

# Town of Randolph

**1999**

## **Land Use and Development Ordinance**

Adopted: July 28, 1999

Amendments made on May 17, 2005 & September 26, 2017 shown by “\*”

**RANDOLPH  
LAND USE AND DEVELOPMENT ORDINANCE**

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## **ARTICLE I: Establishment**

### **1.1 Authority**

The regulations contained in this Land Use Ordinance are enacted under the Home Rule Authority granted by the State of Maine (30-A M.R.S.A. §3001) and other specific authority, pursuant to the Randolph Comprehensive Plan, as revised in 1996.

### **1.2 Short Title**

This ordinance and the Official Land Use Map hereby incorporated, shall be known and may be cited as the “Randolph Land Use and Development Ordinance.”

### **1.3 Purpose**

This ordinance is enacted for the general purpose of promoting the health, safety, and general welfare of the citizens of the Town of Randolph, and for other, specific purposes, including:

- provision of adequate and cost-effective public facilities and services;
- conservation of valuable natural resources;
- promotion of local economic development and property values;
- preservation of safety and convenience on public roads;
- revitalization of the town’s downtown commercial area;
- protecting the rural character of certain portions of the town; and
- Maintaining in all cases clean, safe, and comfortable neighborhoods for inhabitants of the town.

### **1.4 Jurisdiction**

The provisions of this ordinance shall govern the use of all land and structures within the Town of Randolph and, more specifically, the location and development of residential, commercial, industrial, and public property within the Town.

### **1.5 Construction of Terms and Requirements**

In interpreting and applying the provisions of this ordinance, said provisions shall be deemed to be the minimum required to protect the health, safety, and general welfare of the public. Captions and headings contained in this ordinance are considered an integral part of the ordinance, and shall be used to help determine applicability of sections to which they apply.

## **1.6 Conflict with Other Laws**

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

## **1.7 Severability**

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

## **1.8 Repeal of Prior Ordinances**

The following ordinances are hereby repealed:

- An Ordinance Establishing A Minimum Lot Size in the Town of Randolph
- An Ordinance Relating to Two Family and Multi-Family Dwelling Units

## **1.9 Effective Date**

This ordinance shall take effect and be in force from the date of its adoption by the voters of the Town of Randolph.

# **ARTICLE 2: Definitions of Terms Used in this Ordinance**

## **2.1 Construction of Language**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

The word "**person**" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

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

The word "**shall**" indicates a mandatory action, the word "**may**" is permissive.

The word "**lot**" includes the words "**plot**" and "**parcel**".

The words "**used**" or "**occupied**", as applied to any land or building, shall be construed to include any intent or design for use or occupancy.

The term "**town**" or "**municipality**" means the Town of Randolph, Maine. The term "**Code Enforcement Officer**" or "**CEO**" means the Code Enforcement Officer duly appointed to serve the town. The term "**Board**" shall mean the Planning Board of the town, except when the Boards of Appeals or Selectmen are specifically referenced.

## **2.2 Definitions**

As used in this Ordinance, terms shall have the following meanings:

**Abutting Property**: Any parcel of land that has as its boundary a point or line, or portion thereof, in common with the subject property, or any parcel of land which lies on the opposing side of a road or other right of way bounding the subject property.

**Accessory Structure**: Additional building(s) or structure(s) located on the same lot as a principal structure. If and when an accessory building joins or abuts the principal structure in a substantial manner, as by a wall or roof, it shall be considered part of the principal structure.

**Accessory Use**: A use which is customarily and in fact both incidental and subordinate to the principal use of the property. The term "incidental" shall mean subordinate and minor in significance to the principal use. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

**Adult Business**: Any commercial use of property which has as its main business the production, display, sale, or rental of sexually explicit materials or activities. This definition encompasses bookstores as well as theaters and amusement centers. Materials shall be considered sexually explicit if they depict or display human sex organs or sexual acts.

**Agriculture**: The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

**Alteration**: Any change, addition, or modification in construction other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams or girders.

**Amusement Center**: A facility operated for commercial purposes for the amusement or entertainment of the public, consisting of video booths, table games, or other

mechanical or electronic amusement devices.

**Authorized Agent:** Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

**Automobile Graveyard:** A yard, field, or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose for making repairs to render a motor vehicle serviceable, for three or more unserviceable, discarded, worn out or junked motor vehicles, bodies, or engines thereof are gathered together including, but not limited to, automobiles, trucks, and/or tractors.

**Automobile Services:** An establishment which engages in the sale, rental, leasing, or repair of automobiles, including trucks, tractors, and recreational vehicles. This use shall not include sales or manufacture of manufactured housing units, nor the sale of gasoline, diesel, or other automotive fuel, nor small engine repair shops.

**Base Flood:** Means the flood having a one percent chance of being equaled or exceeded in any given year, alternately referred to as the 100 year flood.

**Basement:** The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three feet or greater.

**Body of Water:** A free flowing drainage way, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

**Building:** Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.

**Building Height:** The vertical distance measured between the average finished grade of the ground at the front of a building and the highest point of the roof, not including chimneys, spires, aials, or similar extensions.

**Business and Personal Services:** A business which provides services but not goods, e.g., secretarial service, child care, hairdressers, real estate, and computer maintenance, but specifically excluding operations defined as automobile business.

**Business Sign:** An attached or freestanding structure which directs attention to a business or profession conducted on that premises.

**Campground**: Any area or tract of land to accommodate temporary living quarters, including, but not limited to tents, recreational vehicles, or other shelters for which a fee is charged.

**Change of Use**: A change from one category in the land use table to another or the addition of a new category of use to an existing use.

**Child Care Center**: An establishment, including a private residence, where children under the age of six (6) are cared for in return for compensation.

**Code Enforcement Officer (CEO)**: A person appointed by the Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

**Commercial Recreation**: Any activity which receives a fee in return for the provision of facilities or area for recreational activity, including but not limited to: fitness clubs, golf courses, and amusement parks, but not including amusement centers.

**Conditional Use**: A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that cannot be allowed without restriction in a district, but which is permitted provided that the Board finds that the requirements of this Ordinance will be met.

**Congregate Housing**: A multifamily development with central dining facilities serving functionally impaired persons.

**Constructed**: Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, paving, drainage, and the like, shall be considered as part of construction.

**Deck**: An uncovered structure with a floor, elevated above ground level.

**Dimensional Standards**: The standards of this ordinance relating to setback, lot area, frontage, building coverage, and building height.

**District**: A specified portion of the town, delineated on the Official Land Use Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Dwelling**: A room or group of rooms designed and equipped exclusively for use as



permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

**Single Family Dwelling**: A building containing only one (1) dwelling unit for occupation by not more than one (1) family.

**Two Family Dwelling**: A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

**Multi Family Dwelling**: A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another; with the number of families not exceeding the number of dwelling units.

**Dwelling Unit**: A room or suite of rooms designed and equipped exclusively for use by one family as a habitation and which contains independent living, cooking, sleeping, bathing and sanitary facilities. The term includes manufactured housing, but not recreational vehicles or overnight accommodations.

**Expansion**: In relation to a building, expansion shall mean: enlargement of floor area, or enlargement of building enclosure. In relation to use: the addition of weeks or months to a business operating season; the addition of hours to a business day; the use of more floor area or ground area; or the provision of additional seats or seating capacity.

**Family**: One or more persons occupying a premises and living as a single housekeeping unit.

**Filling**: Depositing or dumping any matter on or into the ground.

**Flood Insurance Map**: The official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard applicable to the Town.

**Floodplain**: The lands adjacent to a body of water which have been or may be covered by the base flood.

**Floodway**: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floor Area, Gross**: The sum, in square feet, of the floor areas of all roofed portions of

a building, as measured from the outside faces of the exterior walls.

**Forest Operations:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads, or the clearing of land for approved construction.

**Foundation:** The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

**Frontage\*:** The horizontal distance, along the boundary of the lot ~~on abutting~~ the street from which the property is accessed by vehicle. On lots fronting more than one street, ~~only the longest abutting boundary shall be considered frontage~~ the owner or applicant may choose which street his/her lot fronts on.

**Historic or Archeological Resource:** Areas or structures identified by the Town's Comprehensive Plan or a local, state, or federal entity with expertise in historic resources as having significant value as an historic or archeological resource.

**Home Occupation\*:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; 2) carried on wholly within the principal or accessory structures; and 3) employing no more than two (2) persons other than family members residing in the home. A "minor home occupation" shall have 1) no regular customers visiting the location of the home occupation, 2) only residents of the home as employees, 3) no regular delivery or pickup of goods or products, and 4) no use of outside signs to advertise the minor home occupation.

**Hospital:** An institution providing, but not limited to, overnight health services, primarily for inpatients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central services facilities, and staff offices.

**Hotel/Motel:** A building or buildings in which lodging or meals and lodging are offered to the general public for compensation. The business may include such accessory services and facilities as news stands, personal grooming facilities and coffee shops.

**Inn:** A building occupied by an owner or resident manager, in which up to ten (10) lodging rooms with or without meals are offered to the general public for compensation, and in which entrance to bedrooms is made through a lobby or other

common room. Inn includes such common references as bed and breakfast, guest house, and tourist home.

**Junkyard**: A yard, field, or other area used as place of storage for any of the following: discarded, worn out, junked plumbing, heating supplies, household appliances, and furniture; discarded, scrap, and junked lumber; old or scrap cooper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material; and including garbage dumps, waste dumps, and sanitary landfills.

**Kennel**: Any place or building where four (4) or more dogs or four or more cats, over the age of six (6) months, and owned singly or jointly are raised or cared for in return for compensation, including but not limited to breeding, hunting, show, field trials or exhibition, or temporary housing.

**Lot**: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance, and having frontage upon a public street, right of way or private way.

**Lot Area**: The area of land within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and easements for public roads.

**Lot Coverage**: The percentage of the lot covered by all buildings.

**Lot Lines**: The lines bounding a lot as defined below:

**Front Lot Line**: That portion of the boundary line along which street frontage is counted and measured.

**Rear Lot Line**: The lot line opposite the front lot line. On a lot with no clear rear boundary, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line.

**Side Lot Line**: Any lot line other than the front lot line or rear lot line.

**Lot of Record**: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file in the Kennebec County Registry of Deeds.

**Lot Width**: The distance between the side lot lines at the point at which the front

Setback intersects those lines.

**Manufactured Housing Unit** (also referred to as “**Mobile Home**”): Structures, transportable in one or two sections, constructed in a manufacturing facility, transported to a building site, and designed to be used as dwellings.

**Manufacturing**: The making of goods and articles by hand or machinery. Manufacturing may include warehousing, fabricating, finishing, waste disposal or other functions auxiliary to the principal operation.

**Marina**: A shorefront commercial facility for boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

**Minimum Lot Area**: The land area of a parcel excluding any part of a right of way for a thoroughfare or easement, such as, but not limited to, surface drainage easements or traveled rights of way (but not including any utility easement servicing that lot).

