operating plan for a cultivation facility must include the proposed size and layout of the cultivation areas, and must depict the total square footage of plant canopy area.

- v. For indoor cultivation operations, an Odor Mitigation Plan approved and stamped by a Maine licensed engineer.
 - vi. If applicable, a description of the type of products to be processed and the equipment to be used, including a list of any solvents, gases, chemicals, or other compounds that will be used, kept, or created, and how such materials will be stored. If inherently hazardous substances are used then submittal of certification or documentation from Maine licensed PE is required.
- c. A separate Application for Land Use Authorization must be submitted for each proposed medical use marijuana facility, operation, or use.
- d. Land Use Authorization will constitute “municipal authorization” per The State of Maine – Medical Use Marijuana Legalization Act.
- e. A Land Use Authorization Revision After Approval: The following shall apply if there are changes to the approved site plan, building plan, or operating plan is proposed:
- i. If the Code Enforcement Officer determines that the change would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed change by the Planning Board is required.
 - ii. If the Code Enforcement Officer shall determine that the change would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the change of the plan.

4. General Performance Standards for Medical Use Marijuana Operations:

- a. Location, setbacks, and buffers: In addition to the dimensional requirements for each zoning district, medical use marijuana operations must also meet the following requirements.
 - i. Excepting medical use marijuana cultivation and qualifying patient products manufacturing not using inherently hazardous substances, other medical use marijuana operations may not be located within 1,000 feet of preexisting schools (public or private), public athletic complexes, libraries,

churches, public parks, and licensed day-care centers. This measurement is taken from the lines of the property on which the marijuana operation is located.

- ii. Medical use marijuana operations shall operate from a fixed, permanent location and may not be permitted to be operated from a moveable or mobile location. If an application for a medical use marijuana operation is approved, the approval is for that location only; relocation of the operation would require new Land Use Authorization.
- iii. Medical use marijuana operations, except qualifying patient cultivation, shall not occur in rented apartments or condominiums.
- iv. Existing tree and shrub cover screening and buffering of the proposed marijuana operation shall be retained to the maximum possible extent. The Board may require additional visual buffering per Section 16.J of this Ordinance.
- v. Medical use marijuana operations may not engage in any adult use marijuana operations in the same facility.

b. Odors/Ventilation

- i. Indoor medical use marijuana uses shall be ventilated so that the odor from the marijuana cannot be detected by a person with a normal sense of smell from any adjoining use or property.
- ii. Indoor medical marijuana use cultivation operations shall have an odor mitigation system installed that has been approved and stamped by a Maine licensed engineer indicating that the system will provide sufficient odor control measures.

c. Hazardous Substances

- i. If inherently hazardous substances are used for medical use products manufacturing, including products manufacturing by a qualifying patient, then specific authorization under the Maine Medical Use of Marijuana Act is required including certification and documentation from Maine licensed professional engineer.
- ii. Any inherently hazardous substances, hazardous materials, solvents, or flammables must be kept safe, be stored and used in compliance with all applicable laws, and not create a danger to any person.
- iii. Non-hazardous chemicals shall be substituted for hazardous varieties whenever possible.

d. Refuse/Product Waste Disposal

- iii. Marijuana product waste must be made unusable and unrecognizable prior to leaving the premises and shall be disposed of in accordance with State law.

iv. Solid, liquid and hazardous wastes generated during marijuana production and processing must be stored, managed, and disposed of in accordance with applicable state and local laws and regulations.

e. Lighting

- i. Exterior lighting, including required security lighting shall meet the standards of Section 16.G of this ordinance.
- ii. Interior lighting: Grow lamps and cultivation-related lighting may not be visible from the exterior of the building.

f. Signage

- i. Exterior signs must be in compliance with the regulations of the Section 16.M of this ordinance, and also shall not advertise marijuana brand names or utilize graphics related to marijuana or paraphernalia on the exterior of the marijuana retail business or the building in which the business is located.

g. Edibles

- i. All manufacturing of marijuana for consumption as an edible will require a state certified commercial kitchen to process.

5. Planning Board Review:

The Planning Board will review this Section and the Maine Medical Use Marijuana Act every 3 years (or sooner if required) after adoption by the Town, and prepare any amendments it deems appropriate for presentation to the Town of Fryeburg at the next annual Town meeting.

