**Town of Palmyra**

**Nonresidential Land Use Ordinance**

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**Adopted at Special Town Meeting July 29, 2020 and revised at Town Meeting March 12, 2022**

# **Article 1: General Provisions**

**Section 1. Title**

This Ordinance is known and cited as the Town of Palmyra Nonresidential Land Use Ordinance and will be referred to as “this Ordinance.”

**Section 2. Authority**

This Ordinance is adopted pursuant to the provisions of Title 30-A MRSA Section 3001.

**Section 3. Effective Date**

This Ordinance takes effect upon enactment by the Town Meeting. The effective date is July 29, 2020, with revision dated March 12, 2022.

**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 Nonresidential Land Useapplications are required to conform to all other applicable ordinances and regulations of the Town of Palmyra.

**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**

An amendment to this Ordinance may be initiated by a majority vote of the Selectmen, Planning Board, or by a written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board will hold a public hearing on all proposed amendments.

An amendment may only be adopted by a majority vote of the voters at 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 as follows:

* 1. 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, recreational uses and other non-residential uses.
	2. To establish a fair and reasonable set of standards for evaluating each development.
	3. To mitigate potential nuisances associated with development from having a negative impact upon the community.
	4. To address a wide range of environmental and planning issues associated with development including, but not limited to, noise, odors, storm water, erosion, phosphorus, waterbody protection, traffic, parking, light and glare, scenic resources, groundwater, historic and archeological resourced, significant wildlife and aquatic resources and other natural resources.
	5. To reduce off-site impacts from development from negatively affecting municipal services and infrastructure.
	6. To ensure that adequate water and sewer or subsurface wastewater disposal are available to serve the development.
	7. To protect the water quality of all lakes, ponds, streams, brooks, and wetlands within the community.

# **Article 3: Applicability**

**Section 1. Applicability**

Review is required for all operations as provided below:

1. The construction or placement of any new nonresidential building or structure, including accessory buildings and structures.
2. The expansion of any existing nonresidential building or structure, including accessory buildings and structures.
3. The renovation of any existing nonresidential building or structure, including accessory buildings and structures.
4. The conversion of an existing nonresidential building, in whole or in part, from one use to another use.
5. The establishment of a nonresidential use, even if no buildings or structures are proposed including such uses as cemeteries, golf courses, commercial recreational facilities and other similar nonresidential uses.
6. The construction or conversion of an existing nonresidential use in whole or in part, to another nonresidential use that results in more than two hundred (200) vehicle trips per day or one hundred (100) vehicle trips at peak hour.
7. The construction or expansion of paved areas or other impervious surfaces, including, but not limited to, walkways, access drives, roads, and parking lots greaterthan forty thousand (40,000) square feet.
8. Commercial facilities for the storage of bulk fuel, chemicals, or other flammable or hazardous substances.
9. Any structures over thirty-five (35) feet in height.
10. The construction, or expansion, of any Medium or Large Solar Energy System.
11. The construction, or expansion, of any Wind Energy Facility.

# **Article 4: Administration and Enforcement**

**Section 1. Planning Board**

The Planning Board shall have the following powers and duties:

1. To administer this Ordinance.
2. To hear and decide upon applications according to this Ordinance.
3. To develop Nonresidential Land Use Applicationforms.
4. To provide the Code Enforcement Officer with a written decision of each application.
5. To issue permits.
6. To charge impact fees when applicable and in accordance with the Town of Palmyra Fee Schedule.

**Section 2. Code Enforcement Officer**

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

1. To enforce the provisions of this Ordinance.
2. To issue, in writing, stop work orders and other appropriate notices of violation.
3. To assist the Planning Board with the review process.
4. To conduct site visits and to review applications as authorized by this Ordinance.
5. To assess penalties and fines when applicable and in accordance with the Town of Palmyra Fee Schedule.

**Section 3. Nonresidential Land Use Permit Review**

The Planning Board shall review and decide upon all applications and shall submit their written decision on each application to the Code Enforcement Officer and the applicant. No development activity, as defined, shall occur until the Planning Board has issued a permit.

**Section 4. Site Inspection**

The Planning Board and /or the Code Enforcement Officer may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area.