**Mobile Home Park**: A plot of land designed and/or used to accommodate two (2) or more manufactured housing units.

**Nonconforming Use**: Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribed for it by this Ordinance, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Nonconforming Structure\***: A structure which does not meet the setback, building coverage or building height standards of this ordinance, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect. When such structure is added to or expanded, said addition or expansion is satisfactory provided that the existing nonconforming setback distance is reduced no further.

**Nonconforming Lot of Record**: A lot shown on a plan or deed recorded prior to the Effective date of this Ordinance which, does not meet the area, frontage, width or depth requirements of the District in which it is located.

**Normal High-Water Mark**: That line which is apparent from scouring, changes in the character of soils due to prolonged action of the water, or changes in vegetation, which distinguishes between predominantly aquatic and predominantly terrestrial land. In places where the shore or bank is of such character that the high-water line

cannot be easily determined (rockslides, ledges, rapidly eroding, or slumping banks) the normal high-water line shall be estimated from places where it can be determined by the above method.

**Nursing Home:** Any facility which provides meals, lodging and nursing care for compensation.

**Open Space Use:** A use not involving a building; earthmoving activity; or the removal or destruction of vegetative cover or fish, aquatic life, bird and other wildlife habitat.

**Parks:** Publicly-owned recreation facilities including, but not limited to playgrounds, parks, monuments, green strips, open space, mini parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature, preserves, along with any necessary accessory facilities, restrooms, bath houses, and the maintenance of such land and facilities.

**Patio:** A flat, surfaced area, generally associated with a dwelling unit, designed for the support of persons or furniture, which is not elevated above grade level.

**Principal Structure:** The building enclosing or serving the principal use of the premises.

**Principal Use:** The use which fulfills the primary function of the household, establishment, or other entity in possession of the premises.

**Professional Offices:** The place of business for doctors, lawyers, accountants, architects, engineers, psychiatrists, and psychologists.

**Recreational Vehicle:** A vehicle or an attachment to a vehicle designed for temporary sleeping or living quarters for one or more persons, and which may include a travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be currently registered with the State Division of Motor Vehicles.

**Residential Use:** Any land use which includes a dwelling unit as the principal structure.

**Restaurant:** An establishment where meals are prepared and served to the public for consumption for compensation. This shall include establishments which prepare meals for consumption on or off the premises, for which there is no customer seating provided within a structure. This shall not include the availability of coffee service or microwaveable foods which come pre-packaged.

**River**: The Kennebec River.

**Satellite Receiving Dish**: A free-standing structure designed to receive signals from satellites.

**School**: An institution for education or instruction where any branch or branches of knowledge is imparted.

**Public and Private**, (including **Parochial**): A school which:  
a) is not operated for a profit or a gainful business; or  
b) teaches courses of study which are sufficient to qualify attendance there as in compliance with State compulsory education requirements.

**Commercial School**: An institution which provides a specialized course of study for profit, including but not limited to: dancing, music, riding, correspondence, aquatic schools, driving or business.

**Setback**: The horizontal distance from a lot line to the nearest part of a structure, road, parking space, or other regulated object or area.

**Sign**: An advertising message, 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 area encompassed by the border or perimeter of the sign, not including posts or supports which have no advertising message. In cases where there is no discernable border, the area shall be the smallest geometric figure that encloses the sign. Signs which are printed on both sides shall be considered only one sign for the purposes of calculating area.

**Stream**: A free flowing body of water as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map to the point where the body of water becomes a river.

**Street\***: A private right of way, or, an existing state, county, or town way; a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds: or a street dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been

abandoned in accordance with 23 M.R.S.A. section 3028. Also, the new definition of “private right of way” will become a “minor residential street servicing no more than 8 dwelling units, or a private travelled way which can be used to satisfy minimum lot frontage standards for permitted use in a specific land use district. It is not intended to be dedicated as a public way, or maintained by the Town.

**Structure:** Anything built or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind. The term includes structures ordinarily considered temporary but which are in place for a period of thirty (30) continuous days, such as tents, awnings, decks, and satellite dishes, but does not include signs, sidewalks, fences, retaining walls, patios, driveways, and parking lots.

**Substantial Expansion:** Floor space increase of 25% or new materials or processes not normally associated with the existing use.

**Subdivision:** A division of land as defined and reviewed under the Town of Randolph Subdivision Regulations or Ordinance.

**Subsurface Sewage Disposal System:** A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under Title 38 M.R.S.A. Section 414, any surface wastewater disposal system licensed under Title 38 M.R.S.A. Section 413 Subsection 1\_A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in Title 38 M.R.S.A. Chapter 13, subchapter 1.

**Trailer, Utility:** A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer or snowmobile trailer.

**Undue Hardship:** The condition necessary for the granting of a variance, based upon the finding that all four to the following requirements have been met:

- A. That the land in question cannot yield a reasonable return unless a variance is granted.
- B. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
- C. That the granting of a variance will not alter the essential character of the

locality; and

**D.** That the hardship is not the result of action taken by the applicant or a prior owner.

**Used Merchandise Sales:** The outdoor sale of used articles, conducted for more than five consecutive days or for more than two weekends per year. Used Merchandise Sales includes flea market.

**Variance:** A variance is a relaxation of the terms of this Ordinance. Variances permissible under this Ordinance are limited to dimensional standards. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities in the immediate or adjacent areas.

**Veterinary Hospital:** A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations, The overnight boarding of healthy animals shall be considered a kennel.

**Warehousing:** Structures established for the purpose of providing space for secure storage of personal or business goods, including freight terminals, moving and transfer companies, and self-storage units, as well as that portion of structures established for extended storage of inventory or business-related items.

**Yard:** The area between a structure and the property boundary.

## **ARTICLE 3: Administration, Enforcement, and Penalties**

### **3.1 *Permit Requirements***

A permit is required prior to commencement of specified activities, as follows:

**A.** Building Permit: This permit is required for the erection, alteration, rebuilding, enlargement, or relocation of any building, except as provided below, and shall be obtained from the Code Enforcement Officer.

**B.** Development Permit: This permit is required for development activities which by their nature involve uses with potentially negative impacts on neighboring land uses, and for which performance standards have been established, and shall be obtained from the Code Enforcement Officer.

**C.** Conditional Use Permit: This permit is required for development activities



which by their nature involve uses with negative impacts on neighboring land uses, and which have unusual characteristics which must be evaluated on a case-by-case basis. The Conditional Use Permit shall be issued by the Planning Board.

Activities which require one of the above permits are listed in Section 6.4 of this ordinance. None of the above-referenced permits shall be required for building repairs and/or maintenance not requiring structural elements, decorative changes in existing structures or buildings, landscaping, or the ordinary conduct of agricultural and forest operations. No permit required under this section shall relieve the property owner of the responsibility to obtain any other local, state, or federal permits.

### **3.2 Building Permit Procedure**

**A.** Every applicant for a permit shall submit a written application to the Code Enforcement Officer, on forms established by the Town, and including the following information:

- 1.** The name and address of the applicant, the land owner (if different) and the applicant's agent (if different).
- 2.** The address, map and lot number, or a map showing the location of the property.
- 3.** A site plan showing, at a minimum, the location of existing and proposed structure(s) with respect to lot lines, water bodies, water supply, and sewage disposal facilities.
- 4.** An HHE-200, or subsequent revision, if a subsurface wastewater treatment system will be used.
- 5.** Specification of the dimensions of the proposed structure(s), including length, width, height, and (if property subject to flooding) elevation of the lowest floor.
- 6.** A statement as to whether the proposed structure(s) is located on land subject to the Town's Shoreland Zoning Ordinance, or Floodplain Management Ordinance.
- 7.** The proposed use of the structure(s).
- 8.** An estimate of the probable market value of the structure(s) upon completion.
- 9.** A scale drawing of the principal structure's floor plan.

**B.** The written Building Permit Application shall be submitted to the town office during normal office hours. The CEO shall determine whether all required elements of the application have been submitted. Upon determining that a

complete application has been submitted, the CEO shall approve or deny the application and issue the permit, if approved, within three (3) working days. The basis for the decision of the CEO shall be whether the application meets the requirements of this ordinance and other ordinances of the Town of Randolph.

C. An appeal from the decision of the Code Enforcement Officer may be made to the Board of Appeals, as provided in Section 3.10 of this ordinance, and must be filed within thirty (30) days of the issuance of the decision.

### **3.3 *Development Permit Procedure***

A. Where a Development Permit is required, a person shall submit a written Application to the Code Enforcement Officer, on forms established by the Town, and including the following information:

1. All items required for a Building Permit, under Section 3.2.A.
2. The site plan, in addition to the elements required in Section 3.2.A.3, shall show topography and grading, the location and design details of site improvements, including, but not limited to, pedestrian and vehicle travel ways and parking areas, landscaping and buffer areas, storm water and erosion control structures, water, sewer, and power lines, and any machinery or materials proposed to be located outside.
3. An estimate of the traffic to be generated by the development, and any modifications to public roads which may be necessary to absorb the traffic.
4. A statement from the Town Fire Chief that suitable provisions for fire protection have been included in the development.
5. An estimate of the value of all improvements associated with the development. If any alterations or improvements to public facilities are proposed, the applicant shall provide a financial performance guarantee in accordance with Section 3.9 for the cost of such construction.
6. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt at their office.

B. Upon receipt of a permit application the Code Enforcement Officer shall decide whether the information in the application is sufficient for them to determine whether, under this Ordinance, the permit should be issued, or if the application is inadequate. If the CEO finds the application is insufficient or inadequate, they shall within five (5) working days, notify the applicant in writing, indicting what necessary information is required to complete the application. If the application is not complete, the CEO shall not consider it for approval.

**C.** Upon determination that an application is complete, the Code Enforcement Officer shall, within ten (10) working days approve or deny the application, except that the CEO may, upon finding that by nature of its size, location, or activities to be conducted the development poses an unusual risk of impact on the neighborhood, in which case he is entitled to seek an advisory consultation from the Planning Board. Such consultation shall be placed on the agenda of the next regularly-scheduled Board meeting, and the public shall be given an opportunity to speak.

**D.** The basis for the Code Enforcement Officer's approval shall be whether the proposed development meets all the requirements, and in particular the Performance Standards, of this Ordinance and other local ordinances. In approving and issuing the permit, the CEO may impose conditions and restrictions on the development to bring it into conformance with ordinance requirements.

**E.** An appeal from the decision of the Code Enforcement Officer may be made to the Board of Appeals, as provided in Section 3.10 of this ordinance, and must be filed within thirty (30) days of the issuance of the decision.

### **3.4 Conditional Use Permit**

**A.** Where a Conditional Use Permit is required, a person shall submit nine (9) copies of all written application materials to the Code Enforcement Officer, including the following information:

- 1.** All items required for a Development Permit, as provided in Section 3.3.A.
- 2.** A list of names and addresses of all landowners within 500 feet of the property boundaries.
- 3.** If the development is estimated to generate more than 50 vehicles per hour at its peak hour of usage, an analysis of traffic impacts and the need for traffic control devices shall be prepared by a qualified registered professional engineer.
- 4.** An analysis of potential environmental impacts, including effects on surface and ground water bodies, air quality, and wildlife resources, together with plans for mitigating any negative impacts.
- 5.** An estimate of demand on public water supply and sewage disposal systems. If necessary, statements from the Manager of the Gardiner Water District and Superintendent of the Gardiner Sanitary Treatment District,

concerning the sufficiency of their respective systems to accommodate the development.

