

**TOWN OF BELGRADE**  
**Commercial Development Review**  
**Ordinance**

*ENACTED BY REFERENDUM ON MARCH 2, 2001*  
*AMENDED BY REFERENDUM ON NOVEMBER 6, 2001*  
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*CERTIFIED BY: Mary J. Vogel*

*PRINTED NAME: Mary J. Vogel*

*Title: Town Clerk*

*Town Seal*

Town of Belgrade  
Commercial Development Review Ordinance  
Enacted: March 2, 2001

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## Article 1: General Provisions

### Section 1. TITLE

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

### Section 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (Home Rule).

### Section 3. EFFECTIVE DATE

Amendments to this Ordinance take effect upon enactment by the Town Meeting. The effective date of the original ordinance is: March 2, 2001.

### Section 4. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this ordinance conflicts with, or is inconsistent with, another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control. All non-residential review applications are required to conform to all other applicable ordinances and regulations of the Town of Belgrade, such as but not limited to, Shoreland Zoning, Minimum Lot Size, Subdivisions and Floodplain Management.

### Section 5. VALIDITY AND SEVERABILITY

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

### Section 6. AMENDMENTS

Any amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.

### Section 7. AVAILABILITY

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

## Article 2: Purpose

### SECTION 1. PURPOSE

The purpose of this Ordinance is to accomplish objectives outlined in the Town of Belgrade Comprehensive Plan, as revised June, 2014. In particular the following:

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

## Article 3: Applicability

### SECTION 1. APPLICABILITY

Review and permitting is required prior to new construction or development of non-residential uses or the proposed expansion of existing non-residential uses as provided below:

- A. The construction or placement of any new building or structure for a non-residential use, including accessory buildings and structures, in excess of 1,200 square feet in footprint area;
- B. The expansion of an existing nonresidential building or structure, including accessory buildings and structures, that exceed either one of the following two criteria; 25 Percent of existing footprint area, or if greater than 1200 sqft footprint.
- C. The conversion of an existing building, in whole or in part, from a residential use to a non-residential use, where the area converted exceeds the square footage threshold established above.
- D. The establishment of a new nonresidential use, including but not limited to gravel pits, mining operations, cemeteries, golf courses, non-residential solar energy-producing facilities, and telecommunication and wind power towers even if no buildings or structures are proposed.
- E. A change of use of an existing nonresidential use, in whole or in part, to another nonresidential use.
- F. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, roads, rooftops, and parking lots involving more than 5,000 square feet of footprint area, *except that* paving or re-pavement of existing paved or impervious surfaces shall be exempt from review.
- G. Expansion of existing mineral extraction operations. These operations which result in the excavation, movement or processing or more than 200 cubic yards of material within any 2 year period or which result in non-vegetated areas in excess of 20,000 square feet in footprint area. Permits for mineral extraction are separate from commercial development permits and are covered in Article 7, Section 1 of this ordinance.
- H. Facilities for the storage of bulk fuel, chemicals or other flammable or hazardous substances that exceed 1,000 gallons.

### SECTION 2. USES NOT REQUIRING REVIEW

The following uses and activities do not require review.

- A. The construction, alteration, enlargement or placement of a single family or two family dwelling, including accessory buildings or structures.

- B. Home occupations as defined by this Ordinance.
- C. Agricultural production, timber harvesting, and forest management activities.
- D. Subdivisions reviewed under the Town's Subdivision Ordinance and also any roads or driveways covered by that ordinance.
- E. Outdoor display of retail merchandise by an existing retail business on the premises of the business for fewer than ten (10) business days in any six (6) months.
- F. Seasonal Farm Stands operating for no more than 6 months per year.
- G. The following solar energy producing facilities:
  - 1. A facility only providing electricity to the owner's residential land use or offsetting the electrical utility bill of a residential land use by means of net metering, and when the facility is located on property owned by the owner of the residential land use.
  - 2. Roof-mounted solar energy facilities on any legally permitted non-residential or residential principle or accessory structure;
  - 3. Building-integrated solar power, including shingle, roof, hanging or canopy solar modules, windows, skylights, or walls, installed in a legally permitted non-residential or residential principle or accessory structure; and,
  - 4. Repair or replacement of solar modules or other facility components that do not enlarge a non-residential facility's impervious surface area.

## Article 4: Administration and Enforcement

### SECTION 1. ROLE OF THE PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A. To administer this Ordinance.
- B. To hear and decide upon applications according to this Ordinance.
- C. To develop site review application forms.
- D. To provide the Code Enforcement Officer with a written decision of each application.

### SECTION 2. ROLE OF THE CODE ENFORCEMENT OFFICER

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

- A. To enforce the provisions of this Ordinance.
- B. To issue stop work orders and other appropriate notices of violation.
- C. To assist the Planning Board with the review process.
- D. To conduct site visits and to review applications as authorized by this Ordinance.
- E. To issue permits.

No work or other development shall be undertaken on any use or project that requires review until a permit has been issued by the Code Enforcement Officer. No work or other development shall be undertaken following issuance of a stop work order, except as necessary to stabilize a site or structure.

### SECTION 3. NON-RESIDENTIAL DEVELOPMENT REVIEW PERMITS

#### 3.1. CODE ENFORCEMENT PERMITS

The Code Enforcement Officer is authorized to issue permits for **non-residential** development which meets the following conditions:

- 1) The expansion of an existing non-residential building where the square feet in footprint area of expanded impervious surface does not exceed 2,500 square feet in footprint area or 35 percent of the existing footprint, whichever is less;
- 2) The change of use of an existing non-residential use into a new non-residential use, *except* where the new use is a retail, restaurant, or industrial use or is likely to increase traffic volume, or that will use or store flammable, combustible, or hazardous substances.

- 3) The expansion of paved or other impervious surfaces, where the impervious area does not exceed 7,500 square feet in footprint area.

Permitting from the Code Enforcement Officer shall follow the procedures in Section 5.2 of this Article.

### 3.2. PLANNING BOARD REVIEW

The Planning Board shall review and decide upon all permit applications not within the jurisdiction of the Code Enforcement Officer as provided in section 3.1, or when the Code Enforcement Officer has acted, in accordance with section 5.2.D. Permitting from the Planning Board shall follow the procedures in Section 5.3 of this Article.

## SECTION 4. PERMIT ADMINISTRATION

### 4.1. EXPIRATION

Permits are valid for 36 months from the date of the Town's approval. A substantial start of construction must be completed within this 36-month time period. Upon request from the permittee, permit approval may be extended for a maximum of one (1) additional 12-month period. Permits that have expired shall become null and void, and the applicant shall obtain another permit as required by this Ordinance by submitting another application to the Planning Board or code enforcement officer, as applicable. Notwithstanding any ordinance language to the contrary, any permit for a non-residential solar energy producing facility approved by the Planning Board under the Town's Commercial Development Review Ordinance prior to the enactment of this Ordinance that expired during the period that the "Moratorium Ordinance Regarding Commercial Solar Facilities, Commercial Wind Energy Facilities, Telecommunication Towers, and Subdivisions" was in effect from November 16, 2021 – November 5, 2022 is valid for a period of 36-months from the time that the permit was first approved and may also be extended for a maximum on one (1) additional 12 month period.

### 4.2. TRANSFERABILITY

A permit is transferable to subsequent owners of the property, provided the permit has not expired.

### 4.3. RIGHTS NOT VESTED

The submittal of the application to the Code Enforcement Officer to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, MRSA, Section 302. The formal review process shall begin upon notification to the applicant



that a complete application has been received.

#### 4.4. PERMIT FEE SCHEDULE

The Board of Selectmen shall adopt and from time to time amend a fee schedule for applications submitted under this ordinance. The fee schedule shall include conditions and procedures for assessments for additional information and studies as described in section 5.5 of this ordinance. Development initiated by the Town of Belgrade or other governmental bodies, or non-profit corporations registered by the Maine Secretary of State is exempt from permit fees.

### SECTION 5. APPLICATION PROCEDURE

#### 5.1. PREAPPLICATION

- A. A prospective applicant for a permit under this ordinance shall meet with the Code Enforcement Officer prior to submitting an application. The purpose of this meeting will be to provide information and assistance to the applicant concerning the permitting process.
- B. A prospective applicant for a permit that will require planning board review may request a meeting with the board in lieu of the CEO. This step is advisable if the applicant wishes to apply for a waiver of a submission requirement.
- C. At or prior to the preapplication meeting, the prospective applicant will provide the Code Enforcement Officer with a sketch of the development site and description of the proposed development, including proposed dimensions and uses.
- D. The Code Enforcement Officer shall make a determination at the preapplication meeting as to whether the application is a code enforcement permit or a planning board permit. The CEO may also provide the prospective applicant with a potential review timetable, requirements for state or federal permits, items that may need to be addressed during review, and possible waiver requests.

#### 5.2. CODE ENFORCEMENT OFFICER REVIEW

- A. An applicant for a development qualifying for Code Enforcement Officer permit under section 3.1 of this article shall submit two (2) copies of the application to the Town of Belgrade. The application shall contain at least the following elements:
  - (i) A signed Town of Belgrade Application Form and certificate of compliance with the ordinance standards.
  - (ii) A Site Development Plan drawn to scale showing existing site features such as property boundaries, wetlands and water bodies, existing vegetative areas, existing

infrastructure such as roads and rights-of-way, driveways, water lines, drainage ways and easements, proposed location of structures and buildings, proposed location of improvements such as driveways, clearing of vegetative screening, parking areas, sidewalks, landscaping, drainage structures, lighting, and signs. The Site Development Plan shall include a signature line for approval by the CEO.

- (iii) Evidence of the applicant's right, title, or interest in the property;
- (iv) Drawings and construction specifications for any proposed roads, driveways, parking areas, and drainage structures;
- (v) A stormwater management plan prepared by a Maine Professional Engineer, showing phosphorous control measures, unless the development will consist of less than 7,500 square feet of disturbed areas;
- (vi) Application fee.

- B. The Code Enforcement Officer shall make a determination that the application is complete within five (5) business days of its submittal. If the application is complete, the CEO or Delegate shall inform the applicant of its acceptance and shall issue notice to the abutters that an application has been submitted. If the application is incomplete, the CEO shall inform the applicant of the materials needed to complete the application.
- C. The Code Enforcement Officer shall approve, deny, or approve with conditions the application within no less than five (5) but no more than fifteen (15) business days of finding it complete, and shall notify the applicant in writing of his or her decision. The CEO shall base his or her decision on conformance of the application with the criteria and standards of this ordinance.
- D. An applicant who has been denied or who has received conditional approval may request a review of the CEO's determination by the planning board. The CEO may also defer a decision to the planning board if he or she so chooses. The CEO shall place the review on the next available board agenda and shall transmit all materials on file to the board for their review. The board shall review the application in accordance with the procedures of section 6 of this article but may request that the applicant submit additional information before commencing review.

### 5.3. APPLICATION SUBMISSION FOR PLANNING BOARD REVIEW

- A. The applicant shall submit the Non-residential Development Review application to the Town of Belgrade. The Town shall issue a dated receipt to the applicant upon receiving the application and shall notify the Code Enforcement Officer of the application.
- B. Within ten (10) business days of receipt of the application, the Code Enforcement Officer shall make a determination whether the application is complete and notify

the applicant of his or her determination. If the application contains a request for waiver of a submission requirement, the CEO shall forward it to the Planning Board for action on the request before making his or her determination, with the time deadline suspended until after the Planning Board meeting.

1. If the application is not complete the Code Enforcement Officer shall notify the applicant of the specific materials needed to complete the application.
  2. If the application is complete the Code Enforcement Officer shall notify the Planning Board that a complete site review application has been received and place the application on the Planning Board's agenda for review and consideration.
- C. Substantive review of the application shall not be deemed to have begun until the Code Enforcement Officer makes a finding that the application is complete.

#### 5.4. SUBMISSION REQUIREMENTS

All Non-residential Development Review applications shall consist of eight (8) copies of the following materials and information, unless otherwise noted.

- A. Town of Belgrade Application containing general information as follows:
  - 1 Name, address and telephone number of the applicant and applicant's agent if applicable.
  - 2 Property location, including address, map and lot number.
  - 3 Estimated cost of the development.
  - 4 Anticipated schedule of construction including beginning and completion dates.
  - 5 A description of the project.
  - 6 Need for and status of any required state or federal permits.
- B. Application fee.
- C. Waiver Request Form if Applicable.
- D. Verification of the applicant's right, title or interest in the property, together with covenants, easements, or deed restrictions existing or proposed for the property.
- E. General location information including the following:
  - 1 A photocopy of the tax map showing the property and surrounding parcels.
  - 2 A copy of the Kennebec County soil map showing the property.
  - 3 A copy of the USGS Topographic map showing the property.
  - 4 A copy of the Town Shoreland Zoning Map showing the property if located in a Shoreland District.
  - 5 A copy of the Flood Insurance Rate Map (FIRM Map) showing the property if located in a designated floodplain.
  - 6 A copy of the National Wetlands Inventory Map showing the property.