**Section 5. Public Hearing Requirements**

The Planning Board shall hold a public hearing on each Nonresidential Land Use application as follows:

1. The public hearing shall be held within thirty-five (35) days after the proposed application is deemed complete. This period may be extended for up to sixty (60) days by mutual consent by the applicant and the Planning Board.
2. The notice of the date, time, and place of the public hearing shall be made as follows:
3. The town shall publish a notice at least once in a newspaper having general circulation within the Town. The date of the first publication shall be at least seven (7) days before the hearing.
4. The Town shall notify the applicant by first class mail.
5. The Town shall notify all property abutters by certified mail, at least seven (7) days before the public hearing. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

C. The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

**Section 6. Appeals**

1. The Board of Appeals is authorized to hear administrative appeals and variance appeals arising from this Ordinance.
	1. 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 Planning Board in the administration of this Ordinance.
	2. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance, variances may be permitted only under the following conditions:
		1. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, lot coverage, and setback requirements.
		2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
		3. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance it deems necessary. The party receiving the variance shall comply with any conditions imposed.
2. Appeal Procedure
	1. An aggrieved party may take an administrative or variance appeal to the Board of Appeals from any decision of the Planning Board. Such appeal shall be taken within thirty (30) 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 thirty (30) day requirement.
	2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
		1. A concise written statement indicating what relief is requested and why it should be granted.
		2. 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.
	3. Upon being notified of an appeal, the Planning Board shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
	4. The Board of Appeals shall hold a public hearing on the appeal within forty-five (45) days of its receipt of the appeal request.
3. Decision by the Board of Appeals
	1. 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.
	2. 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 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 Planning Board only upon a finding that the decision, or failure to act was clearly contrary to specific provisions of this Ordinance.
	3. The person filing the appeal shall have the burden of proof.
	4. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the public hearing and shall issue a written decision on all appeals.
	5. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief, or denial thereof.
	6. 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 forty-five (45) days from the date of any decision by the Board of Appeals.
	7. The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receiver additional evidence or testimony.

**Section 7. Revisions to an Approved Plan**

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:
	1. An increase in the number or footprint area of buildings on the site.
	2. An increase in the area of impervious surface on the site.
	3. An increase in storage capacity or use of toxic, flammable, combustible or hazardous substances.
	4. A change to stormwater management or phosphorous control designs.
	5. Changes to proposed screening or vegetative buffers.
	6. The addition of activities or change in design which could increase noise levels.
	7. A change of use of the property to a use which will generate a higher traffic demand; or
	8. 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.
2. Review of proposed revisions shall be limited to the impacts of the proposed changes and shall not encompass nor burden the original approval.
3. The planning board may follow notice and meeting requirements if it determines the proposed change to be significant.

# **Article 5: Review Criteria**

**Section 1. Review Criteria**

An applicant for a Nonresidential Land Use 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 these criteria have been met.

1. The application is complete and applicable review fee has been paid.
2. The proposal conforms to all the applicable provisions of this Ordinance.
3. 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.
4. The proposed activity will not have an adverse impact on freshwater wetlands.
5. The proposed activity will not have an adverse impact upon any waterbody such as a lake, pond, or stream.
6. The proposed activity will provide for adequate storm water management.
7. The proposed activity will provide for adequate sewage disposal.
8. The proposed activity will not adversely impact on floodplain areas and will conform to the applicable requirements of the Town of Palmyra Floodplain Management Ordinance.
9. The proposed activity will not result in air or water pollution.
10. The proposed activity has sufficient water available for the current and foreseeable needs of the development.
11. The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
12. 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.
13. 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.
14. 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.
15. 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 Palmyra, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
16. The proposed activity shall conform to all the applicable requirements of the Town’s Shoreland Zoning Ordinance, and all other local Ordinances.
17. The proposed activity will not unreasonably increase a great pond’s phosphorus concentration if the development is within the watershed of a great pond.
18. The Town has the capacity to provide fire, rescue, and police services.
19. The proposed activity shall conform to, and meet, all state requirements including, but not limited to, the standards of the Office of the State Fire Marshall.

# **Article 6: Application Procedure**

**Section 1. Application Procedure**

1. The applicant shall submit the Nonresidential Land Useapplication to the Town Officealong with the appropriate application fee.
2. The Town Office shall issue a dated receipt to the applicant upon receiving the application.
3. Within thirty-five (35) days of receipt of the application, the Planning Board shall make a determination whether the application is complete and notify the applicant about their decision.
	1. If the application is not complete the Planning Board shall notify the applicant of the specific materials needed to complete the application. The applicant shall provide the required materials according to above listed procedure.
	2. If the application is complete, it will then be reviewed for compliance with Article 5 – Section 1.
4. The applicant shall, at least fourteen (14) days prior to the scheduled meeting, submit to the Town Office six (6) copies of the Nonresidential Land Useapplication including all plans and maps. The applicant may provide reduced copies of maps and plans, however; at least one full size set of maps and plans shall be submitted.
5. The Planning Board shall make a final decision upon the application within ninety (90) days of the initial meeting. However, upon mutual consent of the applicant and the Planning Board the final decision may be extended.
6. The Planning Board shall make a final decision in writing to the applicant and to the Code Enforcement Officer within seven (7) working days after a final decision. Any conditions imposed upon the application shall be listed in the Planning Board’s final decision.