**6.** An erosion control plan prepared by a registered professional engineer.

**7.** A storm water management plan prepared by a registered professional engineer.

**8.** A statement regarding the likelihood of use, storage, or disposal of any dangerous, toxic, special, or hazardous wastes, whether solid, liquid, or gaseous, and special measures available to deal with them in appropriate fashion.

**B.** Upon receipt of a permit application the Code Enforcement Officer shall decide whether the information in the application is provided as required. If the CEO finds the application is insufficient or incomplete, he shall within five (5) working days, notify the applicant in writing, indicating what necessary information is required to complete the application. The CEO shall take no action on an application as long as it is determined to be incomplete.

**C.** Upon determination that an application is complete, the Code Enforcement Officer shall forward the application materials for consideration by the Planning Board. The Board shall have thirty-five (35) calendar days in which to act on the application.

**D.** A public hearing shall be held on all Conditional Use Permit applications.

**1.** Notice of the public hearing shall be placed in a newspaper of general circulation within the Town of Randolph at least seven (7) days prior to the date of the hearing. Notice shall also be posted in the Town Office at least seven (7) days prior to the hearing.

**2.** \*All landowners within 500 feet of the boundaries of the parcel to be developed shall be notified by ~~certified~~ mail postmarked at least seven (7) days prior to the hearing. Notice shall be sent to the address provided by the applicant or that provided on tax assessment records, whichever is more recent. Failure to receive notice in a timely manner shall not invalidate a decision of the Board. The Board shall be responsible for mailing of this notice.

**3.** The public hearing shall be conducted in accordance with established rules of parliamentary procedure for hearings. All parties shall be granted an opportunity to speak. All comments and evidence shall be directed through the Chair of the Board.

E. The Board may, at its discretion, retain expert technical assistance in the form of private consultants to supplement the evidence presented by the applicant and public hearing. The cost of such expertise shall be borne by the applicant. No permit shall be issued in the event that the applicant has not paid in full any bill for consulting services.

F. The Board shall prepare findings of fact and shall act to approve or deny the permit application. The following criteria shall be found to have been met in order for the Board to approve:

1. The development will not create unsafe or unhealthful conditions within the neighborhood in which it is located, and shall not create or exacerbate undue negative effects upon neighboring properties.
2. The development will not create or add to traffic congestion at or below level of Service "D", as defined, and will not create unsafe traffic movements on public roads.
3. The development will not result in a significant reduction of air or water quality or wildlife habitat, and will not cause undue flooding or soil erosion.
4. The development will not result in loss of historic, prehistoric, or archeological resources.
5. The development will not cause an undue strain on public facilities or services, including public roads, water supply, sewage disposal, solid waste systems, fire, police, educational, or other services.
6. The applicant has sufficient financial and technical capacity to complete the development.
7. The development is consistent with the Randolph Comprehensive Plan, and in compliance with state and federal law, as well as all ordinances, rules, and regulations of the Town, including the performance standards of this ordinance, unless the Board acts to waive said standard. Any waivers so granted shall be based on good engineering practice and noted in writing as part of the Board's decision.

\*Conditional uses which are allowed in a specific land use district that have received a "conditional use" review and permit from the Planning Board, may expand their existing building area by up to 600 sq. ft. without further conditional use, review, or approval, provided the following is complied with:

- a) the expansion is completed within 5 years from date of previous conditional use review and approval and the required building and plumbing permits are issued, and

**b) any increase in required parking as a result of the expansion of a building by up to 600 sq. ft. must be completed and inspected by the CEO prior to the section of the expanded building being occupied.**

In all cases, the burden of supplying sufficient evidence for the Board to make a positive finding on each of the above criteria shall be upon the applicant.

**G.** In approving the application, the Board may attach any conditions which it feels are necessary to meet the criteria of this ordinance. All conditions shall become a part of the permit, and any violation or failure to adhere to the conditions shall be considered a violation of this ordinance. Any financial performance guarantee imposed as a condition of approval shall be in place before the Code Enforcement Officer may issue the permit.

**H.** An appeal from the decision of the Planning Board may be made to the Kennebec County Superior Court, and must be filed within thirty (30) days of the issuance of the decision.

**I.** No changes shall be made in any approved Conditional Use without approval of the change by the Planning Board. Any substantial expansion shall be reviewed as a new permit application.

### **3.5 *Permitting Procedures, Administration***

**A.** Following the issuance of any permit, if no substantial start is made on the construction within eight (8) months of the date of the permit, it shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved as aforesaid. The fee for such permit shall be charged as a renewal fee.

**B.** Any permit issued which is not in conformity with the provisions of this Ordinance confers no rights and is void.

**C.** The Selectmen shall set and may, from time to time, amend a fee structure For permits required under this ordinance. The fees shall be sufficient to pay for the Town's expenses in advertising, mailing, and other direct expenses incurred in processing the application. A portion of any fee collected may be set aside in a municipal escrow account for the purpose of obtaining technical assistance in accordance with section 3.4.E, above. Any amount designated to this account, if not expended, shall be returned to the applicant upon issuance of the permit.

### **3.6 Code Enforcement Officer**

**A.** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, (s)he shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and the action necessary to correct it. (s)He shall order the removal of illegal buildings, structures, additions, or work in progress, or shall take other action authorized by this ordinance to ensure compliance with, or prevent violations of, its provisions.

**B.** The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land use regulation including local subdivision plans.

**C.** The Code Enforcement Officer shall conduct onsite inspections to insure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours, and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with this ordinance. If consent is denied, the CEO shall enter the property only after verifying that legal due process will be met. The Code Enforcement Officer may revoke a permit after proper notification and a public hearing if it was issued in error or if based on erroneous information.

### **3.7 Burden of Proof**

In any application for permit, appeal, or other proceeding under this ordinance, the burden of evidence is upon the applicant to establish that the proposed action is in accordance with the requirements of this ordinance.

### **3.8 Legal Action and Violations**

**A.** When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer is hereby authorized and directed to institute any and all actions and proceedings that may be necessary to enforce this Ordinance in the name of the town. All actions authorized under this section shall be reported to the Board of Selectmen within thirty (30) days of the action taken.

**B.** Any person, firm or corporation being the owner, contractor or having

control or use of any structure or premises who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with provisions of 30A M.R.S.A. sec. 4452. Each day such a violation is permitted to exist after notification by the Code Enforcement Officer shall constitute a separate offense. Fines shall be payable to the town.

### **3.9 Performance Guarantees**

**A.** Performance guarantees, when required, shall be tendered for all improvements to public facilities required under this ordinance, including but not limited to, sidewalks, drainage facilities, traffic control devices, roadway and curbing within the public right-of-way, street lights, and water and sewer facilities.

**B.** At the time of approval of the permit application, the applicant shall tender either a certified check payable to the Town, an irrevocable letter of credit from a lending institution, or a performance bond payable to the Town issued by a surety company in an amount adequate to cover the total costs of all required improvements and municipal inspection thereof, taking into account the time span of the bond and the effects of inflation upon costs. The conditions and amount of the certified check or performance bond shall be determined by the planning board in consultation with the Board of Selectmen.

**C.** Prior to the release of any part of the performance guarantee, the CEO shall determine that the proposed improvements meet or exceed the approved design and construction plans for that portion of the improvements. The cost of inspections required under section D, below, shall be deducted from the amount to be released. Any interest accumulated shall be returned to the developer.

**D.** The Code Enforcement Officer may retain the services of a qualified individual or firm to inspect the construction of the required improvements. If the appointed inspector finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Code Enforcement Officer. The CEO shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the town's rights under the guarantee.



### **3.10 Board of Appeals**

#### **A. Establishment and Organization**

- 1.** The Board of Appeals for the Town of Randolph shall consist of five (5) regular members and two (2) associate members. When a regular member is unable to act because of conflict of interest, physical incapacity, or absence, an associate member shall act in their stead.
- 2.** The term of office of a member or associate is five (5) years, staggered so that one term expires each calendar year. Members of the Board of Appeals shall be appointed by the Board of Selectmen. A selectman or spouse may not be a member or associate member of the Board of Appeals. When there is a permanent vacancy, the selectmen shall appoint a new member to serve for the remainder of the unexpired term.
- 3.** Members of the Board of Appeals may be removed from office by the Board of Selectmen for cause upon written charges and after public hearing.
- 4.** The Board of Appeals shall elect a chairperson and secretary from its own membership.

#### **B. Proceedings of the Board of Appeals**

The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this Ordinance and Title 30\_A, M.R.S.A., section 2691. Meetings shall be held at the call of the chairperson and at such other times as necessary. The chairperson, or in their absence, the acting chairperson, may administer oath and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the town offices. A quorum shall consist of three members.

#### **C. Powers and Duties of the Board of Appeals**

The Board of Appeals shall have the following powers:

- 1. Administrative Review:** To hear and decide questions where it is alleged there is an omission or error in any order, requirement, decision, or determination made by the Code Enforcement Officer in the enforcement

of this ordinance; or any appeal designated an administrative appeal in this ordinance.

**2. Variances:** To authorize relief from dimensional standards upon appeal in specific cases of hardship, within the limitations set forth in this ordinance.

**a)** Variances may be obtained only for the dimensional standards specified in section 6.4 of this ordinance. Variances cannot, under any circumstances, be granted for establishment of a prohibited use.

**b)** The Board of Appeals shall not grant a variance unless it makes a finding of undue hardship, as defined in this ordinance and state law. Such hardship may be found by the Board of Appeals where this ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner, financial hardship, or pleading that a greater return may be realized from the applicant's property were a variance granted shall not be sufficient evidence of undue hardship.

**c)** The variance granted shall be the minimum necessary to make possible the use of the property and will preserve the terms of the ordinance as much as possible. The Board of Appeals may impose such conditions to a variance as it deems necessary, to this end.

#### **D. Appeal Procedure**

**1.** An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be filed within thirty (30) days of the decision appealed from.

**2.** Such appeal shall be made by filing with the Town Clerk a written notice of appeal, specifying ordinance section being appealed and the grounds for such appeal. For a variance appeal the appellant shall also submit:

**a)** A sketch drawn to scale showing lot lines, location of existing building, and other physical features pertinent to the variance request.

**b)** A concise written statement stating what variance is requested and why it should be granted.

**3.** Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the appellant shall pay the balance.

**4.** The Board of Appeals shall hold a public hearing on the appeal within twenty-five (25) days. Upon being notified of an appeal, the Code Enforcement Officer shall provide all records of the decision being

appealed. At least fifteen (15) days prior to the date of the hearing, the Town Clerk shall cause to be published in one issue of a newspaper of general circulation in the town a notice which includes:

- a)** The name of the person appealing.
- b)** A brief description of the property involved.
- c)** A brief description of the decision appealed from, or the nature of a variance appeal.
- d)** The time and place of the Board's hearing.