- F. A Site Development Plan. The Site Development Plan may consist of several drawings and may be reduced in size for individual applications; however, at least one copy of all drawings shall be at a size of 24 x 36 inches. The plan shall be drawn to scale showing the following:
1. North arrow and scale bar,
  2. Parcel boundaries and developed site,
  3. Location on the site and dimensions of all existing and proposed buildings and structures, including, but not limited to: drainage structures, signs, fencing, and lights.

Location and extent of disturbed area on the site, plus the layout and dimensions of impervious surfaces such as proposed parking areas, driveways and roads, areas to be used for outdoor storage of equipment, inventory, or other materials, utilities, drainage ways, easements and rights-of-way,

4. Location of all floodplains, watercourses, waterbodies, and wetlands,
  5. Location of any shoreland zoning districts affecting the property,
  6. Location of significant areas of existing vegetation and proposed new vegetation (landscaping),
  7. The location of all proposed wells or water supply facilities and any source water protection areas associated with licensed or proposed public drinking water systems.
  8. The location of subsurface waste water disposal systems or other wastewater disposal systems on the subject property and adjacent properties,
  9. All other significant natural and physical features,
  10. Name and address of owner and developer. Name, address and license number of professional engineer or surveyor who prepared the plan.
- G. Evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression. ( please note: the fire chief should be consulted to determine whether or not appropriate structures are required to supply a water source to handle a fire threat)
- H. Evidence that all other local permits have been obtained including, but not limited to: Shoreland Zoning, Floodplain Management.
- I. An erosion control plan as per the requirements of this Ordinance.
- J. Where the amount of impervious area for the project will exceed 7,500 square feet in footprint area, a storm water and phosphorous control plan as per the requirements of this Ordinance shall be submitted. If the amount of disturbed area exceeds 30,000 square feet in footprint area, the plan shall be prepared by a licensed professional engineer.
- K. The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission.
- L. The location of any significant wildlife resources or natural areas.
- M. Traffic data for the site including an estimate of the amount of vehicular

traffic to be generated on a daily basis.

- N. Any proposed areas or structures to be dedicated for public use.
- O. Detail drawings showing the construction specifications for all proposed drainage features such as ditches and culverts, roads, sidewalks, access points, driveways parking areas, fire control structures and other public improvements.
- P. Any other material to show that the applicable performance standards or other requirements of this ordinance are followed.
- Q. The estimated quantities of flammable, combustible or hazardous substances to be stored or handled on site, and spill management plan if required by a state or federal agency
- R. Descriptions as required showing how the development will meet specific performance standards of Articles 6 and 7 of this ordinance, including but not limited to noise, outdoor lighting, vegetative buffers, waste management, and water quality.

#### 5.5. ADDITIONAL INFORMATION AND STUDIES

- A. The Planning Board may require additional and supplementary information such as historical and archeological study, traffic analysis, light and noise studies, wellhead area or groundwater study, information on rare or endangered wildlife or habitat or natural areas. The Board's authority to request such additional information is limited to when that information is needed to enable the Board to make findings of fact regarding whether the ordinance's standards and review criteria will be satisfied. If the pre-application meeting identifies areas of possible concern, the applicant may request that the planning board identify the additional materials as part of the submission process. Failure of the applicant to supply this information may result in denial of the application or conditioning of the approval pending satisfactory review of the information.
- B. The Planning Board may at its discretion retain independent technical or legal expertise to assist in review or supplement the evidence presented by the applicant and received during the public hearing. The cost of such assistance shall be borne by the applicant according to the terms of an escrow account set-up at the time the application is submitted as listed in the Permit Fee Schedule established by the Board of Selectpersons.

### SECTION 6 . PLANNING BOARD REVIEW PROCEDURE

#### 6.1. TIMING OF REVIEW

The Planning Board shall make a final decision upon the application within sixty (60) business days of the date on which the application is determined to be complete. However, upon mutual consent of the applicant and the Planning Board, the final

decision may be extended.

## 6.2. NOTICE AND MEETING REQUIREMENTS

- A Upon acceptance of an application as complete, the Town shall provide notice as follows:
- 1) All abutters and all other landowners within 500 feet of the lot upon which the project is proposed shall be notified by first-class mail, the cost of which shall be reimbursed by the applicant prior to any issuance of approval. The notice shall contain a brief description of the project being proposed and its location. The notice shall be mailed a minimum of seven (7) business days prior to the planning board meeting and shall include time and place of the meeting. The Belgrade Town Manager shall also be notified. Failure of a party to be notified to receive a notice shall not invalidate the public meeting, nor shall it require the Planning Board to schedule another meeting. Holding another meeting shall be at the discretion of the Planning Board under such circumstances.
  - 2) The Planning Board meeting at which the project will be considered will be posted according to legal posting procedures for public meetings. The application will be listed as an agenda item.
  - 3) If the location of the proposed project is within five hundred (500) feet of a town boundary, the clerk and Planning Board of the neighboring town will be notified.
  - 4) The time and location of the public meeting will be published at least once in a newspaper having general circulation within the Town. The date of the first publication shall be at least 7 business days before the meeting.
  - 5) If the proposed development is located within the source water protection area of a public drinking water system as mapped by the Drinking Water Program in the Maine Department of Health and Human Services, owners and operators of the system shall be notified in the same manner and time as the abutters.
- B The Planning Board shall conduct the review of the application in open, public meetings. The Chairman of the Board shall provide a period of time for public testimony and comment during review but may at his or her discretion limit the time period for public comment.
- C The Planning Board is not required to make a decision at a single meeting. The board may continue its deliberations at any future time and location, subject to posting requirements and the 60-day review limitation.

## 6.3. DECISION

The Planning Board shall make a written finding of fact and conclusions of law and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit its final decision in writing to the applicant and to the Code Enforcement Officer within 7 business days of the date of

decision. Any conditions imposed upon the permit shall be listed in its final decision.

#### 6.4 . CONDITIONAL APPROVAL

- A. The Planning Board may attach such conditions to the proposed application that it finds necessary to further the purposes of this Ordinance. A condition may not be imposed to regulate any item not specifically addressed in this Ordinance. All conditions shall be listed in the approval and the permit. Conditions may be attached to commencement of construction, i.e., must be met before construction begins.
- B. The planning board shall attach as a condition of approval that the development will be constructed as approved.

#### 6.5. SITE INSPECTION

The Code Enforcement Officer and/or the Planning Board may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area. Any official Board visit shall be noticed and advertised as a public meeting.

#### 6.6. BURDEN OF PROOF

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

### SECTION 7. WAIVERS

- 7.1. The Planning Board may vote to waive development standards or submission requirements in this Ordinance when it finds one of the following:
  - i Submission Requirement: One or more of the requirements are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, type of project, or unique features of the proposed use.
  - ii Development Standard: The applicant has submitted alternative designs which meet the criterion for which the standard is required under this ordinance.
- 7.2. The applicant shall submit information to support the waiver request with the application.
- 7.3. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. Requests for waiver of

submission requirements shall be considered prior to the Code Enforcement Officer's determination of completeness. The Planning Board shall review the waiver request and if it meets the appropriate criteria shall approve the request and submit its decision in writing to the applicant and the Code Enforcement Officer. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and require the applicant to revise the application as necessary. The Planning Board shall not commence substantive review of the application until the applicant supplies all the necessary information.

- 7.4. Consideration of a waiver for a development standard may take place at any time during substantive review but not before a determination of completeness. If a waiver is denied, review of the application shall be suspended until it can be revised accordingly. The applicant shall submit all required information to the Planning Board within 60 calendar business days of the denial of the waiver request. Failure to submit the information within this time will require that a new application be submitted for review. In no case shall the Planning Board make a final decision on the application until the applicant supplies additional information to the satisfaction of the Board.
- 7.5. All waivers approved by the Planning Board shall be documented during the review process.

## SECTION 8. APPEALS

### 8.1. BOARD OF APPEALS

The Board of Appeals is authorized to hear administrative appeals and variance appeals arising from this Ordinance.

- A. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.
- B. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

### 8.2. PERMISSABLE VARIANCES

- A. Variances may be granted only from dimensional requirements including but not limited to lot width, structure height, lot coverage and setback requirements.
- B. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.



- C. Variances shall not be granted under this Ordinance for any dimensional standards required under any other ordinance, including but not limited to the Town of Belgrade Minimum Lot Size Ordinance or Shoreland Zoning Ordinance.
- D. The Board of Appeals shall not grant a variance unless it finds that the strict application of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:
  - 1. That the land in question cannot yield a reasonable return unless a variance is granted.
  - 2. That the need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.
  - 3. That the granting of a variance will not alter the essential character of the locality.
  - 4. That the hardship is not the result of action taken by the applicant or a prior owner.
- E. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this ordinance to the greatest extent possible, and in doing so may impose such conditions to a variances it deems necessary. The party receiving the variance shall comply with any conditions imposed.

### 8.3. APPEAL PROCEDURE

- A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within 30 business days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the 30 day requirement.
- B. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes a concise written statement indicating what relief is requested and why it should be granted AND a sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- C. Upon being notified of an appeal, The Code Enforcement Officer or the Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- D. The Board of Appeals shall hold a public hearing on the appeal within 35 business days of its receipt of an appeal request.

#### 8.4. DECISION

- A. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- B. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter, or to affect any variation in the application of this Ordinance from its stated terms. The Board of Appeals may reverse the decision, or failure to act of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act was clearly contrary to specific provisions of this Ordinance.
- C. The person filing the appeal shall have the burden of proof.
- D. The Board of Appeals shall decide all appeals within 35 business days after the close of the public hearing, and shall issue a written decision on all appeals.
- E. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.
- F. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 business days from the date of any decision of the Board of Appeals.
- G. The Board of Appeals may reconsider any decision within 30 business days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

#### SECTION 9. REVISIONS TO AN APPROVED PLAN

- 9.1. The Planning Board shall review and may approve a proposed change to any permit which it has issued in accordance with this Article, which involves any of the following conditions.
  - An increase in the number or footprint area of buildings on the site;
  - An increase in the area of impervious surface on the site;
  - An increase in storage capacity or use of toxic, flammable, combustible or hazardous substances;
  - A change to stormwater management or phosphorous control designs;
  - Changes to proposed screening or vegetative buffers;
  - The addition of activities or change in design which could increase noise levels;

- A change of use of the property to a use which will generate a higher traffic demand; or
- A change in location or design of any infrastructure that will be used by the general public, including but not limited to parking areas, driveway entrances, streetlights, roads, or sidewalks.
- Any physical expansion, reconfiguration, or increase in the Rated Nameplate Capacity of an existing Non-Residential Solar Energy-Producing Facility shall also require approval from the same permitting authority as required for a new solar facility under this Ordinance.

The board may follow notice and meeting requirements if it determines the change to be significant.

- 9.2. The Code Enforcement Officer shall review and may approve revisions to permits issued by him or her under section 5.2, above, and to Planning Board-issued permits that do not meet the criteria cited above.
- 9.3. If the Code Enforcement Officer reviews a change to a Planning Board-issued permit, he or she shall make a written record of the action and transmit the record to the chairman of the Planning Board for the file.
- 9.4. Review of proposed revisions shall be limited to the impacts of the proposed changes and shall not encompass nor burden the original approval.

## SECTION 10 ENFORCEMENT AND PENALTIES

### 10.1. VIOLATIONS

- A. It shall be a violation of this ordinance to engage in any development activity, including, but not limited to, earth-moving, road-building, construction or occupancy of buildings or structures subject to this ordinance, without first obtaining a permit.
- B. It shall be a violation of this ordinance to engage in activities subject to a permit except in accordance with the plan submitted and terms and conditions of approval. Any changes to the site plan or development must be approved in accordance with the procedures in Section 9 of this article.

### 10.2. CODE ENFORCMENT OFFICER AUTHORITY

The Code Enforcement Officer shall keep a record of all enforcement actions and shall institute or cause to be instituted in the name of the Town any actions that might be appropriate for the enforcement of this Ordinance., including the use of administrative consent agreements.

### 10.3. PENALTIES

Any person, including but not limited to a landowner, landowner's agent, or contractor, who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A , MRSA, Section 4452.