**Section 2. Submission Requirements**

All Nonresidential Land Useapplications shall be submitted on the forms developed by the Planning Board and shall include the following materials and information.

1. Nonresidential Land UseApplication.
2. Nonresidential Land UseApplication Fee as identified in the Town of Palmyra Fee Schedule.
3. Waiver Request, if applicable.
4. As deemed appropriate by the Planning Board, a fully funded escrow account whose funds can be used to finance additional impact studies by independent agencies. See: Article 6 Section 8 of this Ordinance.
5. General information including the following:
	1. Name, address, and telephone number of the application and applicant’s agent, if applicable.
	2. Property location, including address, map, and lot number.
	3. Verification of the applicant’s right, title or interest in the property.
	4. Detailed cost estimate of the proposed project.
	5. Schedule of construction, including anticipated beginning and completion dates.
	6. A description of the project.
6. General location information including the following:
	1. A copy of the tax map showing the property and surrounding parcels.
	2. A copy of the Somerset County soil map showing the property.
	3. A copy of the USGS Topographic map showing property.
	4. A copy of the Town Shoreland Zoning Map showing the property is located in a Shoreland District.
	5. A copy of the FIRM Map showing the property is located in designated floodplain.
	6. A copy of the National Wetlands Inventory Map showing property.
	7. A map drawn to scale showing the location, boundaries, elevations, uses and square footage size of the following:
		1. Developed site.
		2. Type of Structures.
		3. Setbacks.
		4. Parking areas.
		5. Driveways and roads.
		6. Drainage ways, easements, and right of ways.
		7. Watercourses, waterbodies, and wetlands
		8. Number of acres within the development
		9. Size of all impervious areas.
		10. All above ground and below ground utilities.
		11. Fences, vegetated barriers, visual screens, and berms.
		12. Monitoring wells.
		13. All other significant natural and physical features and true north.
7. The location of all proposed subsurface wastewater disposal systems.
8. Indication of the water source for the proposal including evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression. (Please note: the fire chief should be consulted to determine whether or not appropriate structures required to supply a water source to handle fire threat.)
9. Evidence that all other local permits have been obtained including but not limited to: Shoreland Zoning and Floodplain Management.
10. An erosion control plan as per requirements of this Ordinance.
11. A storm water control plan as per the requirements of this Ordinance.
12. A phosphorus control plan as per requirements of this Ordinance.
13. A detailed description of all monitoring wells if applicable.
14. The traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
15. Any proposed areas or structures to be dedicated to public use.
16. Scaled drawings showing the location and construction specifications for all proposed roads including drainage features such as ditches and culverts, access points, driveways, parking areas, and other traffic management control features.
17. Any other material to show that the applicable performance standards or other requirements of this Ordinance are followed.
18. The estimated quantities of flammable or hazardous materials to be stored or handled on site.
19. Declaration of any and all non-conformities on the application checklist.

**Section 3. Permit Fee**

Refer to the Town of Palmyra Fee Schedule.

**Section 4. Permit Expiration**

Permits are valid for two (2) years from date of issue; however, if no construction has begun within six (6) months of date of issue, any permit issued shall be void. Permits that have expired, the applicant shall obtain another permit as required by this Ordinance by submitting another Nonresidential Land Use application to the Planning Board. A permit is transferable to subsequent owners of the property. Under the Planning Board’s discretion, a six (6) month extension may be applied to a permit due to extenuating circumstances.

**Section 5. Decisions**

After review of a complete application the Planning Board shall determine whether the proposal meets the review criteria contained in Article 5 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit, in writing, its decision to the applicant and the Code Enforcement Officer.

**Section 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. If any existing non-conformities are associated with this application, the applicant shall have the burden of proof to identify, in writing, any and all non-conformities.

**Section 7. Rights Not Vested**

The submittal of the application to the Planning Board 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.

**Section 8. Additional Information and Studies**

The Planning Board may, at its discretion, retain independent expert assistance to supplement the evidence presented by the applicant. The cost of such expertise shall be borne by the applicant according to the terms of an escrow account as listed in the Town of PalmyraFee Schedule established by the Planning Board.