At least ten (10) days prior to the date of the hearing, the Town Clerk shall also give similar written notice to:

- a)** All property owners of record within 500 feet of the affected property,
- b)** The person making the appeal,
- c)** The Code Enforcement Officer, and any other parties of record, and
- d)** The general public, by means of public posting at the town office.

#### **E. Hearing Procedure**

**1.** The Board of Appeals may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross examinations as may be required for a full and true disclosure of the facts.

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

**3.** At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued from the advertised time and place except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing will continue.

**4.** The Code Enforcement Officer or their designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs,

or other material he deems appropriate for an understanding of the appeal.

5. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.

6. The record may be kept open after the hearing by order of the Chair until a date established by the order.

#### **F. Decisions of the Board of Appeals**

1. The concurring vote of at least three (3) members present at the public hearing shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the appellant on any matter on which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance.

2. The Board of Appeals shall decide all appeals within thirty (30) days after the hearing, and shall issue a written decision on all appeals.

3. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the appellant, their representative or agent, the Planning Board, the Code Enforcement Officer, and the Town Clerk within seven (7) days of the decision date.

4. Upon notification of the granting of an appeal by the Board of Appeals, the CEO shall in a timely manner issue a Permit in accordance with the conditions of the approval, unless the appellant needs a Conditional Use Permit.

5. Appeals may be taken as permitted by law from any decision of the Board of Appeals to Kennebec County Superior Court.

#### **G. Stay of Proceedings**

An appeal stays all legal proceedings related to the action unless the CEO certifies to the Board of Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause irreparable harm to property or create a threat to the life or health of

any person including the appellant. In such case, the CEO, if legally authorized by State law or local ordinance, may seek injunctive relief or refer the matter to the Board of Selectmen for prosecution.

## **ARTICLE 4: Amendments**

### **4.1 *Initiation***

A proposal for an amendment to this Ordinance may be initiated by:

- A.** The Planning Board, by majority vote of the Board;
- B.** The Board of Selectmen, through a request to the Planning Board;
- C.** An individual, through a request to the Planning Board; or
- D.** A written petition of a number of voters equal to at least ten percent (10%) of the voters in the last gubernatorial election.
- E.** A committee established and appointed by the Board of Selectmen for the expressed purpose of revising the comprehensive plan or this ordinance.

### **4.2 *Procedure***

**A.** A request for an amendment presented to the planning board shall be in writing and state the specific changes requested. When a change in district boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by an individual under section C, above, the individual shall bear the costs of hearings and advertisements.

**B.** Within thirty (30) calendar days of receiving a request for amendment, the planning board shall hold a public hearing. Notice of the public hearing shall be provided as follows:

- 1.** The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.
- 2.** The notice shall be posted in the Town Office at least fourteen (14) days prior to the hearing.
- 3.** The notice shall be published in a newspaper with general circulation within the Town. The date of the first publication shall be at least (14) days prior to the hearing; The date of the second publication shall be at least

seven (7) days prior to the hearing.

**4.** In the case of a proposal changing district boundaries or the status of permitted or prohibited uses within a district, notice shall be sent by certified mail to all persons owning property within the area proposed to be affected, and within 500 feet of any specific property proposed to be affected. The notice shall include a map illustrating the proposed change. The notice shall be mailed at least fourteen (14) days prior to the hearing.

**C.** The Planning Board shall vote whether to forward the proposed amendment to the Board of Selectmen and shall make a written recommendation regarding passage. The Planning Board may suggest such changes in the wording or map as proposed as it deems necessary.

#### **4.3 Adoption**

**A.** The Board of Selectmen shall determine the form and content of the warrant article proposing the amendment and shall schedule the amendment for vote at a Town Meeting.

**B.** An amendment to this ordinance shall become effective only upon adoption by the Town Meeting.

### **ARTICLE 5: General Provisions**

#### **5.1 Land Use Requirements**

Except as hereinafter specified, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved, or altered and no new lot shall be created unless in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

#### **5.2 Lots Divided by District Boundaries**

When a lot is divided by a use district boundary, the following rules shall apply:

**A.** On lots two acres or less in area, district regulations shall be applied as if the entire lot were in one district. The owner of the property has the option to choose either district.

**B.** On lots larger than two acres, district regulations shall be followed in each portion.

### 5.3 *Nonconformance*

#### A. General\*

1. Continuance, Enlargement, Expansion, Reconstruction: Any nonconforming use of nonconforming structure may continue to exist but may not be extended, reconstructed, enlarged, expanded, or structurally altered except as specified below.
2. Transfer of Ownership: Nonconforming structures, nonconforming lots of record, and nonconforming uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

#### B. Nonconforming Uses

1. Resumption Prohibited: A lot, building, or structure in or on which a nonconforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not resume the nonconforming use, even if the owner has not intended to abandon the use.
2. A Structure Nonconforming As To Use: Except for single family dwellings, a building or structure, nonconforming as to use, shall not be enlarged unless the nonconforming use is terminated. A nonconforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use nonconforming.
3. Change of Use: An existing nonconforming use may be changed to another nonconforming use provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use, and the impact on adjacent properties is less adverse than the impact of the former use. This determination shall be made by the Board of Appeals under the provisions for an administrative appeal. Their determination must be supported by written findings on the probable changes in traffic (volume and type), parking, noise, waste generation, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Articles 7, 8, and 9 of this Ordinance shall apply to such requests to establish new nonconforming uses.

**4. Use of Land:** A nonconforming use of land may not be extended into any part of the remainder of a lot of land. A nonconforming use of land which is accessory to a nonconforming use of a building shall be discontinued at the same time the nonconforming use of the building is discontinued. In the case of earth removal operations, the removal of earth may not be extended as a nonconforming use beyond the required setback lines of the specific parcel upon which such operations were in progress when such use became nonconforming, as required by the performance standards for extractive industries. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the nonconforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

**5. Lack of Required Parking or Loading Space:** A building or use which is nonconforming as to the requirements for off street parking and/or loading space shall not be enlarged, added to, or altered unless off street parking is provided sufficient to meet the requirements of this Ordinance for both new and existing uses, or a variance is obtained. The provision of adequate off-street parking for an existing nonconforming use shall not be considered the expansion of the use.

### **C. Nonconforming Structures**

**1. Enlargements Controlled:** A nonconforming structure may be added to or enlarged if such addition or enlargement conforms to all the regulations of the district in which it is located, and if the addition does not increase the nonconformity of the structure; or if a variance is obtained.

**a)** The addition of a patio or walkway entirely at ground level does not constitute the expansion of a nonconforming structure. The addition of steps or the enclosure of an existing deck does not constitute the expansion of a nonconforming structure. But the addition of a deck shall constitute the expansion of a nonconforming structure and shall meet all the dimensional standards, except lot area and frontage, of this Ordinance.

**b)** The placing of a foundation below a lawfully existing nonconforming structure does not constitute the expansion of the structure if the first floor space of the structure is not increased. Construction or expansion of a foundation under an existing dwelling which expands habitable space shall be considered an expansion and shall be subject to this Ordinance and other state and local regulations.



**2. Discontinuance:** Discontinuance of the use of a nonconforming structure shall not affect the nonconformance of the structure itself. Conforming use of the structure may be commenced at any time.

**3. Restoration or Replacement:** This Ordinance allows the normal upkeep and maintenance of nonconforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the nonconforming use or structure and the value of which is less than 50% of the market value of the structure before the repair is started; and such other changes in a nonconforming use or structure as Federal, State, or local building and safety codes may require.

**4. Any nonconforming structure which is damaged or destroyed by fire or any cause other than the willful act of the owner or their agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:**

**a)** The replacement structure shall not exceed any of the nonconforming dimensions of the original structure;

**b)** Any nonconforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Subsurface Wastewater Disposal Rules; and

**c)** No nonconforming use shall be expanded in area. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

**5. If two or more principal structures exist on a single lot of record on the effective date of this Ordinance, each may be sold as a separate lot, providing setbacks for each structure are met to the greatest extent possible.**

#### **D. Nonconforming Lots of Record**

**1. Vacant Lots:** A vacant nonconforming lot, legally existing on the effective date of this Ordinance, may be built upon provided that all provisions of this Ordinance except lot size and frontage can be met. Variance of dimensional requirements shall be obtained only through the Board of Appeals.

**2. Built Lots:** A nonconforming lot that was built upon prior to this Ordinance is subject to the following restrictions: The structure(s) may be

repaired, maintained, or improved, and may be enlarged, provided it meets all dimensional requirements of this Ordinance except lot size and frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance must be obtained from the Board of Appeals.

**3. Contiguous Built Lots:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

#### **E. Nonconforming Use Rights**

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required state permits and approvals. Such rights arise when substantial construction of structures and development infrastructure improvements for town approved subdivisions began prior to the adoption of this Ordinance, or in the case of pending applications, when the review process on an application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both state and local.

## **ARTICLE 6: Land Use Districts**

### **6.1 *Official Map***

Districts are located and bounded as shown on the Official Map which is made a part of this Ordinance.

#### **A. Certification of Map**

The Official Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Map adopted as part of the Randolph Land Use and Development Ordinance," together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Clerk.

## **B. Changes to the Official Map**

If an amendment is made to the district boundaries, or other matter Map, such changes shall be made on the Official Map within fourteen (14) days after the amendment has been adopted together with an entry on the Official Map as follows:

"On (date) by official action of the Town, the following change(s) was (were) made: (insert brief description of the nature of change)."  
Immediately beneath the entry the Town Clerk shall place their signature.

## **C. Replacement of Official Map**

In the event that the Official Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions the Town Meeting shall adopt a new Official Map.

## **6.2 Establishment of Districts**

### **A. Rules Governing District Boundaries**

Where boundaries of districts as shown on the Official Map are unclear, the following rules shall apply.

- 1.** Boundaries indicated as following streets, highways, railroad rights of way, rivers, or streams, or defined in terms of their distance from said features, shall be construed to precisely reference the center line of the feature.
- 2.** Boundaries indicated as following lot lines shall be construed as following the lines as they exist on the ground. In cases where a lot line shifts due to boundary line adjustments, the district boundary shall shift accordingly.
- 3.** The boundary of all districts abutting neighboring towns shall be the Town limits.
- 4.** Boundaries indicated as following water courses shall, in the event of shifting alignments, be construed as shifting with the new alignment.
- 5.** Sources for the exact delineation of the Special Flood Hazard areas shall be the Town of Randolph Flood Insurance Map.
- 6.** Distances not specifically indicated on the Official Map shall be determined by the scale of the map.

7. Where physical or cultural features existing on the ground do not conform with those shown on the Official Map, or other circumstances not covered above, the Board of Appeals is authorized to set and interpret the district boundaries as an Administrative Appeal.

**B. Designation of Districts**

The following Land Use Districts are hereby established and are designated as follows:

- D = Downtown District
- C = Commercial District
- U = Urban Residential District
- R = Residential District
- RC = Resource Conservation

These districts are intended to complement and not to supersede the districts established in the Town of Randolph Shoreland Zoning Ordinance.