## Article 5: Review Criteria

An applicant for a non-residential development permit shall demonstrate that the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings that all of these criteria and corresponding standards in Articles 6 and 7 have been met.

- i. The application is complete and applicable review fee has been paid.
- ii. The proposal conforms to all the applicable provisions of this Ordinance.
- iii. The proposed activity will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that an unsound or unhealthy condition results.
- iv. The proposed activity will not have an adverse impact on freshwater wetlands or on any water body such as a lake, pond or stream.
- v. The proposed activity will provide for adequate storm water management.
- vi. The proposed activity will provide for adequate sewage disposal.
- vii. The proposed activity will not adversely impact any floodplain areas and will conform to applicable requirements of the Town of Belgrade Floodplain Management Ordinance.
- viii. The proposed activity will not result in air or water pollution.
- ix. The proposed activity has sufficient water available for the current and foreseeable needs of the development.
- x. The proposed activity will not, along or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- xi. The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.
- xii. The applicant has sufficient right, title, or interest to undertake the development.
- xiii. The proposed activity will not have a significant detrimental effect on adjacent land uses or other properties, that might be affected by waste, noise, glare, fumes, smoke, dust, odors or their effects.

- xiv. The proposed activity will not have a significant detrimental effect on adjacent land uses or other properties, that might be affected by waste, noise, glare, fumes, smoke, dust, odors or their effects.
- xv. The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or roads existing or proposed.
- xvi. The proposed activity to the maximum extent possible will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Belgrade, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- xvii. The proposed activity shall conform to all the applicable requirements of the Town's Shoreland Zoning Ordinance, Minimum Lot Size Ordinance and all other local Ordinances.
- xviii. The proposed activity provides safe and adequate parking.

## Article 6: Development Standards Generally

### SECTION 1. AIR QUALITY

- A. No development is permitted which will cause emissions of dust, ash, smoke or other particulate matter likely to damage human or animal health, vegetation, or property, by reason of concentration or toxicity. Evidence that relevant state and federal regulatory requirements have been met shall be considered sufficient to meet this standard. This shall be considered sufficient to meet this standard. This shall not be construed to regulate dust or odors generated by agricultural practices conducted using accepted Best Management Practices. (BMP)

### SECTION 2. ACCESS TO PUBLIC STREETS

- A. Access to Town Ways
  - 1. The number of access points shall be the minimum necessary to assure safe and proper vehicular access to the site. As a general rule, no more than two access points onto any single road will be allowed. Where more than one road abuts the development site, the Planning Board may require the developer to access the site from the road with less potential for congestion and traffic hazard.
  - 2. All streets which can be expected to carry traffic to and from the development shall have sufficient capacity or be suitably improved to accommodate the amount and types of traffic generated by the development. No development shall increase the volume to capacity ratio of any street above 0.8 nor reduce Level of Service to "D" or

below on any street.

3. The developer shall plan or install direct access to adjoining properties with compatible uses where it will serve to reduce demand for vehicular movement on public roads.
4. In order to provide adequate visibility, all access points shall be kept free from visual obstructions, including signs, within a triangular area defined by legs of 25 feet measured along the driveway and street lines.
5. All access points shall be located to provide minimum sight distance of ten (10) feet for each mile per hour of posted speed limit in both directions. If the road does not have a posted speed limit, the minimum sight distance shall be three hundred fifty (350) feet outside of a village area, two hundred fifty (250) feet inside of a village area. Sight distance is measured from a point ten (10) feet behind the edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.5 feet above the street surface.
6. Access points shall be of a design and have sufficient capacity to avoid the stopping and standing of vehicles attempting to enter the development from the street. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, or other traffic controls within public streets. All such installations shall conform to standards in the *Manual on Uniform Traffic Control devices* published by the American Traffic Safety Services Association.
7. Access points shall be designed and constructed to a standard consistent with their estimated volume as follows:
  - Low Volume:* Peak hour volume of six (6) or fewer vehicles
  - Medium Volume:* Any access that is not a low volume or high volume
  - High Volume:* Peak hour volume of one hundred (100) or more vehicles

a. Design Criteria

All portions of an access point within the right-of-way of the street shall be paved with a bituminous concrete pavement. Paving shall consist of a minimum thickness of three (3) inches of bituminous concrete over a compacted subbase of gravel of at least 24 inches in thickness.

All access points entering a curbed street shall be curbed to the full radius of the access point to a minimum distance of fifty (50) feet back from the edge of the existing curb line.

All 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.

The curb radius for two-way access points shall be at least 20 feet. The curb radius for one-way access points or access points with median islands shall be between five

and 10 feet on the inside corner and at least 30 feet on the outside corner.

The width of a low volume access point shall be not exceed 20 feet (exclusive of curb radius). The width of a medium or high volume driveway may be between 20 and 26 feet (exclusive of curb radius); for entrances with a median island, the width shall apply to each side. Where truck traffic is a major element, the width may be increased to 30 feet. The width of individual, "right turn only" channels shall be no more than 20 feet.

From the edge of the traveled way, the access point should not exceed a grade of 2 percent for a minimum of 40 feet, or, where a traffic study has been done, for the full distance of the predicted queue of vehicles at the peak hour.

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

b. Spacing Standards

No low or medium volume access point shall be located within one hundred (100) feet of any street intersection. No high volume access point shall be within two hundred fifty (250) feet of any intersection. Distance shall be measured from the point of tangency from the intersection curb radius to the point of tangency for the access point curb radius.

The minimum separation distance between two low volume access points or a low-and a medium-volume access point is fifty (50) feet. The minimum separation distance between two medium volume access points or a high-and a medium-volume access point is seventy-five (75) feet. The minimum separation distance between two high volume access points is one hundred fifty (150) feet.

No access point shall be located within ten (10) feet of a property line.

c. Any access point which intersects an existing or planned sidewalk(s) shall incorporate ramped access curbing in accordance with the Americans with Disabilities Act.

B. Access to State Roads

State Roads in Belgrade include Route 27, Route 8, Route 11, Route 135, and the Castle Island Road.

1. When the development will access a state road, the applicant will provide a copy of the Entrance Permit or Access Permit from Maine DOT as evidence of meeting this criterion. If the Maine DOT requires a Traffic Movement Permit, the applicant shall provide copies of any traffic engineering studies or plans required under that permit.



2. The planning board is authorized to impose additional requirements on the development if it identifies deficiencies or issues with traffic flow or safety not addressed by the Maine DOT.

### SECTION 3 EROSION CONTROL

- A. All soil disturbance must be conducted in a manner which avoids sediment leaving the property. Development must employ best management practices (BMPs) for erosion control unless the applicant can demonstrate that the nature of the site poses very little risk of erosion. Erosion of soil and sedimentation of watercourses, including intermittent drainage swales, wetlands, and waterbodies shall be managed in accordance with an Erosion Control Plan conforming to *Maine Erosion & Sediment Control Best Management Practices* (Maine DEP, 2003 or as revised).
- B. All erosion controls must be inspected and repaired every week and before and after any significant rainfall events (0.5 inches or greater).
- C. After September 15, or if construction activities are to be suspended for more than 30 business days, additional stabilization measures must be installed which include seeding, and mulching ( including securing of mulch), and water diversions necessary to minimize on site drainage contribution to erosion.
- D. The use of low-impact development practices, such as bio-retention and porous pavement surfaces, is highly encouraged.
- E. All contractors engaged in soil disturbance must be certified in Basic and Advanced Erosion Control Practices by Maine DEP.

### SECTION 4. HISTORIC AND ARCHEOLOGICAL RESOURCES

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

### SECTION 5. MATERIALS STORAGE

- A. Outdoor storage areas, external machinery, and areas used for the storage or collection of motor vehicles, parts, metals or articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.
- B. All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

- C. Where a potential safety hazard to children is recognized by the planning board, a fence or other physical barrier sufficient to deter small children from entering the area shall be provided and maintained in good condition.
- D. No bulk storage of flammable, combustible, or explosive liquids, solids, or gases shall be permitted unless storage facilities are located at least seventy-five (75) feet from any property line if above-ground, or forty (40) feet if underground. All materials shall be stored in compliance with requirements of the Maine Department of Public Safety, Maine DEP, and other appropriate Federal, State, and local regulations. Propane gas tanks in two hundred (200) pound cylinders or smaller and heating fuel tanks of 330 gallons or smaller are not considered bulk storage for the purpose of these standards except where three or more are aggregated.
- E. All above-ground storage facilities for toxic, flammable, combustible, or explosive liquids shall be located on impervious surfaces and shall be completely enclosed by a dike high enough to contain the total capacity of the storage tank(s) plus the rain falling into the area during a twenty-five (25) year, 24-hour duration storm, or 150 percent of the volume of the storage facility, whichever is greater.
- F. All development proposing to store petroleum or which will use, store, or generate hazardous substances or waste, including waste oil, shall have demonstrated compliance with the siting, construction, and operating requirements of Maine DEP regulations governing Siting of Oil Storage Facilities (Chapter 692) or Siting of Facilities that pose a Significant Threat to Drinking Water (Chapter 700). This requirement applies, but is not limited, to above- and under-ground oil storage tanks and well as automobile maintenance and repair facilities, auto graveyards, dry cleaners, metal finishing facilities, and commercial hazardous waste processors. A copy of a Maine DEP variance to these requirements or letter indicating that they do not apply, will be accepted by the planning board to meet this standard.

## SECTION 6. NATURAL RESOURCE PROTECTION

### A. Natural and Scenic Features

1. Site development shall minimize, disturbance of natural features. This shall be done by designating on the site plan the limits on development-related clearing. Outside of the limits, there shall be no tree removal, water channelization, soil disturbance, or grading and filling.
2. Any development to be placed on a lakeshore or a hilltop may be required to prepare a visual impact assessment to provide evidence that it will not significantly impact the quality of Belgrade's scenic resource.

### B. Habitat Protection

1. If any portion of the parcel has been identified as a critical natural area, or as containing threatened or endangered species of plants and animals, the subject areas shall be located outside of the clearing limits. The Planning Board shall

require the use of maps and data from the Maine Beginning with Habitat Program and may require a mitigation or management plan to be reviewed by the Maine Department of Inland Fisheries and Wildlife (IFW) or Natural Areas Program of the Department of Conservation as appropriate.

2. If any portion of the area to be developed includes areas mapped by the Maine IFW as Deer Wintering Areas, the developer shall consult with the Department on means to limit the impact of the development on the habitat, and incorporate those recommendations into the development plan insofar as practicable.
3. If any portion of the area to be developed includes wetland, as determined by the Town of Belgrade, The Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, and mitigate impacts on the wetland both during and after construction.

## SECTION 7. NOISE

- A. The maximum permissible noise from any continuous, regular, or frequent source of sound within a development shall be no more than 60 decibels between the hours of 7AM to 9:30 PM, and 45 decibels at other times, as measured at the property line, including lakeshores. These levels specified may be exceeded by 10dB for no more than 15 minutes per day.
- B. The applicant shall identify any activities which are likely to generate sound in excess of these standards and propose measures for buffering or modifying the sound. The board may require a monitoring and reporting program as a condition of approval.
- C. 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)"Specification for General Purpose Sound Level Meters". Sound levels shall be measured at least 4 feet above ground at the property boundary.
- D. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency or public safety devices are exempt from these provisions.
- E. On sites abutting a residential use, development construction shall be staged so that exterior activities are not conducted between the hours of 9:30 PM and 7 AM. The Planning Board may require additional measures for noise suppression.

## SECTION 8 EXTERIOR LIGHTING:

Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. In order to demonstrate compliance, the applicant may be required to produce a lighting plan for the development.

- A. Lighting fixtures must be shielded or hooded and downward facing so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect

illumination must not exceed 0.5 foot-candles upon abutting properties.

- B. Exterior lighting, except security lighting, should be turned off between 10 P.M. and 6 A.M. unless located on the site of a use which is open for business during that period.
- C. Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building facade must be concealed, whenever possible. Building entrances may be illuminated using recessed lighting in overhangs and soffits, or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

## SECTION 9. PARKING

No new or expanded development shall be permitted unless off street parking is provided in accordance with the following provisions.

### 1. Parking Lot Design Criteria

#### 1. Setbacks from Lot Lines

All parking spaces and aisles shall be at least five (5) feet from any side or rear lot line. This shall not be construed to eliminate the requirement for screening, Subsection 10, below. Parking spaces will not be located within the right-of-way of the public road.