**Section 9. Waivers**

1. The Planning Board may vote to waive any of the submission requirements in this Ordinance when it finds one of the following:
	1. One or more of the submission requirements are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, type of project, or unique features of the proposed use.
	2. The applicant may submit alternative designs, which meet or exceed performance standards required under this Ordinance. Such submissions shall not be waived but may replace standard submissions.
2. The applicant shall submit information to support the waiver request with the application.
3. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request with the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the waiver request and if it meets the appropriate criteria may approve the request. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and require the applicant to revise the application as necessary. The Planning Board may vote to suspend review of the application until the applicant supply all the necessary information. The applicant shall submit all required information to the Planning Board within sixty (60) calendar 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.
4. All waivers approved by the Planning Board shall be documented during the review process.

**Section 10. Conditions**

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

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

# **Article 7: Post-Approval Activities**

**Section 1. Enforcement**

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.

**Section 2. 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 8: Development Standards Generally**

**Section 1. Air Quality**

No development is permitted which will cause emissions of dust, ash, smoke, or particulateslikely 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 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**

1. Access to Town Ways
	1. General Provisions
		1. The number of access points shall be the minimum necessary to assure safe and proper vehicular access to the site. As a general rule, no more than two access points onto any single road will be allowed. Where more than one road abuts the development site, the Planning Board may require the developer to access the site from the road with less potential for congestion and traffic hazard.
		2. All streets, which can be expected to carry traffic to and from the development, shall have sufficient capacity or be suitably improved to accommodate the amount and types of traffic generated by the development. No development shall increase the volume to capacity ratio of any street above 0.8 nor reduce the level of service to “D” or below on any street.
		3. Access points shall be of a design and have sufficient capacity to avoid the stopping or standing of vehicles attempting to enter the development from the street. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, or other traffic controls within public streets. All such installations shall conform to standards in the *Manual on Uniform Traffic Control Devices* published by the American Traffic Safety Services Association.
		4. The Planning Board may require the developer to plan or install access to adjoining properties where it will serve to reduce demand for vehicular movement on public roads.
		5. 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 twenty-five (25) feet measured along the driveway and street lines.
	2. Location and Design of Access Points
		1. Sight Distance: All access points shall be located to provide minimum sight distance of the (10) feet for each mile per hour of posted speed limit in both directions. Sight distance is measured from a point ten (10) feet behind the edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object four and a half (4.5) feet above the street surface.
		2. Access points shall be designed and constructed to a standard consistent with their estimated volume as follows:
2. Low Volume: Peak hour volume of six (6) or fewer vehicles.
3. Medium Volume: Peak hour volume of seven (7) to ninety-nine (99) vehicles.
4. High Volume: Peak hour volume of one hundred (100) or more vehicles.
5. Design Criteria
6. 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 twenty-five (25) inches in thickness.
7. All access points entering a curbed street shall be curbed to the full radium of the access point to a minimum distance of fifty (50) back from the edge of the existing curb line.
8. All access points shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than seventy-five (75) degrees.
9. The curb radius for two-way access points shall be at least twenty (20) feet. The curb radius for one-way access points or access points with median islands shall be between five and ten feet on the inside corner and at least thirty (30) feet on the outside corner.
10. The width of a low volume driveway shall be no more than twenty (20) feet. The width of a medium or high-volume driveway may be between twenty (20) and twenty-six (26) feet. For driveways with a median island, the width shall apply to each side. Where truck traffic is a major element, the width may be increased to thirty (30) feet. The width of individual, “right turn only” channels shall be no more than twenty (20) feet.
11. From the edge of the traveled way, the access point should not exceed a grade of two (2) percent for a minimum of forty (40) feet, or, where a traffic study has been done, for the full distance of the predicted queue of vehicles at the peak hour.
12. Median 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 sixty (60) feet. All islands shall be curbed with sloped curbing, with proper signs installed to direct traffic.
13. Spacing standards
14. No low or medium volume access point shall be located within one hundred (100) feet of any street intersection. No high-volume access point shall be within two hundred fifty (250) feet of any intersection. Distance shall be measured from the point of tangency for the intersection curb radius to the point of tangency for the access point curb radius.
15. 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.