**6.3 Purpose of Districts**

Each Land Use District designated in this ordinance is intended to further and promote the purposes of the Comprehensive Plan and the health, safety, and general welfare of its occupants.

**A. Downtown District (D)**

The Downtown District consists of the portion of the Commercial Area that is threatened not only by periodic flooding but by traffic increases which reduce the accessibility of businesses in the district. The purpose of this district is to discourage uses which would be incompatible with the floodplain, while preserving existing investment and viability of the district with businesses oriented to serve the urban residential neighborhoods. All uses designated and permitted in this District shall also be subject to provisions of the Town of Randolph Floodplain Management Ordinance.

**B. Commercial District (C)**

The Commercial District is provided to accommodate and encourage commercial development in areas where public facilities and services such as fire protection, primary roads, public water and sewer, are available. The commercial district allows for expansion of commercial possibilities on both a

small and large scale, while not limiting the potential for residential use, mobile home parks, or multi-family dwellings.

**C. Urban Residential District (U)**

The Urban Residential District is intended to promote quality moderate to high density urban neighborhoods. The purpose is to preserve residential property values in the downtown neighborhood while at the same time allowing it to grow and flourish.

**D. Residential District (R)**

The purpose of the Residential District is to provide opportunity for residential growth within the Town. The Residential District is intended to accommodate medium density residential development based on the availability of public water and sewer, as well as commercial development compatible with the preservation of property values and quiet enjoyment as a residential neighborhood.

**E. Resource Conservation District (RC)**

The Resource Conservation District is intended to limit development of land that has one or more serious resource-based development limitations. The intent is to prohibit building or major earth-moving on land that is adjacent to waterbodies, is a wetland, is on a steep slope, or part of a designated essential wildlife habitat area.

**6.4 Land Use Activities Permitted by District**

The table in this section is intended to designate which development activities shall be permitted, and what level of permitting is required within each district. Where questions exist as to whether a specific activity falls within a category, the CEO shall determine. Appeal from the determination of the CEO may be taken to the Board of Appeals as Administrative Reviews. Any use not listed is presumed to be not permitted.

This Ordinance is intended to be sensitive to the size, scale, and impact of land use activities. In the Commercial District, specific uses (designated by an “\*”) show a size threshold, expressed as gross floor area, for permitting purposes. The general performance standards, Sections 7 and 8, intend to regulate the impact rather than the existence of uses which might otherwise have been prohibited within the district.

Designation within the table indicates the level of permitting required, as follows:

- A = Allowed without any local permitting
- B = Building Permit Required (CEO)
- C = Conditional Use Permit Required (Planning Board)
- D = Development Permit Required (CEO)
- S = Subdivision Review Required under separate Ordinance
- X = Not permitted in this District

<b>Land Use Activity:</b>	<b>Downtown</b>	<b>Commercial</b>	<b>Urban Residential</b>	<b>Residential</b>	<b>Resource Conservation</b>
<b>Open Space Uses</b> (no buildings): parks, recreation areas, parking lots, cemeteries, farming and forestry	A	A	A	A	A
<b>Residential Uses</b>					
one and two family homes	B	B	B	B	X
multi-family homes and apartments	S	S	S	S	X
mobile homes	B	B	B	B	X
mobile home parks	X	S	S	X	X
home occupations	D	D	D	D	X
Minor home occupations	A	A	A	A	X

<b>Land Use Activity:</b>	<b>Downtown</b>	<b>Commercial</b>	<b>Urban Residential</b>	<b>Residential</b>	<b>Resource Conservation</b>
<b>Commercial Uses</b>					
farm stand, nursery, greenhouse	B	B	D	A	X
retail and wholesale business*	C	D to 10,000 C to 60,000 X above	X	X	X
professional offices*	D	D to 20,000 C above	C	C	X
business and personal services	D	D	X	X	X
adult businesses	X	C	X	X	X
automobile services	C	C	X	X	X
manufacturing facility*	C	D to 20,000 C to 60,000 X above	X	X	X
warehousing*	B	B to 20,000 C to 75,000 X above	X	X	X
commercial recreation structures	C	C	X	C	X
eating and drinking establishments	D	D	X	C	X
bed and breakfast	D	D	C	C	X
hotel, motel	C	C	X	X	X
public utilities (PU), communication towers (CT)	B	B for PU C for CT	X	C	C

<b>Institutional Uses</b>					
public and private educational facilities	D	D	C	C	X
Religious and fraternal facilities	D	D	C	C	X
Governmental facilities	D	B	C	C	X

## 6.5 Dimensional Standards by District

A. The table in this section contains the dimensional requirements of each district. These standards are to be considered minimums, except where noted, and shall not be violated except through the granting of a variance by the Board of Appeals.

Dimensional Standard:	Downtown	Commercial	Urban Residential	Residential	Resource Conservation
Minimum Lot Size	15,000 s.f.	30,000 s.f.	15,000 s.f.	30,000 s.f.	40,000 s.f.
Area required per add'l dwelling unit or commercial lease	10,000 s.f.	10,000 s.f.	10,000 s.f.	15,000 s.f.	N/A
Minimum Lot- Mobile Home Park	Not Allowed	6,500 s.f.	6,500 s.f.	Not Allowed	Not Allowed
Lot Coverage	25%	10%	20%	10%	N/A
Street Frontage	100 feet	300 feet <sup>3</sup>	150 feet	300/150 <sup>1, 2</sup>	N/A
Front Setback (principal)	20 feet	30 feet	30 feet	30 feet	N/A
Side Setback (principal)	15 feet <sup>1</sup>	15 feet <sup>1</sup>	15 feet <sup>1</sup>	15 feet <sup>1</sup>	N/A
Rear Setback (principal)	40 feet	40 feet	40 feet	40 feet	N/A
Building Height (maximum)	35 feet	35 feet	35 feet	35 feet	N/A

<sup>1</sup> Additional Dimensional Standards apply for specified multi-family developments only. See section 9.8.A.

<sup>2</sup> \*The 300 foot frontage standard applies only to commercial lots abutting Water Street and Windsor Street. On all other streets, the frontage requirement is 150 feet.

<sup>3</sup> \*The 300 foot frontage distance required for lots abutting Water Street and Windsor Street can be met by showing the required frontage of 150 ft. on a street or on a dedicated right of way a minimum of 50 feet in width. Required front setbacks can be met by measurement from the street right of way line or the edge of the dedicated right of way line.

### B. Setback for Accessory Structures.

1. In the Residential (R) and Commercial (C) districts, the minimum setback for accessory structures from side and rear property lines shall be a distance equal to the height of the structure.

2. In the Urban Residential (UR) and Downtown (D) districts, the



minimum setback for accessory structures from side and rear property lines shall be a distance equal to one half (1/2) the height of the structure.

## **ARTICLE 7: Environmental and Neighborhood Protection**

### **7.1 Access to Lots**

**A.** No permit required under this ordinance shall be issued to erect any structure on a lot without street frontage.

**B.** An exception shall be made for lots existing prior to the effective date of this ordinance, provided that an access road meeting the following criteria has been constructed within a deeded right-of-way.

**1.** The access road shall be constructed to a minimum travel way width of twelve (12) feet if serving one dwelling unit, and fifteen (15) feet if serving two dwelling units. The access road shall contain a minimum compacted depth of fifteen (15) inches of gravel meeting MDOT Specification 703.06 "Subbase," and have drainage ditches and culverts wherever required by the CEO. Such an access road shall serve no more than two dwelling units.

### **7.2 Air Pollution**

**A.** No emissions of dust, ash, smoke, or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries is permitted. This shall not be construed to include the airborne byproducts of conventional agricultural practices.

**B.** Evidence that appropriate state and federal regulatory requirements for airborne discharges have been met shall be considered sufficient to meet this standard.

### **7.3 Buffering and Screening**

**A.** Buffering of Parking Lots

Parking for commercial and Multifamily Developments located in the

Commercial (C) District shall be separated from the street by a vegetative buffer. The buffer shall include a mixture of shrubs and street trees selected for adaptability to roadside conditions. The property owner shall be responsible for maintenance of the buffer planting, and shall replace deceased plant material within one growing season. The buffer shall be a minimum of fifteen (15) feet in width, with the following exceptions:

1. The width may be reduced to ten (10) feet if the buffer area is bermed to a height of at least two (2) feet, or if a decorative style fence is installed.
2. No street buffer will be required for parking located to the rear of the building.
3. No street buffer will be required in the case of businesses relocating into the District from either the Downtown or Residential Districts.

**B.** In cases where a parking lot exceeds one hundred fifty (150) spaces, additional buffering shall be placed in the interior of the lot. The buffering shall be sufficient to divide the lot into two (2) or more smaller cells of no more than 100 spaces each. The buffering shall consist of fifteen (15) feet of vegetative 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**

The following standards shall apply in all cases where a proposed commercial use abuts a residential district or pre-existing home. The Planning Board may also require screening between commercial developments that it finds may be incompatible.

1. Screening shall consist of a natural or landscaped visual buffer sufficient to insure continuous year round screening unless all elements of the development, including required parking, are set back at least fifty (50) feet from the property line. Where no vegetation can be maintained, or due to unusual site conditions, the screening may consist of fences, walls, berms, or combinations thereof. The buffering shall be sufficient to minimize the impacts of large buildings, vehicle movements, outdoor storage areas, glare, and related commercial activity. The buffer areas shall be maintained and vegetation replaced as necessary. The following is intended as a guide:

- a) A forty (40) foot width will be necessary if the buffer will consist of

natural deciduous woodland or elevational change of at least ten (10) feet.

**b)** A twenty-five (25) foot buffer will be necessary if the buffer will consist of natural coniferous vegetation or a landscaped arrangement of shrubs and trees sufficient to achieve a visual buffer.

**2.** Exposed storage areas and machinery shall be visually shielded from adjoining properties. This shall not be construed to supersede or relieve the screening requirement of the Randolph Junkyard Ordinance or other provisions of this ordinance.

**3.** Where a potential safety hazard will be created, physical barriers sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

#### **7.4 Erosion and Sedimentation Control**

Soil Erosion during development shall be minimized through implementation of erosion control management practices. *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices* (1991, or as revised) produced by Maine DEP and the Cumberland County SWCD shall be used as a guideline. In addition, the following practices shall be followed:

**1.** The stripping of vegetation, removal of soil, regrading, or other development of the site shall be accomplished by limiting the duration of exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.

**2.** Permanent vegetation and/or other erosion control measures should be installed prior to, or no later than six months following, completion of the construction.

**3.** The top or bottom of a cut or fill shall not be closer than ten (10) feet to a property line unless otherwise mutually agreed to by the affected landowner and town. In no instance shall said cut or fill exceed a 3:1 slope.

#### **7.5 Historic and Archeological Resources**

If any portion of the site has been identified as containing historic or archeological resources, the development shall include adequate measures for protecting these resources, including, but not limited to, modification of the proposed building and site layout and design.

**7.6 Natural Resource Protection**

**A. Natural Features**

Site development shall minimize, insofar as possible, tree removal, disturbance and compaction of soil, and grading and filling. No clearing or grading shall be done outside of the clearing limits designated on the site plan.