6. Retroactivity:

This Section has been enacted at a Town meeting held on June 13, 2019, and shall be effective as of October 1, 2018. With respect to facilities that have been authorized by the Town on or prior to its date of enactment, the owners or operators of each such facility shall have a period of six (6) months following the date of enactment to bring the facility into compliance with this Section 17.Z of this ordinance.

7. Indemnity:

By applying for or accepting a permit issued pursuant to this ordinance, all applicants for adult use marijuana operations, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self-insurance pool from and against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in any manner connected with the operation of an adult

use marijuana operation that is the subject of such approval. Furthermore, by accepting a permit issued pursuant to this ordinance, all adult use marijuana operators, agree to indemnify, defend and hold harmless the Town, its officers, elected officials, employees, volunteers and agents, insurers and self- insurance pool from and against all liabilities of any kind that result from any arrest or prosecution of business owners, operators, employees, clients or customers for a violation of federal, state or local laws and regulations. This obligation to indemnify, defend and hold harmless shall include the obligation to reimburse the party so indemnified, defended and held harmless for any and all attorney's fees reasonably incurred by that party in defense of such liabilities, claims and demands.

A.A. Solar Energy Systems

1. Purposes:

- a. Solar energy is a local, renewable energy resource that can reduce fossil fuel dependence and emissions. Energy generated from Solar Energy Systems can be used to offset energy demand on the utility grid, with benefits for system owners and electricity consumers.
 - b. The use of solar energy for the purpose of providing electricity and energy for heating and or cooling is an important part of the Town of Fryeburg's sustainability goals.
 - c. The standards herein enable the accommodation of Solar Energy Systems in appropriate locations and in a manner that protects the public health, safety, and welfare while still allowing the quiet enjoyment of property and supporting the goals of the Comprehensive Plan, including goals related to natural resources and historical and archeological preservation.
2. Applicability: Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other law to the contrary, the requirements of this Section 17.AA shall apply to (a) all Roof-Mounted Solar Energy Systems installed on or any time after the date that the legislative body of the Town adopted this Section 17.AA, and (b) all proceedings and applications for the construction or installation of any other Solar Energy Systems (including any expansion, upgrade, modification, or structural change that materially alters the size, placement, or output of such systems) that are pending before any municipal reviewing authority on or any time after the date that the legislative body of the Town adopted this Section 17.AA.
3. **Permitting Requirements:**
- a. Roof-Mounted Solar Energy Systems and Small-Scale Solar Energy Systems must comply with the Dimensional Requirements applicable to structures within the zoning district in which such systems are to be located and the standards in Section 16 of this Ordinance. Small-Scale Solar Energy Systems must also comply with the standards in Section 17.AA.5 of this Ordinance. Roof-Mounted Solar Energy Systems and Small-Scale Solar Energy Systems must obtain a Building Permit from the Code Enforcement Officer in accordance with the procedures set forth in Section 2.C of this Ordinance.

- b. Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems must obtain Land Use Authorization from the Planning Board in accordance with the procedures set forth in Section 2.F of this Ordinance.
4. Additional Application Submissions Required for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems:

An application for Land Use Authorization for a Medium-Scale Solar Energy System or a Large-Scale Solar Energy System must be submitted in accordance with Section 2.D of this Ordinance. In addition to the submission requirements in Section 2.D, the applicant must submit the following:

- a. Written confirmation from the public utility to which the Solar Energy System will be connected confirming that the solar operator has conditional or final approval to interconnect the Solar Energy System to the utility grid.
- b. Evidence of financial capacity to construct, operate, and decommission the Solar Energy System.
- c. Erosion and sedimentation control narrative and plans with details.
- d. Site plans showing all proposed construction and alteration of the project site, including changes to the landscape of the Solar Land Area, filling, grading, earthmoving, vegetation clearing and planting, screening, fencing, Solar Energy System components, utilities (above and/or below ground), and all other aspects of the project.
- e. Site plans showing water bodies, wetlands, flood hazard areas, and vernal pools.
- f. A description of the major components of the Solar Energy System (including arrays) proposed to be used, including manufacturers' specifications and cut sheets if available.
- g. A landscaping plan, prepared by a licensed forester, landscape architect, or arborist, demonstrating compliance with all applicable landscaping and vegetated buffering requirements. At minimum, the landscaping plan must specify the locations, elevations, and height above finished grade of all vegetation, berms and plantings, and must identify the plant species and other materials that will comprise the elements used to establish any vegetated buffers and substantially screen the Solar Energy System from view from abutting residential properties, public roads, and Public Vantage Points.
- h. A long-term operations and maintenance plan providing for ongoing monitoring and inspections of all site improvements. The plan must provide a method for maintaining sufficient financial resources for performing ongoing maintenance and repair of the Solar Energy System.