#### 2. Interior Circulation

- a. The entry to the development shall be designed to allow continuous and uninterrupted traffic movement on the public road, through the provision of adequate throat length, deceleration lanes, or other measures.
- b. For parking lots exceeding one hundred (100) spaces, islands containing guardrails, curbs, fences, walls, bio-remediation, or landscaping shall be used to divide the lot into smaller units for the purpose of restricting driving movements diagonally across parking aisles and channeling stormwater flows. Islands shall be designed and placed so as not impede views of pedestrians and vehicles.
- c. No parking spaces shall be directly accessible from the public road, nor shall motorists be required to use the public road to enter or exit a space. All spaces shall be accessible from an aisle without the necessity of moving other vehicles.
- d. Parking aisles should be oriented perpendicular to stores or businesses for safer pedestrian access and visibility.
- e. Any layout that utilizes vehicular access service (“drive-up”) windows shall provide a minimum of five car lengths of queuing space on the incoming side of the primary window. The required queuing space shall be designed so that it does

not interfere with parking and circulation on the remainder of the site.

3. Layout of Parking Stalls and Aisles

- a. Parking spaces shall be a minimum of nine (9) feet in width by eighteen (18) feet in length. Spaces designated for handicapped use shall be a minimum of twelve (12) feet in width by eighteen (18) feet in length and marked appropriately. Spaces 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 lots, the planning board may require painted stripes to delineate parking spaces. If required, stripes should be a minimum of four (4) inches in width. Where double lines are used, they should be separated a minimum of twelve (12) inches 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 sixteen (16) feet in width.
- d. Bumpers or wheel stops shall be provided where improperly parked cars might restrict traffic flow or pedestrian movement on adjacent walkways or damage landscape materials.
- e. Oversized parking spaces may be designated in areas that ordinarily serve such vehicles as recreational vehicles, travel trailers, delivery trucks or tractor-trailer trucks.

4. Standards for Number of Parking Spaces.

a. Basic Requirement for Parking Spaces

Adequate off-street parking shall be provided by the developer. The table below provides the basic standard required parking proposed land users, subject to adjustments in Subsection 5, following. For uses not listed, the publication *Parking Generations* (ITE, 1999 or most recent edition) shall be consulted. Within each development, at least one space, plus one additional space for every twenty-five (25) required, shall be designated as available for handicapped persons:

# of Spaces	Land Use Activity
Places of Residence or Accommodation-spaces per room or dwelling unit	
1/3	Dedicated Retirement Home, Nursing Care Facility
1	Overnight Accommodations

<b>Places of Public Assembly- spaces per seat based on maximum seating capacity</b>	
1/4	Theater, with fixed seating
1/3	Church
1/2	Restaurant (except snack bars), Convention Center, Meeting Hall, Grange, Bottle Club
<b>Places of Commerce and Industry- spaces per 1,000 sq ft of gross floor area</b>	
1	Warehousing, Inside sales of Motor Vehicles
1 ½	Industrial and Manufacturing Facilities, wholesaling
3	Grocery Stores over 5,000 sq.ft. Offices, professional and personal services, except as noted
3.5	Retail Sales except as noted
5	Banks, Medical and Dental Offices, Fitness Clubs, Child Care, snack bars
<b>Public and Institutional Facilities- spaces per 1,000 sq.ft. of gross floor area</b>	
2	Elementary Schools
4	Secondary School (classroom area only), Community Center, Municipal Office
5	College, Hospital
<b>Miscellaneous- criteria as specified</b>	
1 per 1,000 sf	Industrial and Manufacturing Facilities, wholesaling
1 per 4 seats, based on max seating capacity	Stadiums, Arenas, Racetracks, and other spectator sport venues
3 per hole	Golf course (clubhouse/restaurant calculated separately)
30 per acre	Mini-golf, Go-Carts, and other Outdoor Amusements
5 per lane	Bowling Alley
3 per service bay + 1 per 10 vehicles displayed	Motor Vehicle Sales and Service

5. Flexibility in Standards: 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.

- b. In the Belgrade Lakes Village, as designated in the Belgrade Comprehensive Plan, the board may allow any use to meet its parking requirement through contributions to the development and maintenance of a municipal or public parking lot proportionate to the number of parking spaces that would be required. Alternatively, the Board may reduce the required parking by up to 30 percent, upon the condition that off-street parking not be restricted to patrons/tenants of the development.
  - c. The following specified uses, because their peak hour/day varies from conventional parking demand, may meet up to 50 percent of their parking requirement through a shared-use agreement with another use: churches, clubs, restaurants, theaters, sports facilities.
  - d. A development may include as a portion of its parking requirement the provision of parking spaces not located on the same lot provided a) that the spaces are located within 250 feet of the property, b) that a written agreement is in place for long-term use of the spaces, and c) that the spaces would not be among the minimum required for the use already existing on that lot.
  - e. The provision of spaces for vehicles used in the ordinary conduct of the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the above calculations.
  - f. The planning board may waive the installation of parking spaces provided that adequate provision is made for the development of these spaces as needed in the future, specified by conditions of the permit. Such conditions may require permanent set-aside of adequate space, and provision of construction plans along with specified conditions under which the installation will be triggered.
6. Impact on Physical and Environmental Resources.
- a. Parking lots shall not be excessively large, nor contain an impervious area more than 25 percent greater than the minimum set by these standards.
  - b. The planning board may require the use of pervious pavement in order to aid in managing stormwater runoff from parking lots. Pervious pavement shall only be installed by a contractor certified in such installations and shall be installed and maintained according to the manufacturer's instructions.
7. Mixed Uses: Any portion of a building or lot with a use that is distinct from a principal use identified 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 extent of the development. If a mixed use consists of any residential use combined with any non-residential use, the planning board may waive or modify space requirements for the residential use to the extent that it does not conflict with the peak hour of the commercial use.
8. Loading bays shall be provided as necessary. Loading bays shall be a minimum dimension of twelve (12) feet by fifty-five (55) feet and be designed and delineated so

as not to interfere with traffic flow or other parking spaces.

#### SECTION 10. Public Safety and Emergency Services

- A. Non-residential buildings covering an area of more than ten thousand (10,000) square feet in footprint area shall provide clear access for emergency vehicles on all sides of the building(s). Clear access consists of a minimum of twenty feet of unobstructed width with a surface level and firm enough to support fire equipment. The access shall be considered developed area and not included in any calculations for buffer areas.
- B. At a minimum, the requirements of the editions of NFPA – 1 and NFPA – 101 in use at the time of construction must be met for all construction, alteration, or demolition.
- C. Fire lanes and key box security systems shall be installed and maintained where required. The Fire Chief may require temporary fire lanes and/or building access routes during construction, alteration, or demolition work.
- D. The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the Fire Chief that the proposed development will not exceed the capacity of the department to provide adequate protection. The Fire Chief may recommend additional protective improvements, including but not limited to fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems.
- E. If the development will use or store items that because of their toxicity or flammability would require specialized training or equipment, the developer will be responsible for providing that training or equipment to the fire department.
- F. The development must be designed to provide security consistent with the capacity and practices of Kennebec County Sheriff. The applicant shall provide a written statement from the Sheriff approving any proposed security measures.

#### SECTION 11. SCREENING OF STRUCTURES, PARKING LOTS, AND OTHER Non-residential USES

##### A. Screening Standards for Public Roads

The following standards apply to non-residential uses fronting public roads . All non-residential uses shall be separated from a public road by a vegetative screen or buffer. The screen shall be designed and maintained as follows., except as provided in subsection “C” below for Village areas identified in the 2014 Belgrade Comprehensive Plan:

All buffer areas shall maximize the retention and use of naturally occurring woodland and shrubs, with clearing limited to dead and hazardous trees. The Planning Board may require augmentation of naturally occurring vegetation with plantings to achieve a reasonable screen from public ways if a sufficient density of growth does not already exist.

1. Buffers shall be a minimum of thirty-five (35) feet in depth and extend along the



entire frontage of the lot on public ways, except for access points or driveway lanes. The number and width of lanes shall be the minimum necessary to achieve safe and efficient passage of vehicles.

2. On sites which lack a previously established woodland, a planted buffer of a minimum of twenty-five (25) feet in width is required. The buffer shall consist of a mixture of native trees and shrubs. Trees shall be a minimum of 4 ½ feet in height at the time of planting and spaced no more than thirty (30) feet apart, with shrubs and understory trees filling in the gaps. All shrubby planted material shall be at least two(2) feet in height at time of planting and expected to grow to no less than five (5) feet at maturity.
3. From the point at which Route 27 crosses the railroad tracks in Belgrade Depot south to the Sidney town line, the width of the planted buffer may be reduced to twenty (20) feet.
4. A planted vegetative screen shall be completed prior to completion and occupation of buildings and outdoor operating areas. A plan shall be established and provided as part of the permit application for the maintenance of vegetation and replacement of dead vegetation.

#### B. Screening of Neighboring Properties

Screening of neighboring properties shall be required wherever a proposed non-residential use abuts a residential development, multi-family building or home and is not located within a Village District as shown in the 2014 Belgrade Comprehensive Plan, The Board may require screening in other instances where the Planning Board determines that adjacent uses are incompatible. The buffer shall be designed and maintained as follows:

1. Screening shall consist of a natural (preferred) or artificial visual buffer sufficient to ensure continuous year round screening. Screening shall be sufficient to minimize the impacts of large buildings, vehicle movements, outdoor storage areas, glare and errant lighting, and related non-residential activity. Planted areas shall be maintained and vegetation replaced as necessary within one growing season.
  - a. A fifty (50) foot minimum width will be required if the buffer will consist of natural woodland, provided that the planning board may require supplemental plantings to achieve an effective visual screen.

Where a buffer must be planted, a twenty-five (25) foot minimum width will be required, consisting of a planting of native coniferous trees established in two or more alternating rows. Trees shall be a minimum of 4.5 feet in height at time of planting and shall be planted no more than twenty-five (25) feet apart.

- b. A planted vegetative screen shall be completed prior to completion and occupation of buildings and outdoor operating areas. A plan shall be established and submitted as part of the permit application for maintenance of vegetation and replacement of dead vegetation.

2. Where no vegetation can be maintained, or due to unusual site conditions, the planning board may approve a screen consisting of fences, walls, berms, or combinations thereof, provided that any structures are placed no closer than five (5) feet to the property line. Artificial screening should be of sufficient height and length to effectively screen buildings, vehicle movements, outdoor storage areas, glare and other non-residential activities from neighbors.

C. Exceptions to Public Road Screening Standards:

1. Within Village areas as depicted in the 2014 Comprehensive Plan, except for that portion of Route 27 between Route 135 and the Sahagian Road, the following screening standards shall apply:
  - a. Parking areas will be provided with screening along public roads consisting of walls, fences, berms, or a solid planted coniferous hedge extending a minimum of thirty-six (36) inches above the grade of the parking lot, or of sufficient height to intercept headlights in the parking area from shining onto the public road.
  - b. Between a non-residential use and the right-of-way of any public road, no less than two (2) existing full size trees per 100 feet of road frontage shall be retained. Full size trees to be retained are those that have or will have a minimum height of 50 feet at maturity. Trees are to be spaced 30 to 50 feet apart such that trees line the entire length of road frontage. Where no or insufficient full size trees exist, native deciduous or coniferous trees shall be planted to meet the above specifications. At planting, trees shall be a minimum of six (6) feet in height. Plantings that fail shall be promptly replaced. As existing road frontage trees die over time, they shall be replaced.

## SECTION 12. SIGNS

The purpose of this section is to regulate the nature and location of advertising and informational signs so that they will not endanger the safety of individuals, or confuse, mislead, or interfere with the travelling public, or otherwise endanger the public health, safety, and welfare.

A. Abandoned Signs

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

B. Illuminated Signs

1. Except where provided below, signs shall be illuminated externally only, by lights which are shielded or hooded so that the light source is not a nuisance to traffic or neighboring properties, and does not unnecessarily illuminate the night sky. Lighting shall be constant in color, location, and brightness. Signs shall not give off or reflect at an intensity greater than fifty (50) foot candles as measured one hundred (100) feet from the sign. Illuminated signs shall be turned off between the hours of 10PM and 6AM except when the business is open during those hours
2. Shielded or hooded internally lit signs are permitted only within Village areas identified in the 2014 Belgrade Comprehensive Plan and on US Route 27 southward from its intersection with ME Route 135 to the Sidney town line. Digital variable message signs shall be limited to text messages on a solid color background, and shall otherwise comply with the Maine Traveler Information Services Act (23 MRSA §1914 (11-A) regarding location and duration of change. All internally illuminated signs shall be no brighter than 50 foot candles as measured at 100 feet from the sign, and turned off between the hours of 10 PM and 6 AM except when the business is open during those hours.