**B. Habitat Protection**

1. If any portion of the development has been identified as a critical natural area, or as containing rare or endangered species of plants or animals, the developer will avoid, insofar as practical, impacts on those areas. The Planning Board may require a mitigation or management plan if the development area includes the aforementioned areas.

2. If any portion of the development contains a wetland, as determined by the Town of Randolph, The Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, or mitigate impacts on the wetland both during and after construction.

**C. Construction on Steep Slopes.**

No construction of roads, buildings, or other improvements shall occur on slopes in excess of 25 percent. The Planning Board may waive this standard if it finds that the area of greater than 25 percent slope is less than 20,000 square feet in extent and has no direct influence on a surface water body.

**7.7 Noise**

**A.** The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any activity shall be limited by the time period and land use district of the receiving property. Sound levels shall be measured 4 feet above ground at the property boundary.

Sound Pressure Level Limits (Measured in dB(a) scale)

	<u>7 a.m. - 8 p.m.</u>	<u>8 p.m. - 7 a.m.</u>
Residential and Resource Districts	55	45
Commercial, Downtown Districts	60	50

**B.** Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".

**C.** No construction activities shall take place on sites abutting residential property between the hours of 8 p.m. and 7 a.m.

**D.** The above standards shall not apply to the following activities:

- 1.** Sounds emanating from construction & maintenance activities conducted 7AM-8 PM.
- 2.** Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency or public safety devices.

### **7.8 *Outside Lighting***

Commercial lighting shall not directly or indirectly spill over onto abutting properties or impair the vision of a vehicle operator on adjacent streets. Lighting fixtures shall be downward directed, shielded, or hooded so that motorists, pedestrians, or abutters are not exposed to direct illumination. Lighting intensity shall not exceed one (1) foot candle at the property line of neighboring residential properties.

### **7.9 *Storm Water Control***

**A.** All developed areas shall be designed to minimize storm water runoff from the site in excess of natural, predevelopment conditions. Where possible, stormwater runoff shall be directed to the municipal stormwater drain system. Where the municipal system is not available, existing natural features, such as swales and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm flows.

**B.** Storm water runoff control plans should limit peak discharges from the site to predevelopment levels, using best management practices equivalent to those described in *Stormwater Management for Maine: Best Management Practices*, (1995, or as revised) published by Maine DEP. Peak discharge rates shall be calculated based on the 2\_year, 10\_year, and 25\_year frequency, 24\_hour duration storm. A stormwater control plan developed according to the requirements of DEP Regulation, Chapter 500, "Stormwater Management" shall be deemed sufficient to meet this requirement.

C. All stormwater control features shall be regularly maintained by the property owner. No post-permit changes to landforms or structures may be done without approval of the Code Enforcement Officer.

### **7.10 Water Quality**

A. No commercial use shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials so as to contaminate, pollute, or harm any surface or ground water resources or cause nuisances, such as floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

B. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. In addition, such facilities shall be located at least 75 ft. from any lot line, or 40 feet for underground storage. All materials shall be stored in a manner and location which is in compliance with appropriate regulations of the Maine Department of Public Safety and other Federal, State, and local regulations. Storage tanks for "home heating oil" and diesel fuel, not exceeding 330 gallons in size, may be exempted from this requirement.

## **ARTICLE 8: Site Design and Public Facilities Impact**

### **8.1 Access to Public Roads**

A. Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the development. More specifically, access points shall conform to the following standards and design criteria.

1. The number of access points shall be minimized consistent with the need to attain safe and proper vehicular access to the site. Within the Downtown (D) and Commercial (C) Districts, the main access point for

any commercial development shall only be on Water Street, Windsor Street, Birmingham Road, or Barber Road.

**2.** The street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use. No development shall increase the volume capacity ratio of any street above 0.8 nor reduce the street's Level of Service to "D" or below on any street except Water Street, where development may not increase the volume capacity ratio below 1.0 nor reduce the Level of Service to "E" or below.

**3.** Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, driveways and traffic controls within public streets. All such installations shall conform to standards in the *Manual on Uniform Traffic Control Devices*.

**4.** Access points shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.

**5.** Provision shall be made for driveway links to adjoining lots where such links would reduce the need for patrons to travel upon a street.

**6.** In order to provide adequate visibility, all driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level within a triangular area defined by legs of 25 feet measured along the driveway and street lines.

## **B. Design of Access Points**

Design of entry points to public roads shall be based on their estimated volume as follows:

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

*Medium Volume Access:* Any entry point that is not low volume or high volume.

*High Volume Access:* Peak hour volume of 200 or more vehicles.

**1. Sight Distances:** Entry points shall be designed in profile and grading and located to provide adequate sight distance of ten (10) feet for each mile per hour of posted speed limit (or design speed where no speed limit is posted) in both directions. Sight distance is measured from a point ten (10) feet behind the curb line, with the height of the eye at 3 1/2 feet to the top of an object 4 1/2 feet above the pavement.

## 2. Low Volume Design

- a) Angle of Entry.** Low Volume Access points shall be two way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- b) Curb Radius.** The curb radius shall be between 5 feet and 15 feet.
- c) Driveway Width.** The width of the driveway shall be between 12 feet and 20 feet.
- d) Slope.** From the street line, the driveway should slope at 2 percent or less for a distance of 25 feet, followed by a slope of 6 percent or less for at least 50 feet.

## 3. Medium Volume Design

- a) Angle of Entry.** Medium Volume Access points shall be either one way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees.
- b) Curb Radius.** Curb radii will vary depending if the driveway is one way or two-way operation. On a two-way driveway the curb radii shall be between 25 feet and 32 feet. On one-way driveways, the curb radii shall be 30 feet on the turning side and 5 feet on the off side.
- c) Width.** On a two-way driveway the width shall be between 24 and 26 feet; However, where truck traffic is a major element, the width may be increased to 30 feet. On a one-way driveway the width shall be between 16 and 20 feet.
- d) Slope.** From the street line, the driveway should slope at 2 percent or less for a distance of 25 feet, followed by a slope of 4 percent or less for at least 50 feet.

## 4. High Volume Design

- a) Angle of Entry.** High Volume Access points shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees.
- b) Entering and exiting points** shall be separated by a raised median which shall be between 6 feet and 10 feet in width. The median shall define a throat length of adequate dimensions based on the traffic study, but in no case less than 60 feet.



- c) Width. Driveway widths shall be between 20 feet and 26 feet on each side of the median. “Right turn only” lanes established by a channelization island shall be between 16 feet and 20 feet.
- d) Curb Radius. Without channelization islands for right turn movements into and out of the site the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.
- e) Slope. From the street line, the driveway should slope no more than 2 percent for a minimum of 100 feet.
- f) Appropriate traffic control signage shall be erected at the intersection of the driveway and the street and on medians and islands.

**C. Access Point Location and Spacing**

1. On Water Street and Windsor Street only, commercial access points shall be separated from adjacent access and property lines in order to allow the roads to serve their primary function of serving through traffic. Separation distances, as indicated in the table below, shall be measured from the point of tangency (PT) of the intersection curb radius or the intersection of the projected side property line to the point of tangency of the driveway curb.

Access Type	Minimum Spacing to Property Line		Minimum Spacing to Adjacent Driveway by Driveway Type		
	(feet)	Low (feet)	Medium (feet)	High w/o RT* (feet)	High W/RT** (feet)
Low Volume	5	50	-----	-----	-----
Medium Volume	10	-----	75	-----	-----
High Volume (w/u RT)*	75	-----	75	150	-----
High Volume (w/RT)**	75	-----	75	250	500
Limited Access	10	-----	75	75	75

\*High Volume without right turn channelization

\*\*High Volume with right turn channelization

2. Street Intersections: Separation of commercial access points from street intersections shall be the maximum practicable based on site limitations. Minimum separation distance shall be fifty (50) feet for a low or medium volume access, and two hundred fifty (250) feet for a high volume access. This distance shall be measured between the curb radius point of tangency to the point of tangency of the intersection

curbing. Construction of a shared access point with an adjacent parcel is recommended as a means of meeting this standard.

#### **D. Number of Access Points**

The following criteria limits the number of access points independent of frontage length.

- 1.** Developments estimated to generate less than ten (10) vehicle trips at the peak hour or 100 vehicle trips per day shall be limited to one two way access point onto a single roadway.
- 2.** All other developments shall be permitted no more than two way access points or three accesses total onto a single roadway.

#### **E. Construction Materials/Paving**

- 1.** All driveways entering a curbed street shall be curbed with materials matching the street curbing. Curbing shall be placed around all raised islands or medians. Any driveway which intersects an existing or planned sidewalk shall incorporate ramped access curbing in accordance with the Americans with Disabilities Act.
- 2.** All driveways shall be paved with bituminous concrete pavement within the street right-of-way. Paving shall consist of a minimum pavement thickness of three (3) inches over a compacted subbase of gravel of at least 24 inches in thickness and meeting MDOT Spec. 703.06.

### **8.2 Off Street Parking**

#### **A. General**

No use requiring a permit shall be approved, and no structure shall be constructed or enlarged, unless off street automobile parking space is provided in accordance with the following standards.

## **B. Parking Lot Design Criteria**

### **1. Access Restrictions**

- a)** Parking areas with more than two (2) parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
- b)** Vehicle access points shall be designed in conformance with section 8.1, above.
- c)** All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, unless more is required for buffer yards.

### **2. Interior Vehicular Circulation**

- a)** Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement, with particular reference to the necessity of avoiding slowing vehicles on the public road. Access to parking stalls should not be from major interior travel lanes.
- b)** Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.
- c)** Parking spaces shall not be included in design calculations if they cannot be accessed directly from a travel way without moving another vehicle.
- d)** Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- e)** Any layout that utilizes vehicular access service (“drive-up”) windows shall provide a minimum of five (5) car lengths of queuing space on the incoming side of every service stop. The required queuing space shall be designed so that it shall not interfere with parking and circulation on the remainder of the site or vehicles on the public road.

### **3. Layout of Parking Stalls and Aisles**

- a)** Parking stalls shall be a minimum of nine (9) feet in width by eighteen (18) feet in length for conventional arrangement. 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.

**b)** In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a min. of 4" in width. Where double lines are used, they should be separated a min. of 1'0" on center.

**c)** Two-way aisles shall be a minimum of twenty-two (22) feet in width. One-way aisles shall be a minimum of eighteen (18) feet in width.

**d)** Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

**e)** The provision of oversize spaces shall be permitted for activities that ordinarily serve oversize vehicles, such as recreational trailers, delivery trucks or tractor-trailer trucks. Outside storage space for vehicles used in the operation of the business (e.g. delivery vans, contractor equipment) shall not be included as required parking spaces.

#### **4. Paving Required**

All parking areas, driveways, and other areas serving ten (10) or more Vehicles shall be paved with a three (3) inch layer bituminous concrete over a gravel subbase at least 18" in thickness, and shall have appropriate bumper or wheel guards where needed.