- i. A proposed decommissioning plan for the removal of the Solar Energy System, disposal of system components, and stabilization of the site, which meets the requirements in Section 17.AA.8 of this Ordinance, and a written statement of the applicant's intent concerning the following:
 - i. Physical removal of any Solar Energy System components, structures, foundations, supports, fencing, or security barriers from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state.
- j. A description of any proposed dual-use or co-location of the property, including but not limited to agrivoltaics. If no dual-use is proposed or intended on the property, an explanation as to why such dual-use or co-location is not practicable.
- k. A visual impact assessment prepared by a landscape architect or other professional with expertise in evaluating visual impacts, which identifies the visual impacts of the Solar Energy System on any Public Vantage Point within a one-mile radius of the project area, and on abutting properties. At minimum, the assessment must include a line-of-sight profile analysis that illustrates what is visible and what is obstructed along a straight line running from the Solar Energy System and each Public Vantage Point. The Planning Board may require additional visual impact assessments, including digital viewshed maps, if it determines in its sole discretion that such assessments are necessary for the Planning Board to evaluate the Solar Energy System's compliance with the scenic impact standards in Section 17.AA.6.f of this Ordinance.

5. Additional Standards for Small-Scale, Medium-Scale, and Large-Scale Solar Energy Systems:

In addition to the standards in Section 16, a Small-Scale, Medium-Scale, or Large-Scale Solar Energy System must comply with the following standards:

- a. The Solar Energy System shall be less than 25 feet in Height.
 - b. The Solar Energy System shall be operated and located such that no disruptive electromagnetic or radio frequency interference with signal transmission or reception is caused beyond the property lines of the site.
 - c. The Solar Energy System shall be located and designed to avoid, minimize, or mitigate any glare onto abutting properties or roadways.
6. Additional Standards for Medium-Scale and Large-Scale Solar Energy Systems:

In addition to the standards in Section 16 and Section 17.AA.5, a Medium-Scale or Large-Scale Solar Energy System must comply with the following standards:

- a. Minimum Setbacks: The following minimum setback requirements must be met, regardless of the zoning district in which the Solar Energy System is located,

unless the minimum setback requirement in the applicable zoning district is more restrictive, in which case the more restrictive requirement shall apply:

Front Lot Line 75 feet

Side and Rear Lot Line 75 feet

Street Right-of-Way 100 feet

- b. Wildlife Habitat: The Solar Energy System shall have no undue adverse effect on any portion of the property designated by the Maine Department of Inland Fisheries and Wildlife as Rare, Threatened, or Endangered Wildlife, Essential Wildlife Habitat, or Significant Wildlife Habitat. The applicant shall assess the potential impacts of the Solar Energy System on any such designated species or habitat, including any adjacent areas that are important to the maintenance of the affected species or habitat, and shall take measures to avoid, minimize, or mitigate impacts of the Solar Energy System on the habitat and the species that the area supports. The Planning Board may require the applicant to consult with the Maine Department of Inland Fisheries and Wildlife or a wildlife biologist preapproved by the Board in conducting such an assessment.
- c. Natural Areas: The Solar Energy System shall have no undue adverse effect on any portion of the property designated as a unique natural area or a Rare or Exemplary Plant and Natural Community in the Town's Comprehensive Plan or by the Maine Natural Areas Program. The applicant shall assess the potential impacts of the Solar Energy System on any such designated natural area or community, including any adjacent areas that are important to the maintenance of the affected area or community, and shall take measures to avoid, minimize, or mitigate impacts of the Solar Energy System on the natural area or community. The Planning Board may require the applicant to consult with the Maine Natural Areas Program in conducting such an assessment.
- d. Historic or Archaeological Resources: The Solar Energy System shall have no undue adverse effect on any portion of the property that has been identified as containing a significant historic or archaeological resource in the Town's Comprehensive Plan or on the National Register of Historic Places, or is considered by the Maine Historic Preservation Commission or other pertinent authority as likely to contain a significant historic or archaeological resource. The applicant shall assess the potential impacts of the Solar Energy System on any such resource, including any adjacent areas that are important to the preservation of the resource, and shall take measures to protect these resources, including but not limited to, modification of the proposed location and design of the Solar Energy System, timing of construction, limiting the extent of excavation, physical or legal protection, or by archaeological excavation or mitigation. The Planning Board may require the applicant to consult with the Maine Historic Preservation Commission in conducting such an assessment.
- e. Agricultural Resources: The Solar Energy System shall have no undue adverse effect on any portion of the property containing prime agricultural soils or soils of statewide importance. The applicant shall assess the potential impacts of the Solar Energy System on any such soils, and shall take measures to avoid or minimize impacts to such soils. The Planning Board may require the applicant to consult