D. Sign Area and Placement

1. No more than two signs, which in combination are not more than thirty-two (32) square feet in footprint area in size, shall be permitted per premise.
2. A sign may be placed in the front setback area but may not be located within thirty-three (33) feet of the centerline of a street, except within the village areas identified in the 2014 comprehensive plan.
3. All signs must be mounted on buildings or secured to the ground in such a manner as to prevent them being dislodged by strong winds. Within village areas identified in the comprehensive plan, “sandwich-board” style signs are permitted, but shall not be left outside beyond business hours.
4. Signs in the vicinity of an access point shall be placed so as not to obstruct driver vision.

## SECTION 13. STORMWATER MANAGEMENT

- A. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces.
- B. For any development which will exceed 7,500 square feet in footprint area of impervious surface, the applicant must submit a Stormwater Management Plan. If the disturbed area exceeds 30,000 square feet in footprint area, the plan must be developed by a professional engineer licensed to practice in the State of Maine.
- C. To the extent possible, the plan must retain stormwater on the site using the natural features of the site and must not have adverse impacts on abutting or downstream properties. Phosphorous management practices consistent with Section 15.B of this Article shall be shown on the plan.
- D. Stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- E. Any project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit at time of application.
- F. For projects which do not require a DEP Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication *Stormwater Management for Maine*, (DEP, January 2006 or as revised) is highly encouraged.
- G. For projects involving structural treatments, a Stormwater Maintenance Agreement must be submitted at the time of application. The SMA must indicate how stormwater facilities will be maintained through the course of their projected life.
- H. The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

## SECTION 14. WASTES

### A. Solid Waste

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

B. Sanitary and Liquid Wastes

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

SECTION 15. WATER QUALITY

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

A. Groundwater Protection

1. No development will affect groundwater availability beyond the boundaries of the property. The developer shall demonstrate that groundwater will not be diminished in quantity or quality as a result of the project. The planning board may require regular monitoring and reporting as a condition of approval.
  - a. No development shall increase any contaminant concentration in the groundwater to more than one half (1/2) of the Primary Drinking Water Standards, nor to an amount to exceed the Secondary Drinking Water Standards as established by the Maine Dept. of Human Services at the time of the permit issuance.
  - b. If existing groundwater contains contaminants in excess of the primary standards, the applicant shall demonstrate no significant further deterioration. If groundwater contains contaminants in excess of the secondary standards, the development shall not cause the concentration of the parameters in question to exceed one hundred fifty (150) percent of the pre-existing concentration.
  - c. Groundwater withdrawals or alteration of surface recharge characteristics by a proposed development shall not lower the water table beyond the boundaries of the development boundary by increasing runoff or decreasing infiltration.
2. The Planning Board shall require an assessment of the impact of a development on groundwater quality or quantity based on the proposed size or nature of the development in cases where the development is projected to generate demand of more than two thousand (2,000) gallons per day from groundwater sources. This assessment shall be prepared by a Maine certified hydrologist or registered civil engineer with

experience in groundwater, and shall contain at least the following information:

- i. a map showing the basic soil types, and the location of any subsurface wastewater disposal systems and drinking water wells within the development and within three hundred (300) feet of the development boundaries.
  - ii. depth to the water table at representative points throughout the development,
  - iii. data on the existing groundwater quantity and quality, either from test wells or from existing wells on neighboring properties.
  - iv. an evaluation of the effect of the development on groundwater, including a mitigation plan if the assessment shows that the project cannot meet the standard of subsection (1) above.
3. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the site plan submitted. If any measures to reduce groundwater contamination and protect drinking water supplies are proposed, those standards shall be included as a note on the Plan, and as restrictions in the deeds to the affected lots.
  4. Within the area identified as Significant Sand and Gravel Aquifer by the Maine Geological Survey, no activity involving the production, use, or storage of hazardous or toxic chemicals or petroleum products shall be conducted except with a Spill Prevention, Control, and Countermeasure Plan developed in accordance with US Environmental Protection Agency regulations at the time of application and approved by the Planning Board

If the development will include a facility for storage of hazardous substances or petroleum, the application must include written documentation from the Maine Department of Environmental Protection that the development will comply with agency rules, chapters 692 and 700, in the form of a variance from the prohibition on location over a significant aquifer or a letter indicating the prohibition does not apply.

5. If the development will provide a public water supply, a source water protection plan will be prepared and submitted to the Planning Board along with documentation that the plan has been approved by the Maine Department of Health and Human Services.

## B. Impact on Lake Water Quality

Any new or expanded development within the scope of this ordinance shall be designed to limit the post development phosphorus export consistent with the following standards and practices.

1. Unless otherwise noted, methods and standards for review under this section will be the DEP manual

, *Maine Stormwater Management Design Manual, Volume II Phosphorous Control Manual*, March 2016 or as revised. (hereinafter referred to as “ Phosphorus Control Method”).

2. Applicability: This section applies to

- non-residential development resulting in more than 15,000 square feet in footprint area of disturbed area or 7,500 square feet in footprint area of impervious surface when completed.
- the creation of new roads/driveways in excess of 250 feet.

a. Projects which have received approval of a Stormwater Management Permit under the state Maine Stormwater Management Law (38 MRSA § 420-D) shall be considered to comply with the phosphorus control portion of this ordinance.

Unless receiving approval under subsection (a), above, all development shall demonstrate that phosphorous export in stormwater runoff will be limited to the phosphorous export standards for specific great ponds in Appendix C of the Maine Department of Environmental Protection’s March 2016 Maine Stormwater Management Design Manual, Volume II Phosphorous Control Manual, or as revised.

The Code Enforcement Officer shall keep an accurate record of permits issued by watershed and estimated phosphorus load of developments approved under this ordinance.

3. This Ordinance provides for two options in controlling phosphorous export from development as follows:

- a. Simplified Phosphorous Method. This method shall apply to non-residential developments which result in total disturbed area of 30,000 square feet in footprint area or less, including building, parking, driveway, lawn, subsurface wastewater disposal systems, and infiltration areas and new or upgraded roads and streets not exceeding three hundred fifty (350) linear feet.

The simplified phosphorous method requires the provision of a permanent, vegetative buffer located downhill from the developed portion of the lot(s) as provided below. Natural buffers must be left in place down gradient of developed areas such that runoff from as much of the lot’s buildings, driveway, parking and lawn area as possible drain to the buffer in overland, unchanneled flow. The width (length of fall line through the buffer) of these buffer areas should be as follows:

If the watershed phosphorous budget is 0.05 lb/acre/yr or less (McGrath Pond,

Chamberlain Pond, Joe Pond, Wellman Pond)

Wooded buffer= 75 feet

Non-wooded buffer- 125 feet

If the watershed phosphorous budget is greater than 0.05 lb/acre/yr

Wooded buffer= 50 feet

Non-wooded buffer= 100 feet

Buffers must be clearly identified on the site plan and will be maintained in accordance with the DEP Phosphorous Control standards through a maintenance agreement, deed covenant restriction and/or conservation easement

Driveways and parking areas must be designed and constructed using best management practices such as swales, ditch turnouts, water bars, broad based drainage dips, and proper grading of gravel drives to prevent runoff from concentrating in the driveway and to divert it into buffer areas as quickly as feasible. Roof runoff must be distributed over stable, well vegetated areas or be infiltrated into the soil using dry wells or other infiltration systems constructed using Best Management Practices.

- b. Development which exceeds the thresholds of the “Simplified Phosphorous Method” above shall be designed by a licensed professional engineer using the procedures and standards in DEP’s Maine Stormwater Management Design Manual, Volume II Phosphorous Control Manual (March 2016 or as revised) to demonstrate that the development will not produce phosphorous in excess of the Permitted Phosphorous Export Standards.
4. Where the planning board finds that, due to unavoidable features or the unique nature of the development, the Phosphorous Control Method does not contain adequate or relevant design standards to meet the intent of this section, the board may require alternative phosphorous control measures to the extent it deems feasible.
  5. .Phosphorous Export from New Roads:

For new or significantly upgraded permanent roads longer than 500 feet and not otherwise covered by phosphorus control standards of this ordinance, the following standards shall apply.

- a. Roads and ditches must be designed and constructed so that a) runoff is quickly shed to protected buffer areas and b) disruption of natural drainage patterns is minimized .
- b. BMP’s such as swales, ditch turnouts, water bars, broad based drainage dips, and proper grading of gravel drives and roads should be used to prevent runoff from concentrating in the road and to get it into buffer areas as quickly and feasible.



- c. All new roads must be constructed and maintained using Maine Erosion and Sediment Control BMP's (Maine DEP, October 2016 or as revised).
- 6. Maintenance and Use Restrictions for Phosphorus Control Measures Provisions for monitoring, inspections, and maintenance of phosphorus control measures, including buffer strips and infiltration systems shall be established according to Maine Stormwater Management Design Manual, Volume II Phosphorous Control Manual (Maine DEP, March 2016, or as revised).
- 7. Phosphorous Export from New Roads:

For new or significantly upgraded permanent roads longer than 500 feet and not otherwise covered by phosphorus control standards of this ordinance, the following standards shall apply.

- d. Roads and ditches must be designed and constructed so that a) runoff is quickly shed to protected buffer areas and b) disruption of natural drainage patterns is minimized .
- e. BMP's such as swales, ditch turnouts, water bars, broad based drainage dips, and proper grading of gravel drives and roads should be used to prevent runoff from concentrating in the road and to get it into buffer areas as quickly and feasible.
- f. All new roads must be constructed and maintained using Maine Erosion and Sediment Control BMP's (Maine DEP, May 1992 or as revised).
- 8. Maintenance and Use Restrictions for Phosphorus Control Measures Provisions for monitoring, inspections, and maintenance of phosphorus control measures, including buffer strips and infiltration systems shall be established according to *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development* (Maine DEP, September, 1992 or as revised).

## Article 7: Development Standards for Specific Activities

### SECTION 1. MINERAL EXTRACTION AND PROCESSING OPERATIONS

Prior to land clearing and development, new mineral extraction and processing operations shall submit a full application for Planning Board approval in accordance with Article 4, Section 5, including for the addition of a material processing operation to an existing mineral extraction site. New operations shall meet the review criteria and standards in Articles 5 and 6 as well as those in this section. Existing mineral extraction operations are only required to obtain a permit from the Planning Board in accordance with the requirements outlined below in this section.

#### A. Special Permit Requirements

Because of the constantly-expanding nature of mineral extraction, all commercial development permits for this use will expire after five (5) years from the date of the Planning Board's prior approval. . Five-year renewals will be reviewed using the procedures of Article 4, Section 9 of this Ordinance "Revisions to an Approved Plan."

#### B. Supplemental Application Requirements for extraction operations

1. The site plan shall include the following features:
  - a. topography with contour intervals no greater than ten (10) foot, based on USGS data;
  - b. the location and slope of grades existing and proposed upon completion of the extraction operation;
  - c. proposed petroleum storage and equipment fueling areas, fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits.
2. A written statement of the proposed operating procedure and working hours.
3. A five-year plan, showing new areas to be mined, and old areas to be reclaimed, together with estimates of volumes to be extracted, and detailed plans for reclamation of completed excavation.
4. The planning board may require a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity;

#### C. Development Standards

- :
1. No part of any extraction or processing operation shall be permitted within fifty (50) feet of a public road or any property boundary where the abutting property is not owned by the operator unless agreed to in writing by the abutting land owner. Drainage ways to reduce run-off into or from the extraction area may be allowed

provided suitable erosion control measures are in place. Natural vegetation shall be left and maintained on the undisturbed land.

2. No slopes steeper than 2 feet horizontal to 1 foot vertical (2:1) shall be permitted at any extraction site unless provisions are made to limit access to such locations.
3. 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 accepted Best Management Practices for erosion control.
4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The developer shall obtain written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.
5. The hours of operation shall be limited, if necessary to ensure compatibility with neighboring residences.
6. All driveways from the site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet back from such public roads.
7. The reclamation plan shall show that within twelve (12) months following the completion of extraction or processing operations at a site, ground levels and grades shall be established so that the restored drainage exits the site resembling pre-development volumes and locations. "Completion" means when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period.
8. Topsoil removed during the extraction operation will be stockpiled on the site and used during reclamation. Debris, stumps, boulders, and similar materials shall be removed and disposed of on the property in an approved location, or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered.
9. Final slopes shall not exceed two feet horizontal to one vertical (2:1). All areas shall be properly restored to a stable condition adequate to meet the provisions of the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District, 1991, or most recent edition. Any temporary shelters or structures erected for operations and equipment shall be removed within thirty (30) business days following completion of extraction operations.
10. All stationary petroleum storage tanks and fueling areas shall be constructed and operated in accordance with Maine Department of Environmental Protection Standards in Chapter 378 of the Department's regulations for petroleum storage associated with aggregate mining operations.