### **C. Standards for Number of Parking Spaces**

#### **1. Basic Requirements for Parking Space**

Adequate off-street parking shall be provided by the developer. The table below shall be interpreted as a guide, subject to adjustments in Subsection 2, following. At least one space, plus one additional space for every twenty-five (25) required, shall be designated as available exclusively for handicapped persons:

<b>Number of Spaces Land Use Activity</b>	
<b>Places of Residence or Accommodation-</b>	Spaces per occupancy or dwelling unit
	1/3 Dedicated Retirement Home, Nursing Care Facility
	1 Hotel, Motel, Bed & Breakfast, College Residence Hall
	2 Multifamily buildings
<b>Places of Public Assembly-</b>	Spaces per seat based on maximum seating capacity
<b>1 per 3 occupant capacity</b>	Church, Theater with fixed seating, spectator sport venues
<b>1 per 2 occupant capacity</b>	Restaurant, Convention Center, Meeting Hall, Grange, Bottle Club
<b>Places of Commerce and Industry-</b>	spaces per 1,000 sq. ft. of gross floor area
	1 Warehousing, Inside sales of motor vehicles, indoor sports facility
	1 1/2 Industrial and Manufacturing Facilities, wholesaling
	3 Grocery Stores over 5,000 sq. ft., Offices, professional, and personal services, except as noted.
	4 Retail Sales except as noted
	5 Banks, Medical and Dental Offices, Fitness Clubs, Day Care
<b>Public and Institutional Facilities-</b>	spaces per 1,000 sq. ft. of gross floor area
	2 Elementary Schools
	4 Secondary School, Residence College, Library, Museum, Art Center, Municipal Office.
	6 Commuter College, Hospital
<b>Miscellaneous-criteria as specified</b>	25 per acre Mini-golf, Go-Carts, and other Outdoor Commercial Recreation
	5 per lane Bowling Alley
	3 per service bay + 1 per Automobile services, except as noted
	10 vehicles displayed

**2. Conditional Modification of Requirements:** The planning board is permitted to modify these standards as minimum requirements, under the following circumstances:

**a)** By up to 10 percent, based upon a showing that similar uses under similar circumstances generate greater or less demand, or that the development is designed to accommodate alternate forms of transport (e.g. bicycles, bus service).

**b)** In the Downtown District only, the planning board may permit any use to provide up to 100 percent of its parking requirement through the cooperative development and maintenance of a municipal or public parking lot. Alternatively, the 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 uses listed below may satisfy up to 50 percent of their parking needs through a shared-use agreement with a non-listed use: All Places of Public Assembly, Fitness Clubs, Bowling Alleys.

**d)** A development may include as a portion of its parking requirement the provision of parking spaces not located on the same lot provided that a) the spaces are located within 200 feet of the property line, b) a written agreement is in place for long-term use of the spaces, and c) the spaces would not be among the minimum required for a pre-existing or already permitted use.

**3. Mixed Uses:** Any portion of an activity or use which is listed separately on the table above shall be considered as a separate use for the purpose of calculating spaces if it exceeds in area or seating capacity 25 percent of the overall size of the building or development. If a mixed use consists of any residential use together with any commercial use, no parking shall be required for the residential use unless it consists of more than 67 percent of the building area.

**D. Standards for Loading Bays**

**1.** Loading facilities shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers for loading or storage shall not be located upon any public road, nor shall trucks be required to park or maneuver on the public road in order to load or unload. No loading bays shall be on the side of the building facing a street.

**2.** The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use for the purpose of retail, office, consumer services, wholesale, warehouse and industrial operations.

5,001 to 20,000 sq. ft.	1 Bay
20,001 to 80,000 sq. ft.	2 Bays
80,001 to 130,000 sq. ft.	3 Bays

Each 100,000 square feet over 130,000 square feet requires (1) additional bay.

**8.3 Signs**

This section contains standards for sign location, size, and placement in addition to those of the Maine Traveler Information Services Act, 23 M.R.S.A. section 1901 et seq.

**A.** In the Residential Districts, the following signs shall be permitted.

1. Signs may be used to convey the inhabitants' names, the property name, or safety and caution messages. No signs shall be placed on the roof of the building.
2. Rental vacancies may be advertised with a nonilluminated sign no larger than six (6) square feet. Such sign shall be erected only during such times as the rental property is vacant.
3. The sale of real estate may be advertised by a single, nonilluminated temporary sign, no larger than six square feet in area.
4. Educational, religious, and other institutional uses may display one nonilluminated sign for each building. No such sign shall be larger than twenty (20) square feet in area.
5. Commercial uses may display one sign, which shall be no more than twenty (20) square feet in area.

**B. In the Commercial Districts, the following signs shall be permitted:**

- 1.\* Advertising shall be limited to goods and services available within the premises. Signs shall be permanently affixed to the land or building except as allowed in subsection D, below. The total area of signage in square feet shall not exceed twice the linear street frontage of the property (e.g. a lot with 150' of street frontage may have no more than ~~150~~ 300 sq. ft. of sign area). On corner lots, only the longest street frontage may be used. When a business has no road frontage, ~~Commercial uses may display~~ one sign which shall be no more than twenty (20) square feet in area is allowed.
2. Free standing signs (not building-mounted) shall be subject to the following requirements:
  - a)\* No sign, or its supports, may be in the public right of way. Signs shall be placed no closer than 10 feet from the edge of the street right-of-way, except in the Downtown District, where they may be placed no closer than five (5) feet from the right-of-way.
  - b)\* No portion of any free-standing sign shall extend more than ~~20~~ 25 feet above ground level, or above the level of the public street,

whichever is higher.

**c)** No single free-standing sign shall exceed 50 percent of the allowable sign area for the lot.

**d)** No more than two free-standing signs shall be permitted per lot or business.

**e)** Within an approved commercial subdivision, property owners may pool their permissible sign area into a free-standing sign at the entrance to the development.

**3.** Building-mounted signs shall be subject to the following requirements:

**a)\*** There shall be no more than ~~five~~ ten building-mounted signs permitted, except in the case where there are multiple lessees of a building, in which case, there shall be permitted no more than two signs per lessee.

**b)** If mounted on the building in such a way as to overhang a pedestrian walkway or public sidewalk, no portion of the sign shall extend beyond five (5) feet of the building face to which attached, nor within ten (10) feet vertical distance of the sidewalk.

**c)** If the proposed sign is to be “flush-mounted,” it shall not extend or project more than twelve (12) inches from the building wall. Cut out letters should not project more than six (6) inches from the building wall.

**d)** No portion of a sign structure shall be permitted on the roof nor above the cornice line of any building.

**e)** Signs permanently mounted within a window shall not cover more than 30% of the window area.

### C. Illumination of Signs

**1.\*** No sign shall be illuminated with flashing, moving, or animated type lights, or display continuous streaming of information or video animation.



**2.\*** Changeable message signs must comply with the Town of Randolph Changeable Sign Ordinance.

**3.\*** All illumination lights shall be designed and installed so as to minimize glare and be shielded to prevent beams or rays of light from being directed at any portion of the public way.

**4.\*** Illumination shall be with white light only may be white or color light and be of such intensity or brilliance as to not cause glare or impair the vision of motorists.

**5.** No sign shall be illuminated between the hours of 10 PM and 6 AM, unless the establishment is open for business during those hours.

**D. Temporary signs**

Signs and banners for special events may be posted in any district upon written notification of the Code Enforcement Officer. A temporary sign shall be posted for a period of not more than twenty (20) days within any ninety (90) day period. Temporary signs shall be removed promptly upon termination of the event. No temporary sign nor banner shall be placed in or above the right-of-way of a public street, except by written permission of the selectmen.

**E. The following are not considered signs subject to these provisions:**

- 1.** Flags and insignia of any government
- 2.** Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- 3.** Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving or flashing lights.
- 4.** Signs placed for the purpose of guiding traffic and parking on private property.

**F.** Existing, nonconforming signs may be maintained but may not be replaced except by conforming signs. Upon change of use of a business premises, all nonconforming signs must be removed or replaced by conforming signs.

**8.4 Solid and Liquid Wastes**

**A.** The development shall provide for the disposal of all solid wastes on a timely

basis and in an environmentally safe manner.

**B. Sanitary and Liquid Wastes**

**1.** For development of property not within the service area of the Gardiner Sanitary District, the approval of a permit shall be subject to presentation of a completed site evaluation form (HHE\_200) which evidences adequate soil conditions for wastewater disposal.

**2.** Industrial or commercial waste waters may be discharged to municipal sewers only and in such quantities and/or such quality as to be compatible with commonly accepted municipal sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to municipal treatment processes. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system. The Planning Board shall consider the impact of particular industrial or chemical wastes or byproducts upon the system's facilities (in terms of volume, flammability, or toxicity) and may require the development to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

**ARTICLE 9: Design Standards Applicable to Specific Activities**

**9.1 *Adult Businesses***

The purpose of this provision is to permit the establishment of adult businesses, as defined, in such manner and location as will protect the general welfare and preserve the community standard.

**A. Physical Separation:** Where permitted, adult businesses shall not be located within 250 feet of a residential district boundary, nor within 500 feet of an existing educational, or religious use, nor within 500 feet of any other adult business.

**B. Signs:** In addition to the provisions of Section 8.3 of this ordinance, signs for adult business shall not depict the human figure in any unclothed or offensive

manner. No sexually explicit message, materials, or activity shall be visible from the exterior of the building.

## **9.2 Automobile Graveyards and Junkyards**

Automobile graveyards and junkyards, in addition to meeting the standards of this ordinance, shall be licensed and regulated under the provisions of the Town of Randolph “Ordinance to Regulate Automobile Graveyards and Junkyards.” Nothing in this ordinance shall be construed to limit the scope, extent, or requirements of that ordinance.

## **9.3 Campgrounds**

Campgrounds are considered subdivisions and shall conform to the requirements of the “Town of Randolph Subdivision Ordinance” as well as minimum requirements imposed under State of Maine Licensing procedures and the following standards.

### **A. General**

- 1.** All camping units or structures shall be located at least 100 feet from any property line and 200 feet from any abutting residence.
- 2.** Campsites shall be laid out and screened in such a manner that none are within view from public roads, neighboring residences, or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to screen this activity, when sites would otherwise be visible from the locations described above.
- 3.** No trailers other than recreational or utility trailers, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.
- 4.** Tent sites and sites for trailers and RVs shall be laid out so that the density of each developed acre does not exceed the standards below:

	<b>Non Shoreland</b>	<b>Shoreland District</b>
Tent sites	14 per acre	8 per acre
Trailer/RV sites	11 per acre	7 per acre

5. All camping sites shall meet the setback requirements of the “Town of Randolph Shoreland Zoning Ordinance.”

6. No permanent structure shall be located within the Resource Conservation District or within the 100 year flood plain.

#### **B. Parking and Circulation**

1. A minimum of three hundred (300) square feet of off-street parking plus maneuvering space shall be provided for each RV, tent, or shelter site. RVs shall be parked in spaces such that there will be a minimum of fifty (50) feet between vehicles.

2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. If not paved, roads shall be treated for dust control on a regular basis. No vehicle parking shall be permitted on the campground roads.

#### **C. Health and Safety**

1. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table.