with the Department of Agriculture, Conservation, and Forestry, Agricultural Resource Development Division, in conducting such an assessment. No topsoil or prime agricultural soil shall be removed from the site for installation of the Solar Energy System. All stockpiled topsoil shall be retained on site and reused in the landscaping plan for the site.

- f. Revegetation: Any disturbed ground cover on the site shall be revegetated with pollinator friendly, native, and non-invasive vegetation.
 - g. The Solar Energy System must be located and designed for minimal visual impact on the surrounding area, particularly when viewed from abutting residential properties or any Public Vantage Point.
 - h. A vegetated buffer that is at least half the width of the minimum setback requirement in Section 17.AA.6.a of this Ordinance shall be maintained along any property boundary line of a Solar Energy System that abuts a residential dwelling or a public road, except where necessary to accommodate a driveway entrance to the site. Existing vegetation must be used to the greatest practical extent. If there is insufficient existing vegetation to create a vegetated buffer, the applicant shall plant and maintain native species of conifers and evergreens to adequately screen the Solar Energy System from view.
 - i. Security Fencing: All components of the Solar Energy System, excepting overhead utility and communication lines and poles, shall be completely enclosed by a minimum 6-foot-high fence. The fence shall be elevated an minimum of 6 inches above the ground to accommodate crossings by small terrestrial animals. Functional alternatives to chain-link style fencing is encouraged.
 - j. Utility Connections: All on-site utility transmission lines and piping associated with the Solar Energy System shall be placed underground to the greatest extent practicable. The Planning Board may waive this requirement if the applicant can demonstrate that satisfying this requirement is not practicable based on requirements of the utility provider or specific site conditions.
 - k. Operations and Maintenance: The applicant must provide for the long-term operation of the Solar Energy System and maintenance of the Solar Land Area, including ensuring that vegetation buffers are maintained, inspections are performed as needed, and the site is accessible to emergency responders in the event of an emergency.
7. Additional Performance Standards for Large-Scale Solar Energy Facilities:
- a. Greenhouse Gas Assessment: The Large-Scale Solar Energy System shall not result in a net increase of greenhouse gas emissions over a 20-year period. The Planning Board may request an independent greenhouse gas assessment including an analysis of on-site, upstream, and downstream emissions from the project.
8. Post-Approval Requirement for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems: Prior to the start of construction of a Medium-Scale Solar Energy System or Large-Scale Solar Energy System, the permit holder must submit to the Code Enforcement Officer a decommissioning plan and financial assurance approved by the Maine Department of Environmental Protection, in accordance with the requirements of

35-A M.R.S.A. Sections 3491-3496, as may be amended, for all costs associated with decommissioning the Solar Energy System.

9. Post-Construction Requirements for Medium-Scale Solar Energy Systems and Large-Scale Solar Energy Systems:

After completion of construction and prior to commercial operation of a permitted Medium-Scale Solar Energy System or Large-Scale Solar Energy System, the permit holder must:

- a. Submit to the Code Enforcement Officer as-built drawings prepared by a Maine licensed professional land surveyor or engineer. The as-built drawings shall include the actual locations of the Solar Energy System and its components, any structures and their components, above and underground utilities, roads, swales, ditches, detention/retention facilities, areas of filling and grading, vegetated buffers, fencing, land and landscaping alterations, and any other infrastructure and facilities, all as actually constructed on the site. The as-built drawings must be accompanied by a letter signed by the surveyor or engineer certifying that the Solar Energy System had been constructed in accordance with all Planning Board approvals, including any conditions of approval and any accompanying plans and specifications.
- d. Provide a written manual to the Fryeburg Fire Department and Code Enforcement Officer, which provides clear response information and instructions, including lock box details and disconnection locations necessary for a fire/emergency response at the site.