## SECTION 2 OVERNIGHT ACCOMODATIONS

- A. Hotels, motels, rental cottages, and inns designed and constructed without individual kitchen facilities (except for Bed and Breakfast) are subject to the following requirements:
  - 1. Except within the village areas identified in the 2014 Belgrade Comprehensive Plan, no part of any building shall be closer than fifty (50) feet to the front lot line, rear lot line, or either side line of such lot.
  - 2. Each rental room shall be equipped with an approved, hardwired smoke detector and carbon monoxide detector.
- B. Bed & Breakfast facilities shall comply with the standards of Article 6 and the following:
  - 1. The application for permit shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
  - 2. In addition to parking required by Section 6.9 of this Ordinance, two spaces shall be provided for the owners or operators of the business.
  - 3. There shall be at least one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
  - 4. Each rental room shall be equipped with an approved, hardwired smoke detector.
- C. Hotel, motel, or cottage units with self-contained kitchen and toilet facilities otherwise designed as housekeeping accommodations are considered to be dwelling units and may be subject to review under the Town of Belgrade Subdivision Ordinance.

## SECTION 3 TELECOMMUNICATIONS TOWERS

Telecommunication towers shall comply with the standards of Article 6 as well as the following:

### A. Location

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 demonstrate why location on an existing tower is not feasible. The planning board may require space on proposed towers for co-location of other services, if feasible.

### B. Design and Construction

- 1. No tower shall exceed 195 feet in height, as measured from the tip to the ground surface, including extensions and attachments.
- 2. New towers shall be of a monopole design.
- 3. A new or expanded tower shall be placed on a lot owned by the operator of the facility or leased for a period of not less than ten (10) years, and shall be set back

from all lot lines a minimum horizontal distance equivalent to the height of the tower, but in no case less than required setbacks for the district in which it is located.

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. The planning board may require a visual impact assessment as provided in Article 6, section 6.A of this ordinance.
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.

C. Decommissioning

1. **Bond for Removal.** At the time of approval of a permit application, and prior to initiating construction of any telecommunication tower within the Town of Belgrade, the applicant must post a bond to cover costs for the removal and decommissioning of the telecommunication tower, including site reclamation. The amount of the bond shall be based on the removal and reclamation costs plus twenty-five (25) percent, provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with a revised removal and reclamation cost estimate prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than twenty-five (25) percent, then the owner of the facility shall provide additional security in the amount of the increase.
2. **Abandonment or Discontinuation of Use/Decommissioning.** A telecommunication tower that is not commercially operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of a telecommunication tower shall notify the Belgrade Code Enforcement Officer in writing within thirty (30) days of it not being commercially operated for twelve (12) continuous months. The owner of the facility shall have thirty (30) days thereafter to demonstrate to the Planning Board that the facility has not been abandoned, but is temporarily out-of-service and when it will resume regular commercial service.

If the owner fails to show that the facility is not abandoned, the owner shall have thirty (30) days to submit a decommissioning plan for Planning Board approval, and one hundred fifty (150) days after Planning Board approval to remove and decommission the facility. If the facility is not fully decommissioned within that time period, the Town may compel the owner to comply with the ordinance's removal and decommissioning requirements through an enforcement action or to remove and decommission the facility at the owner's expense, drawing upon the bond required in Article VII.3.A.1 above to defray the costs. Decommissioning shall include, but not be limited

to the removal of towers, antennas, mounts, equipment shelters, security barriers, and all other above and below ground facility components. Decommissioning shall include soil erosion control measures and site reclamation to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

## SECTION 4 WIND ENERGY FACILITIES

Wind Energy Facilities shall comply with the standards of Article 6 as well as the following:

### A. Design and Construction

1. Wind turbines shall be set back a horizontal distance equivalent to 150% of the turbine's height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed generating facility.
2. Each wind turbine shall be equipped with an over speed control system that: 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a licensed civil engineer
3. All ground-mounted electrical and control equipment and all access doors to a wind turbine shall be labeled and secured to prevent unauthorized access. A wind tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.
4. The minimum distance between the ground and all blades of a horizontal axis wind turbine shall be 25 feet as measured at the lowest arc of the blades.
5. With the exception of Meteorological (MET) Towers, towers shall be monopoles with no guy wires. This requirement may be waived if the applicant demonstrates to the satisfaction of the Town that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

### B. Environmental Standards

1. A wind energy facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. The planning board may ask for additional study and analysis of the impact of the facility on wildlife movements and migrations.
2. To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the planning board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

3. Each wind turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the wind turbine from occupied buildings and scenic resources.
4. If a turbine tower will exceed 100 feet in height, the developer shall provide a visual impact assessment that will allow the planning board to determine whether the facility would have an adverse effect on scenic views from lakes or public places within the municipality.
5. Wind energy facilities shall be designed to avoid unreasonable adverse shadow flicker effect at any occupied building located on an abutting landowner's property.

#### C. Impact on Public Services

1. The Applicant shall identify all state and local public roads to be used within the Town to transport equipment and parts for construction, operation or maintenance. Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Applicant's expense. The Town shall engage a qualified third-party engineer reasonably acceptable to the Applicant and paid for by the Applicant, who shall document road conditions prior to construction.
2. The Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan.
3. A wind turbine shall be equipped with an appropriate fire suppression system to address fires within the nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Town.

#### D. Liability Insurance

The operator of the facility shall maintain a current general liability policy for the wind energy facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the facility. The Applicant or its designee shall make certificates of insurance available to the Town.

#### E. Decommissioning

An application for a wind energy facility permit must include a decommissioning plan. "Decommissioning" means the full and complete physical removal of all components of a wind energy facility, including but not limited to wind turbines, associated anchoring systems and foundations, other structures, buildings, roads, fences, cables, electrical components, and associated facilities and foundations. Decommissioning plans must include:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is sold

commercially to external customers for a continuous period of 12 months. The applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation and commercial sale of electricity, that although the project has not commercially sold electricity for a continuous period of 12 months, the facility has not been abandoned and should not be decommissioned.

2. A description of the work required to physically remove all wind turbines, associated foundations, buildings, cabling, electrical components, and any and all other associated facilities to the extent they are not otherwise in or proposed to be placed in productive use. All earth disturbed during decommissioning must be graded and re-seeded to prevent soil erosion.

At the time of decommissioning the applicant must provide evidence of plans for continued beneficial use of any and all of the components of the wind energy facility. No waste from a decommissioning may be disposed of at the Town of Belgrade Transfer Station. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

3. Plans for the restoration of the wind energy facility site to its pre-development condition.
4. An estimate of the total cost of decommissioning and itemization of the estimated major expenses, including projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs shall include, but is not limited to, the cost of the following activities: turbine removal; turbine foundation removal and permanent stabilization; transmission corridor removal and permanent stabilization; road infrastructure removal and permanent stabilization; and site restoration. This cost estimate must be updated every three (3) years and submitted to the Planning Board for its approval.
5. Demonstration in the form of an irrevocable letter of credit from a state or federally regulated bank or credit union, a certified check payable to the municipality, or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account; or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful commercial life of the development, the applicant will have the necessary financial assurance in place for 125% of the total cost of decommissioning. The owner of the facility shall provide the Planning Board with a revised decommissioning cost estimate and structural evaluation prepared by professional civil engineer licensed in Maine or a professional turbine construction company every three (3) years from the date of the Planning Board's of the wind energy facility plan. The financial assurance shall include a provision granting the Town the ability to access funds and property and perform decommissioning if the development is abandoned or the applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.



6. Transfer of ownership. Upon transfer of ownership of a wind energy facility development subject to a decommissioning plan approved under this ordinance, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator. New owners must demonstrate to the Planning Board's satisfaction an ability to meet the financial assurance requirement.
7. Environmental site assessment. The decommissioning plan shall include provisions for conducting a Phase II environmental site assessment adequate to determine if there has been a release or discharge of oil or hazardous substances at or near any transformers, inverters or other equipment containing liquid oil or hazardous substances as defined by State law. Decommissioning shall not be considered complete until such time as the site assessment has also been completed and submitted to the Belgrade Code Enforcement Officer. At a minimum the site assessment shall include a soil sampling regime sufficient to find environmental evidence of past leaks or discharges. The site assessment shall also describe the nature and extent of contamination, and will make recommendations for further action. The environmental site assessment shall be completed in accordance with American Society for Testing and Materials (ASTM) E1903-19, Standard Practice for the Environmental Site Assessments, as revised, and prior to the transfer of ownership or change in use of the facility site. The decommissioning plan will also require a copy of the environmental site assessment be submitted to the Belgrade Code Enforcement Officer within 30 days of completion, and include provisions for the reporting of oil or hazardous substance contamination in accordance with State statute to the Maine Department of Environmental Protection.

## SECTION 5 NON-RESIDENTIAL SOLAR ENERGY-PRODUCING FACILITIES

The purpose of this section is to establish a municipal review procedure and siting standards for Non-Residential Solar Energy-Producing Facilities (hereinafter referred to as "solar facilities"). These standards are intended to:

1. Establish clear guidelines and standards to regulate solar facilities;
2. Regulate the development of solar facilities in a manner that minimizes any potential adverse effects on the scenic, cultural and natural resource character of the Town;
3. Provide for the removal of panels and associated solar facility structures that are no longer being used for non-residential energy generation and transmission purpose.

**A. Administration and Enforcement.** Regulations related to solar facilities will be administered as an additional level of review along with the provisions of the Commercial Development Review Ordinance, including Articles 1 through 8, which are hereby incorporated by reference. In case of a conflict, the stricter provision shall apply.

**B. Specific Application Requirements.** In addition to the requirements listed in Art. 4 Sec. 5.4 of the Commercial Development Review Ordinance, an application for a solar facility permit must also include the following:

1. An additional permit/technical review fee to be set by the Board of Selectpersons shall be payable at the time of application. This fee will be reviewed and amended as necessary on an annual basis. The Planning Board may at its discretion retain independent technical or legal expertise to assist in review or supplement the evidence presented by the applicant and received during the public hearing. The cost of such assistance shall be borne by the applicant according to the terms of an escrow account set-up at the time the application is submitted as listed in the Permit Fee Schedule established by the Board of Selectpersons.
2. A description of the owner of the facility, the operator if different, and detail of qualifications and track record to run the solar facility;
3. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party with regard to the solar facility and the life of the agreement;
4. A description of the energy to be produced and to whom it will be sold;
5. A copy of the agreement and schematic details of the connection arrangement with the transmission facility, clearly indicating which party is responsible for various requirements and how they will be operated and maintained;
6. A description of the panels to be installed, including make and model, and associated major facility components;
7. A construction timeline, identifying known contractors, site control, and anticipated on-line date;
8. A full official land survey of the proposed site. Must include any Rights of way and Easements on the property and be sealed and/or stamped by a Maine licensed professional surveyor.
9. An operations and maintenance plan, including site control and the projected operating life of the facility;
10. An emergency management plan for all anticipated hazards;
11. Proof of financial capacity to construct and operate the proposed solar facility; and
12. Name and contact information for solar system installer, and if different, the name, contact information and license number of the supervising Maine licensed electrician;
13. Written certification by the installer that all electrical components shall be installed in accordance with the National Electrical Code;
14. Provide a one- or three-line electrical diagram detailing the electrical components installation and electrical inter-connections to the Belgrade fire chief;
15. Stream crossing detailed design plans;
16. Prime agricultural soils identification and mapping conducted by a Maine-licensed soil scientist in accordance with the Maine Department of Agriculture, Conservation & Forestry guidelines, Determining Prime Farmland Soils and Soils of Statewide Importance for Siting Solar Projects in Maine, May 2020, or as revised; and,
17. Maine Inland Fisheries & Wildlife Beginning with Habitat program mapping of high-value plant and animal species habitat on the project parcel and abutting parcels. High and moderate deer yard mapping within 1,500 feet of the development.
18. A Visual Impact Assessment, an analysis to determine potential visual effect of the solar facility, must be undertaken. In all visual impact assessments, scenic

resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices, including Sections 4-7, Section 10 and Appendix A of Chapter 315 of the Maine Department of Environmental Protection regulations, Assessing and Mitigating Impacts to Existing Scenic and Aesthetic Uses (except “Planning Board” replaces “Department”), to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures.