2. There must be at least one trash receptacle of appropriate size and one water taps provided for every twelve (12) camp sites. The park management shall dispose of refuse in an enclosed truck or enclosed containers at least once every three days.

3. A campground shall provide water and sewage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. At least one toilet, one shower, and one lavatory shall be provided for each sex for every ten campsites. All RV and trailer sites shall be equipped with connections to approved distribution or disposal systems.

4. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24-hour emergency communication service (e.g. telephones) shall be provided.

## **9.4 Earth-Moving Operations**

**A. Annual Permit Required:** Earth-moving operations, including the removal or transport of topsoil, rock, gravel, and similar earth materials, are permitted only after review by the planning board. This permit shall be renewed annually. The following activities are exempt from this requirement;

- 1.** The removal or transfer of less than ten (10) cubic yards of material from or onto any lot in any twelve-month period.
- 2.** The removal or transfer of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto, or where all operations are confined to one contiguous ownership; and
- 3.** The grading or shifting of material incidental to construction, alteration, or repair of a public or private way or essential service.

### **B. Submission Requirements**

**1.** Applications to the planning board for the annual permit shall include the following elements:

- a)** A site plan with topography indicating not greater than five (5) foot contour intervals, related to US Geodetic Survey data; the location and slope of the grades, existing and proposed upon completion of the extraction operation; detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed operating procedure and working hours.
- b)** A plan for reclamation of the site upon completion of the operation, conforming to subsection C.11, below;
- c)** A hydrogeologic study (first-time permits, only) to determine the effects of the proposed activity on groundwater movement and quality in the vicinity;
- d)** Proof of adequate insurance against liability arising from the proposed extraction operations, to be maintained throughout the period of operation.

### **C. Performance Standards**

**1.** No part of any extraction operation shall be permitted within 150 feet of any property or street line, except that drainage ways to reduce

runoff into or from the extraction area may be allowed. Natural vegetation shall be left and maintained on the undisturbed land.

**2.** If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.

**3.** No slopes steeper than 3 feet horizontal to 1 foot vertical (3:1) shall be permitted at any extraction site unless a fence at least six (6) feet is erected to limit access to such locations.

**4.** Topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stockpiled for use in restoring the location after extraction operations have ceased. Stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this ordinance.

**5.** The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to published Best Management Practices.

**6.** Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.

**7.** The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.

**8.** Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Board of Selectmen. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.

**9.** All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.

**10.** No equipment debris, junk, or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

**11.** Within six (6) months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the submitted reclamation plans.

**a)** All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or, in the case of inorganic materials, buried and covered with a minimum of 2 feet of soil.

**b)** The extent and type of grading material shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.

**c)** Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

**d)** At least 4" inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a stable condition adequate to meet the provisions of the Environmental Quality Handbook, Erosion and Sediment Control, as amended.

**e)** No slope greater than 3 feet horizontal to 1 foot vertical (3:1) shall be permitted.

#### **9.5 *Ground Water and/or Spring Water Extraction and/or Storage***

**A.** Permit Required. The removal of more than 1000 gallons per day of ground water or spring water for commercial purposes is a conditional use in all districts.

**B.** Submission Requirements. The application shall include the following information:

**1.** 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;

**2.** A letter from the Maine Department of Human Services approving

the facility as proposed where the Department has jurisdiction over the proposal;

**3.** A hydrogeologic report by a certified professional geologist or registered professional engineer. This report shall include:

**a)** 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.

**b)** An estimate of any potential interaction between this aquifer and adjacent aquifers. 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 shall be assessed.

### **C. Performance Standards**

**1.** The quantity of water to be taken from water sources will not substantially lower the ground water table beyond the property lines, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, during a drought with a probability of occurrence of once in ten years.

**2.** The proposed facility shall not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.

**3.** The operator shall make monthly operating records of the quantity of water extracted, stored, and removed from the site, available to the Code Enforcement Officer or a designee.

## **9.6 Home Occupations**

A home occupation, within the standards of this section, may be located in any residential or commercial district upon issuance of a Development Permit from the Code Enforcement Officer. Any business which cannot meet the definition of "Home Occupation" or the standards of this section, may still be permitted, based on use and subject to the appropriate standards of this ordinance.

**A.** A home occupation may not alter the residential character of the structure or neighborhood, or alter the lot from its principal use as a residence.



- B.** Any outside storage or display of materials or products shall be screened from view from the abutting properties and street.
- C.** Off-street parking shall be provided according to the use and area occupied as classified in the table in section 8.2.D.1. All parking shall be located to the rear or side yard of the principal structure, but not within the required yard setbacks.
- D.** One nonilluminated sign, no larger than six (6) square feet may be erected on the premises.
- E.** The sale of products shall not take place after 7 PM nor before 7 AM, and shall be limited to those items which are produced or substantially altered on the premises, to catalog items ordered off the premises by customers, and to items which are accessory and incidental to a service which is provided on the premises.
- F.** A home occupation shall not involve the use of heavy commercial vehicles for delivery to or from the premises, or the parking or storage of construction or transportation equipment.
- G.** A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than 40 vehicle trips/day.

### **9.7 Kennels and Veterinary Hospitals**

- A.** Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the nearest residence, excluding the owner's.
- B.** All pens, runs, kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.
- C.** The establishment shall be maintained in a clean and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate. The premises shall be maintained in a manner that will not provide a breeding place for insects, vermin, or rodents.
- D.** Storage containers for any wastes containing or including animal excrement shall be kept tightly covered at all times and emptied no less frequently than

once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

E. If outdoor animal "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.

F. No incineration devices shall be permitted on the premises.

## **9.8 Multi-Family Developments**

### **A. Apartments and Rooming Houses**

1. Multi-Family developments of three (3) or more units are considered subdivisions, and must conform to the Town of Randolph "Subdivision Ordinance."

2. All apartment buildings shall be setback from the side and rear lot lines a minimum of forty (40) feet plus an added thirty (30) feet if four (4) or more units are located in a building.

3. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six (6) feet in height.

4. The site plan shall provide for both pedestrian and vehicular traffic on the site.

5. All developments of more than twenty-five (25) dwelling units shall provide a developed play area of no less than 5,000 square feet. A development in which occupancy is restricted to persons of retirement age need not provide play facilities, but shall provide adequate space for passive recreation.

### **B. Accessory Apartments in the Urban Residential District**

1. As an accessory use in a owner-occupied dwelling in the Urban Residential District, the renting of a room or suite of rooms in a dwelling existing on the effective date of this Ordinance shall be permitted under

the following conditions:

- a) There shall be no new external construction to increase the size of the structure to accommodate the accessory use other than necessary to meet fire egress or handicapped accessibility codes.
  - b) The water and sewage facilities meet all existing laws and codes.
2. One "For Rent" sign, no larger than six (6) square feet in area may be posted on the premises, only during times when a vacancy exists.
  3. Apartments created under this provision need not meet the density or dimensional requirements for additional dwelling units contained in this ordinance.

### **9.9 Overnight Accommodations**

**A.** Hotels, motels, rental cottages, and inns designed and constructed without individual kitchen facilities (except for Bed and Breakfast operations) must meet the following standards:

1. All buildings shall be set back at least sixty (60) feet from lot lines. The planning board may require additional setbacks or buffering where the activity abuts a residential district.
2. No building will be located within the floodplain.
3. Each unit shall contain not less than two hundred (200) square feet of habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each sleeping room shall not be less than one hundred sixty (160) square feet in dimension, exclusive of bath. Each unit shall include private bathroom facilities.
4. Within each establishment, one apartment may be provided for a resident owner, manager, or other responsible staff person.

**B.** Bed & Breakfast facilities must meet the following standards:

1. In addition to parking required by section 8.2.D of this ordinance, two spaces shall be provided for the owners or operators of the business.
2. There shall be at least one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
3. Each rental room shall be not less than one hundred twenty (120) square feet in dimension.
4. Each room shall be equipped with an approved, hardwired smoke detector.

C. Hotel, motel, or cottage units with self-contained kitchen and toilet facilities or otherwise designated as housekeeping accommodations are considered to be dwelling units and shall meet all applicable standards of this ordinance. In addition, the creation of three or more units may be subject to the terms of the “Town of Randolph Subdivision Ordinance.”

#### **9.10 Professional Offices in Residential Districts**

In the R and UR residential districts, professional offices are allowed, subject to a Conditional Use Permit and the following standards:

A. New professional offices shall be located only within existing buildings, in order to retain the essential character of the neighborhood. In special situations where a building is extremely dilapidated or structurally unsound, the Board may approve the replacement of an existing building with a new one, provided that the all setbacks are complied with and the scale and design of the new structure is similar to other buildings in the neighborhood. The Board may seek the recommendation of a recognized architectural authority concerning design of the replacement structure.

B. Parking for professional offices shall be located to the side or rear of the building, and shall be screened from view from all streets and abutting residential properties.

C. Exterior alterations shall be minimized and be similar to the original architectural style of the structure.

#### **9.11 Restaurants and other Eating and Drinking Establishments**

A. A permit application shall state the maximum seating capacity of the establishment. Any expansion or enlargement over the permitted capacity shall require a new application process.

B. All establishments shall connect to the public water and sewer facilities.

C. Restroom facilities for patron use shall be provided on the premises.

D. All parking and loading areas shall be located to the side or rear of the building, with screening provided in accordance with 7.3.B.

## **9.12 Schools, Colleges, Churches, Fraternal Organizations, and Non-Profit Clubs**

Buildings containing public and private schools, colleges, churches, fraternal organizations, and nonprofit clubs shall be set back a minimum of fifty (50) feet from side and rear lot lines when located in a residential district. The planning board may require additional buffering in any district, based on the existing abutting use. Any playgrounds, parking areas, or other outdoor activity areas that are located within fifty (50) feet of side or rear lot lines shall be screened according to the provisions of section 7.3.B.1.

## **9.13 Telecommunication Towers**

### **A. Location**

- 1.** Telecommunication Towers for commercial purposes are prohibited in residential districts.
- 2.** Consideration shall be given to serving new communication service demands by use of existing towers (co-location) wherever practicable. Applicants for permits for new facilities shall state why location on an existing tower is not feasible.

### **B. Design and Construction**

- 1.** No tower shall exceed 195 feet in height, as measured from the tip to the ground surface.
- 2.** New towers shall be designed in such a way as to facilitate co-location.
- 3.** If not owned by the facility operator, the lot on which the tower sits shall be leased for a period of not less than ten (10) years. The lot shall be of sufficient size that the tower can be set back from the lot line a minimum horizontal distance equivalent to the height of the tower, and the tower shall be so situated.
- 4.** New towers shall be constructed with materials and colors that match or blend in with the surrounding natural or built environment to the maximum extent practicable.
- 5.** All towers and supporting structures must comply with structural standards established by the Electronic Industries Association/Telecommunication Industries Association. Compliance with these standards shall be certified by a registered professional engineer.
- 6.** Any tower that is unused or out of service for a period of eighteen (18) continuous months shall be considered abandoned. The Town of Randolph may cause the structure to be removed and shall assess any costs incurred against the land owner as a lien against the property.