A visual impact assessment must also include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

The Visual Impact Assessment must include the following elements:

a. A visual and cartographic analysis (Viewshed Analysis).

A geographical representation of all the areas within a minimum of 3 miles of where the solar facility, from its highest points is visible from the surrounding (impact) area shall be presented. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the impact area from which the facility will be visible, including representative and worst-case viewpoints, must be identified. At a minimum, these public recreation and scenic resources within the boundaries of the Town of Belgrade are to be considered viewpoints for inclusion in this analysis: Great Pond, Long Pond, Messalonskee Lake, Salmon Lake, McGrath Pond, Minot Hill Road, areas of the Belgrade Lakes Golf Club open to the general public and above 400 feet elevation, and areas of Belgrade accessible by public road with an elevation above sea level equal or greater than 550 feet. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape.

b. Site inventory and photographic review. This should provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the solar facility and its associated elements.

c. Visual simulations. Visual simulations should be provided to show a photo-realistic perspective view of proposed solar facility elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure.

The visual impact assessment must be prepared by a Maine-licensed landscape architect or other design professional trained in visual assessment procedures, or as otherwise directed by the Planning Board.

19. An application for a solar facility permit must include a decommissioning plan. “Decommissioning” means the full and complete physical removal of all above- and below-ground components of a solar energy facility, including but not limited to solar modules, associated anchoring systems and foundations, other structures,

buildings, roads, fences, cables, electrical components, and associated facilities and foundations. Decommissioning plans must include:

- a. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is sold commercially to external customers for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation and commercial sale of electricity, that although the project has not commercially sold electricity for a continuous period of 12 months, the project has not been abandoned and should not be decommissioned.
- b. A description of the work required to physically remove all solar panels, associated foundations, buildings, cabling, electrical components, and any and all other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

At the time of decommissioning, the Applicant must provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy Facility. No waste from a decommissioning may be disposed of at the Town of Belgrade Transfer Station. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.

- c. An estimate of the total cost of decommissioning and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization. This cost estimate must be updated every three (3) years and submitted to the Planning Board for its approval.
- d. Demonstration in the form of an irrevocable letter of credit from a state or federally regulated bank or credit union, a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account; or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life of the solar facility the Applicant will have the necessary financial assurance in place for 125% of the total cost of decommissioning. The owner of the facility shall provide the Planning Board with a revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine or a professional array construction company every three (3) years from the date of the Planning Board's approval of the solar array complex plan. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the development is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board.
- e. Transfer of ownership. Upon a transfer of ownership of a commercial solar energy development subject to a decommissioning plan approved under this ordinance, a

person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator. New owners must demonstrate to the Planning Board's satisfaction an ability to meet the financial assurance requirement.

- f. Environmental site assessment. The decommissioning plan shall include provisions for conducting a Phase II environmental site assessment adequate to determine if there has been a release or discharge of oil or hazardous substances at or near any transformers, inverters or other equipment containing liquid oil or hazardous substances as defined by State law. Decommissioning shall not be considered complete until such time as the site assessment has also been completed and submitted to the Belgrade Code Enforcement Officer. At a minimum the site assessment shall include a soil sampling regime sufficient to find environmental evidence of past leaks or discharges. The site assessment shall also describe the nature and extent of contamination, and will make recommendations for further action. The environmental site assessment shall be completed in accordance with American Society for Testing and Materials (ASTM) E1903-19, Standard Practice for the Environmental Site Assessments, as revised, and prior to the transfer of ownership or change in use of the facility site. The decommissioning plan will also require a copy of the environmental site assessment be submitted to the Belgrade Code Enforcement Officer within 30 days of completion, and include provisions for the reporting of oil or hazardous substance contamination in accordance with State statute to the Maine Department of Environmental Protection.

**C. Standards for Approval.** In addition to the requirements in Article 6: Development Standards Generally, the following standards must also be met:

1. Siting prohibitions - The development or construction of a solar facility shall be prohibited in the following locations:
  - a. Areas of 20% or greater slope;
  - b. Areas with elevations above sea level of 550 feet or greater; and
  - c. No more than five (5) contiguous acres of the total project area may be located on farmland with soils defined by the U.S. Dept. of Agriculture's Natural Resources Conservation Services as "prime farmland" or "farmland of statewide importance" as determined by a field survey conducted by a Maine licensed soil scientist and in accordance with the Maine Dept. of Agriculture, Conservation and Forestry's May 2020 guidance document titled "Determining Prime Farmland Soils and Soils of Statewide Importance for Siting Solar Projects in Maine."
2. Other prohibitions:
  - a. The development or construction of solar concentrating power plants are prohibited; and
  - b. Transformers and other electrical equipment using halogen or PCB oils as coolants are prohibited.
3. The solar energy system shall be designed by a Maine-registered electrical engineer.
4. Legal responsibilities: The Applicant must provide proof of authorization to construct,

use, and maintain the property and any access drive for the life of the solar facility and including the decommissioning of the solar facility. The roles and responsibilities of the facility owner, operator, landowner and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.

5. Minimum Setbacks:

- a. Solar modules may not be located less than 250 feet from existing public and private road rights-of-way; or in the case of a private road where the location of the right-of-way has not been surveyed and recorded in the Kennebec County Registry of Deeds in a deed, subdivision plan, plot plan, or other similar legal document, solar modules may not be located less than 250 feet from the near edge of the current physical location of the private road.
- b. Solar modules may not be located less than 250 feet from existing residential dwelling units.
- c. Solar modules may not be located less than 125 feet from adjacent property lines, unless a residential dwelling is within 125 feet of the property line, in which case the more stringent setback of 250 feet from the dwelling applies.
- d. Transformers and inverters may not be located less than 150 feet from a property line.

6. Clear-cutting and open space: The maximum area of land that is primarily forestland or the maximum area of wooded vegetation that may be cleared for a solar facility is 10 acres. Additionally, a minimum of 15% of a solar facility's developed and disturbed land area is to be reserved as undeveloped and natural open space. The acreage to be reserved as open space is to be indicated on the site plan. Areas included in buffers and setbacks shall not be included in the open space provision.

7. Visual screening requirements. The solar facility shall be at least 80-percent visually obscured from public and private roads, and residential dwelling units by a vegetative screen or buffer, as determined by the visual impact assessment at zero to ten (10) feet above the road surface and above the ground surface at residential dwelling units, respectively. Additionally, no more than one-half-acre of a solar development may be viewable from Belgrade waters or from the viewpoints designated in the viewpoint assessment section. Property lines in common with an approved subdivision shall also be provided with visual screening. The screening shall be designed and maintained as follows:

- a. All vegetative screening shall maximize the retention and use of existing, naturally occurring woodland and shrubs, with clearing limited to hazard trees. Clearing of trees and other natural vegetation prior to receiving development approval from the Planning Board is prohibited. The Planning Board may require augmentation of naturally occurring vegetation with plantings of native trees and shrubs to achieve significant visual screening if sufficient density of growth does not already exist. If damaged by weather, fire or disease at any time over the operating life of the facility, the visual buffer shall be maintained with the planting of trees and shrubs.

b. Minimum vegetative screening dimensions:

- i. 200' in depth along public and private roads.
- ii. 250' in depth along the common property line(s) with an existing residential dwelling unit that extends along the length of the property line demarcated by a 180-degree arc with a radius of 250' from each corner of the residential dwelling unit. Screening will be provided along the greatest length of property line indicated by this measurement method.
- iii. Greater depth may be required by the Board to achieve 80-percent obscuration when determined to be needed by the visual impact analysis .
- iv. Vegetative screening is to be provided from any property line in common with a residential subdivision previously approved by the Town of Belgrade. Such vegetative screening is to be a minimum of 50' in depth. Eighty percent obscuration from such a property line is not required in this specific instance only.
- v. On sites which lack existing woodland, a planted vegetative buffer shall be planted to the same dimensions as stated above in this subsection, sufficient to provide with time year-round screening. The buffer shall consist of a mixture of native conifer tree species (e.g., white pine, balsam fir, white or red spruce, etc.) and understory trees and shrubs. Trees shall be a minimum of 6 feet in height at the time of planting and spaced no more than 30 feet apart, with shrubs and understory trees filling all gaps between the future overstory trees. Trees shall be planted in alternating rows to achieve an effective visual screen of a minimum 80-percent obscuration from public and private roads and residential dwelling units, as determined by a visual impact assessment. All shrubby plant material shall be at least 3 feet in height at the time of planting and the species selected will grow at least to 5 feet at maturity. A planted vegetative visual screen shall be maintained over the lifespan of the facility with all plantings that die replaced as soon as growing conditions allow.
- vi. Where no vegetation can be grown due to unique site conditions, the Planning Board may approve a visual screen consisting of fences, walls, berms or a combination thereof that achieve 80-percent obscuration from a property line, provided that such structures are not placed closer than 15 feet to a property line or public or private road right-of-way, or in the case of a private road where the location of the right-of-way has not been surveyed and recorded in the Kennebec County Registry of Deeds in a deed, subdivision plan, plot plan, or other similar legal document, such structures may not be located less than 15 feet from the near edge of the current physical location of the private road. Artificial screening shall be of sufficient height and length to effectively screen the facility from view.

- vii. The visual screen shall be planted or installed prior to completion of the development and prior to the start of facility operation.
  - viii. The Planning Board may approve an alternative, equally effective visual screening for the specified 80-percent obscuration, but only when supported by the findings of the visual impact analysis conducted in accordance with the requirements of this ordinance and its associated visual impact mitigation measures.
7. Natural Resource Setbacks and Buffers: The following setbacks and natural vegetation buffers shall be maintained throughout the life of the solar facility from the following natural resources:
- a. 250' from the normal high water-line of a great pond as defined by Title 38 M.R.S.A., subsection 480-B of Maine's Natural Resources Protection Act.
  - b. 100' setback and buffer of natural vegetation along any rivers, streams or brooks, except for perpendicular crossings required for vehicle/powerline access. For streams less than 6' wide with less than a 2% slope, stream crossings shall be designed and constructed in accordance with the Maine Department of Transportation's Stream Smart Road Crossing Pocket Guide. Larger stream crossings shall be designed by a Maine registered professional engineer based on the principles of the Maine Stream Smart program.
  - c. 250' setback and natural vegetation buffer from habitat of high value plant and animal species as identified and mapped by the Maine Department of Inland Fisheries and Wildlife's Beginning with Habitat program, including but not limited to habitat for state or federally listed endangered species, significant vernal pools, and high or moderate value waterfowl and wading bird habitats.
  - d. 1,320' setback and natural vegetation buffer from areas identified and mapped by the Maine Department of Inland Fisheries and Wildlife as a high- or moderate-value deer wintering area.
  - e. 75' setback and naturally vegetated buffer from wetlands included in the U.S. Fish and Wildlife Service's National Wetland Inventory.
8. Height: Maximum solar module height, as measured from ground level to a module's highest point at full tilt, shall not exceed 12 feet.
9. Utility Notification: No solar facility shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the local utility to accept the power.
10. Fencing: Provide safety fencing around all solar modules and electrical equipment. Fencing shall be "Solid Lock Game Fence" or of similar design with 8-inch by 12-inch holes at bottom, or shall be elevated five (5) inches above ground level to



allow small wildlife passage. Fencing shall be located between the required visual screening and the electrical components of the solar facility. Access gates may be located outside the required visual screening.

11. Signage: Signage shall be required to identify the owner of the solar facility and provide a 24-hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the solar facility. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the solar facility, informing individuals of potential voltage hazards, including stating the output of power (AC or DC).

Signage indicating the official e911 address of the solar facility shall also be required to clearly be visible, from both directions of travel, from the public road or roads from which the facility is accessed.

12. Emergency Services: The solar facility owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A “3200 Series KNOX-BOX” shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar facility shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

Access roads to the solar facility shall be of sufficient quality and dimensions to satisfy the fire chief that any emergency response vehicles be able to easily and safely gain access to and around the site.

13. Visual Impact: A solar facility shall not have detrimental effect on the public recreational and scenic resources of Belgrade or significantly degrade the scenic view from abutters’ properties. To determine the visual impact of any solar facility, the Planning Board will, using the information provided in the Visual Impact Assessment study, consider the following:

- a. The significance of the potentially affected public recreational and scenic resources;
- b. The existing character of the surrounding area;
- c. The expectations of the typical viewer;
- d. The project purpose and the context of the proposed activity;
- e. The extent, nature and duration of the potential effect of the solar facility’s presence on the public’s continued use and enjoyment of Belgrade’s public recreational and scenic resources. The Planning Board shall consider Belgrade’s public recreational and scenic resources to include, but not be limited to, the following: areas of Great Pond, Long Pond, Messalonskee Lake, Salmon Lake and McGrath Pond within the Town of Belgrade; the Minot Hill Road; that portion of the Belgrade Lakes Golf Club open to the general public and with an elevation of 400 feet or greater; and locations in Belgrade accessible by public road with an elevation of 600 550 feet or greater.

In addition to the considerations listed above in a. through e. of this subsection, the Planning Board shall implement the visual impact standard in part using a rebuttable presumption that during those times of year when deciduous trees have all their leaves and if one-half acre or more of any solar facility is fully visible from areas of Great Pond, Long Pond, Messalonskee Lake, Salmon Lake and McGrath Pond within the Town of Belgrade; the Minot Hill Road; that portion of the Belgrade Lakes Golf Club open to the general public and with an elevation of 400 feet or greater; and locations in Belgrade accessible by public road with an elevation of 550 feet or greater; it will be considered to have a detrimental effect on the public recreational and scenic resources of Belgrade and therefore will have an adverse effect on the scenic and natural beauty of the area under paragraph xvi of Article 5: Review Criteria of the ordinance.

f. Vehicle access and electrical transmission routes shall be combined into a single corridor through required vegetative screening and buffers, or shall be co-located in existing rights-of-way, roads or other existing man-made linear features. Access roads shall have a vehicle travel surface that is no less than 12 feet and no more than 20 feet in width. When the proposed access road is unable to take advantage of an existing man-made linear feature, the layout of the road from a public road into the facility is to include at least one curve or angle such that the access road does not provide a straight line-of-sight of the facility's modules or other equipment. Access roads must be maintained year-round, including snowplowing, to ensure emergency vehicle access.

14. Herbicides: Use of herbicides to manage vegetation within the development is prohibited. Mechanical means are to be utilized, which may include animal grazing.

15. Maintenance Conditions: The solar facility owner or operator shall maintain the solar facility and all associated fencing, visual barrier measures and landscaping elements in good functional condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security and visual barrier measures. The solar facility must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Town of Belgrade Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the solar facility and any access road(s).

16. Inspection Requirements:

a. Project Completion Inspection. Within 30 days of the completion of facility construction and prior to the start of facility operation, a permit and ordinance compliance inspection report by a Maine registered professional engineer shall be conducted and submitted to the CEO, including recommendations for any required remediation measures and a timetable for their implementation.

b. Monthly inspections. A monthly physical inspection shall be conducted of the physical integrity all modules, transformers, inverters and other electrical components, and to identify any evidence of a leak or discharge of a hazardous substance or oil. The inspection shall be conducted by a qualified representative of the facility owner. A

written paper or electronic inspection log shall be maintained with at a minimum the following information: inspection date, who conducted it, their initials or electronic signature, and if and where any discharges were found. The inspection log will be maintained at the owner's place of business in Maine and will be made available upon request by the Town code enforcement officer, fire chief or duly authorized public officials from the State of Maine. Evidence of a discharge of a possible hazardous substance or oil shall be reported to the Maine Department of Environmental Protection in accordance with current law and regulations for determination of the need for possible further investigation or remediation.

17. Satisfaction with All Aspects of Capacity and Plans Submitted: The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the solar facility.

## Article 8: Definitions

The following words and phrases, as used in this ordinance, have the meanings specified below. Any words not defined below are assumed to have their normal dictionary meaning.

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

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

**Adult Business:** Any commercial enterprise, including but not limited to bookstores, amusement centers, and theaters, which as a substantial or significant portion of its enterprise rents, sells, or keeps for display books, videos, motion pictures or any other form of representation of sexually explicit material or activities. Sexually explicit means the depiction of display of human sex organs.

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

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

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

**Authorized agent:** A person having written authorization to act on behalf of an applicant, signed by the person with legal interest in the property.

**Belgrade Lakes Village (also all "village areas"):** An area described in the Town of Belgrade Comprehensive Plan and depicted in the Land Use Map as part of that plan.

**Building:** Any structure having a roof supported by columns or walls intended for sheltering or housing people, animals, business processes or activities, equipment, goods or materials of any kind or nature.

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

**Campground:** A plot of ground upon which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes including erection of tents, trailers,

lean-to, overnight cabins, or similar structures and parking facilities.

**Change of Use:** A change in the function of property from residential to non—residential or from a low-intensity use, such as warehousing or storage to a high-intensity one, such as manufacturing or business office. All non-residential uses that are changed into retail or restaurant are considered changes of use. Where a question exists as to whether there has been a change of use, the intensity of use shall be measured as the volume of traffic predicted for the use.

**Community-based renewable energy project:** a solar energy-producing facility which meets the definition in state statute (Title 35-A, subsection 3209-A) of a “community-based renewable energy project.”

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

**Decommissioning:** means the full and complete physical removal of all components of a non-residential solar energy-producing facility, including but not limited to solar panels, associated anchoring systems and foundations, other structures, buildings, roads, fences, cables, electrical components, and associated facilities and foundations.

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

**Developed Area:** Any area on which a site improvement of change is made, including buildings, landscaping, drainage improvements, parking areas and driveways.

**Distributed generation renewable energy project:** a solar energy-producing facility which meets the definition in state statute (Title 35-A, subsection 3209-A) of a distributed generation renewable energy project.

**Disturbed Area:** Area on a site that is to be cleared of vegetation, covered with fill, stripped of soil, graded, excavated, or covered with structures, including parking and outdoor storage areas.

**Driveway:** A road, excluding a road used in common with others, intersecting a public road or a privately-owned road, intended to provide for the passage of motorized vehicles to and from the public road or privately-owned road and a terminus located on a lot.

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

**Expansion:** In relation to a building, an expansion shall mean the enlargement of the floor area or building enclosure. In relation to a use, the addition of weeks or months to a operating season, the addition of hours to a business day, the utilization of more floor area, or the provision of additional seating capacity. In relation to land clearing or mineral extraction,

the addition of surface area over that which was previously included in an approved site plan.

Farmland: means any tract or tracts of land used for commercial farming:

- A. That consists of 5 or more contiguous acres;
- B. That is land on which a farm product is produced.

"Farmland" does not include land used for woodlots, homes, farm buildings, roads, lawns or any area covered with non-crop vegetation.

Financial assurance: With specific regard to non-residential solar energy-producing facilities, financial assurance means the demonstration of current and future financial capacity, which must be unaffected by the owner's or operator's future financial condition, to fully fund decommissioning in accordance with an approved decommissioning plan under this ordinance. Farm Stand: A retail operation in which exclusively farm produce or food products produced within the State of Maine are offered for sale.

Forest Management: timber cruising, forest resource evaluation, pesticide or fertilizer application, timber stand improvement, pruning, regeneration, and similar or associated activities.

Floor Area: The sum, in square feet in footprint area, of all roofed portions of a building or structure, as measured from the exterior faces of the outer walls. "Net" floor area is the portion of total floor area used for the specific purpose for which the measurement is taken.

Historic or Archeological Resource: Areas identified by a governmental agency such as the Maine Historic preservation Commission as having significant value as an historic or archaeological resource as well as areas identified in the Town of Belgrade Comprehensive Plan.

Home Occupation: An occupation or profession which is carried on in an dwelling unit or accessory building, which is clearly incidental and secondary to the residential use of the dwelling; carried on by a member of the family residing in the dwelling unit; includes no more than 2 outside employees not residing in the dwelling unit; and, which does not alter the residential character of the neighborhood.

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

Lot: A parcel of land occupied or capable of being occupied by a building or uses, and which is bounded in such a way as to be described on a deed. The "lot area" of a lot is the sum in square feet in footprint area of the lot, exclusive of rights-of-way, wetland areas, or areas below the high-water line of a water body.

Manufacturing: The making of goods and articles by hand or machine. A manufacturing use shall include assembling, fabricating, finishing, packaging, warehousing, commercial power generation, waste disposal, and other functions associated with the primary activity.

Material (Mineral) Extraction or Processing Operation: The breaking of the surface soil in order to

facilitate or accomplish the extraction or removal of more than 1,000 cubic yards of product or overburden from the earth within 12 successive calendar months; any activity or process that involves the extraction or removal of the product or overburden; or the preparation, washing, cleaning, crushing or other treatment of that product so as to make it suitable for commercial, industrial or construction use. All concrete and asphalt batching facilities are considered processing facilities. The term shall not include the excavation or grading associated with a construction project.

Net metering: means the same as net energy billing (NEB) as defined by the Maine Public Utilities Commission in Chapter 313, titled "Customer Net Energy Billing," of the Commission's regulations, and includes both kWh credit and tariff rate programs.

Non-residential solar energy-producing facility: any commercial, industrial, institutional or other non-residential solar energy facility producing electricity with ground-mounted solar modules regardless of total size or power output, including, but not limited to, any facility:

- 1) selling power to the regional electric grid;
- 2) that is classified by the Maine Public Utilities Commission as a community-based or a distributed generation renewable energy project;
- 3) producing energy for use by a commercial, industrial or institutional land use; or
- 4) generating and providing electrical power to the grid under a net-metering agreement with Central Maine Power Company in accordance with Chapter 313 of the Maine Public Utilities Commission regulations.

Non-residential Use (Development): Use of property for other than residential occupancy or unimproved uses. The term shall include all uses commonly described as commercial, industrial, office, service, institutional, utility, and recreational uses. A use which is a mixture of residential and non-residential use shall be subject to this ordinance to the extent that its non-residential floor area or impervious surfaces meet the applicability criteria in Article 3.

Overnight Accommodation: A building or buildings in which lodging is offered to the general public for compensation and in which there are no separate kitchen facilities other than associated with common eating areas or owner's quarters. The term is independent of length of stay and includes renting of rooms as well as establishments commonly referred to as hotels, motels, inns, bed and breakfast, and guest houses, but does not include housekeeping units.

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

Private road and privately-owned road: A road which neither a municipality nor the general public has a right to pass over by foot or vehicle; any and all roads, excepting public roads and driveways, within an approved subdivision; a road, excepting a driveway, which intersects at least one public road or a privately-owned road at the one or more locations, which is constructed or created on land in private ownership and which is a right-of-way

in common for two or more persons.

**Public road:** A Federal or a State highway or a road constructed by the Town or a road constructed by others and has been accepted by the Town; a public easement as defined by Title 23 M.R.S.A., Section 3021.

**Rated Nameplate Capacity:** means the maximum rated output of electric power production of the photovoltaic system in           watts of Alternating   Current (AC)

**Residential Dwelling Unit:** A room or group of rooms designed and equipped for use as permanent, seasonal, or temporary living quarters for only one family at a time and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Restaurant (eating or drinking establishment):** An establishment in which food or beverages are prepared and served to the general public for immediate consumption in exchange for compensation. The sale of pre-packaged food items does not constitute a restaurant operation.

**Right, Title, or Interest:** A showing that an applicant has the lawful right to engage in the use or activity being applied for, as demonstrated by a document showing present or future ownership or long-term lease. Suitable documents include warranty or quitclaim deed, signed sales contract or option to purchase, or a property lease of no less than ten years. Right, title, or interest is insufficient if there are easements, covenants, restrictions or lease provisions effectively preventing the proposed land use.

**Road:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

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

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

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

**Sign, building-mounted:** A sign that is attached to the building wall or a part of or attached to an awning, canopy, or protective cover over a door, entrance, window or outdoor service area..

**Snack Bar:** A restaurant in which all or the majority of the food prepared is consumed outside of



the building where the preparation is conducted and where ordering or pickup of food may take place from a motor vehicle. The term includes businesses commonly referred to as food trucks, dairy bars, coffee shacks, and drive-ins.

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

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

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

**Telecommunication Tower:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers and monopoles, for the purpose of transmitting or relaying radio frequency signals, including, but not limited to radio, television, cellular, and personal communication service frequencies. Towers established for personal use such as citizen band and ham radio operations, and which are less than 50 feet in height, shall not be included in this definition.

**Transfer of ownership:** means a change in the legal entity that owns or operates a solar energy development. A sale or exchange of stock or membership interests or a merger is not a transfer of ownership as long as the legal entity that owns or operates the solar energy development remains the same.

**Water body or water course:** Any river, stream, brook, pond, or lake.

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

**Wind Energy Facility:** A facility that uses one or more wind turbines to convert wind energy to electrical energy for the purpose of exporting the energy. The term does not include wind turbines whose primary purpose is to supply residential or non-residential uses on the site where it is located. A Wind Energy Facility includes both the generating facilities and associated power converters or substations.