1. No access point shall be located within ten (10) feet of a property line.
2. Any access point which intersects an existing or planned sidewalk(s) shall incorporate ramped access curbing in accordance with the Americans with Disabilities Act.
3. Access to State Roads
4. When the development accesses a state road, the applicant will provide a copy of the entrance permit from Maine DOT as evidence of meeting their criterion.
5. 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.
6. 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**

1. All soil disturbances must be conducted in a manner, which avoids sediment leaving the property. Development must employ best management practices (BMP) for erosion control. Erosion of soil and sedimentation shall be avoided by employing BMPs as established in “Maine Erosion & Sediment Control Handbook for Construction – Best Management Practices” Cumberland County SWCD & MDEP – March 1991.
2. The least possible amount of disturbance will occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas.
3. All watercourses, waterbodies, and wetlands will be protected from sedimentation by the installation of silt fence barriers or other appropriate means. Such barriers shall be installed before digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within five hundred (500) feet of a watercourse, waterbody, or wetland or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of soil exposing activities.

**Section 4. Historic and Archeological Resources**

If any portion of the site has been identified as a historic or archaeological resource, as defined, the development plan shall include appropriate measures for protecting these resources.

**Section 5. Material Storage**

1. All outdoor storage areas, including areas used for the storage or collection of solid waste, automobiles, auto parts, building materials, machinery, or other such items, shall have screening sufficient to minimize impact on roads, neighboring and other properties in the area. Walls, fencing, dense plant material, or a combination of techniques can be used to achieve this intent. A dense evergreen hedge six (6) feet or more in height at the time of planting shall be the preferred means of attaining this standard.
2. Where the Planning Board recognizes a potential safety hazard to children, a physical barrier sufficient to deter small children from entering the area shall be provided and maintained in good condition.
3. No bulk storage of flammable or explosive liquids, solids, or gases shall be permitted unless storage facilities are located at least seventy-five (75) feet from any property line if aboveground, or forty (40) feet if underground. All materials shall be stored in compliance with requirements of the Maine Department of Public Safety and other appropriate Federal, State, and local regulations. Propane gas tanks in two hundred (200) pound cylinders or smaller and heating fuel tanks of three hundred-thirty (330) gallons or smaller are not considered bulk storage for the purpose of these standards except where three or more are aggregated.
4. All above-ground storage facilities for toxic, flammable, or explosive liquids shall be located on impervious surfaces and shall be completely enclosed with 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.

**Section 6. Natural Resource Protection**

1. Natural Features

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

1. Habitat Protection

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

* 1. If any portion of the area to be developed included 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.
	2. If any portion of the area to be developed includes wetland, as determined by the Town of Palmyra, the Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, and mitigate impacts on the wetland both during and after the construction.
1. Groundwater Protection
	1. Any development, which will generate a demand of two thousand (2,000) gallons per day or greater out of the groundwater supplies, shall not 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.
	2. 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 in accordance with a Spill Prevention and Management Plan developed at the time of application and approved by the Town of Palmyra.

**Section 7. Noise**

1. The maximum permissible noise from any continuous, regular, or frequent source of sound within a development shall be no more than fifty (50) dBA between the hours of 7 AM and 9:30 PM, and forty-five (45) decibels at other times. These levels specified may be exceeded by 10dB for no more than fifteen (15) minutes per day.
2. Noise shall be measured by a meter set on the A-weight response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) specifications for General Purpose Sound Level Meters”. Sound levels shall be measured at least four (4) feet above ground at the property boundary.
3. Sounds emanating from safety signals, warning devices, emergency pressure relief values, and other emergency or public safety devices are exempt from these provisions.
4. 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. Outdoor Lighting**

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

**Section 9. Parking**

1. General

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. Location

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, Article 8 Section 10, below. Aisles and parking spaces will not be located within right-of-way of the public road.

* 1. Interior Circulation
		1. The entry lane(s) should be designed to allow continuous and uninterrupted traffic movement on the public road, through the provision of adequate throat length, deceleration lanes, or other measures. The entry lane shall not provide direct access to the parking spaces.
		2. Islands containing guardrails, curbs, fences, walls, or landscaping should be used to identify circulation patterns of parking areas and restrict driving movements diagonally across parking aisles but shall be designed and placed so as tonot impede views of pedestrians and vehicles.
		3. 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.
		4. Parking aisles should be oriented perpendicular to stores or businesses for safer pedestrian access and visibility.
		5. 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 first window. The required queuing space shall be designed so that it shall not interfere with parking and circulation on the remainder of the site.
	2. Layout of Parking Stalls and Aisles
		1. Parking stalls shall be a minimum of nine (9) feet in width by eighteen

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

* + 1. In paved lots, the Planning Board may require painted stripes to delineate parking stalls. 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.
		2. Two-way aisles shall be a minimum of twenty-two (22) feet in width. One-way aisles shall be a minimum of eighteen (18) feet in width.
		3. Bumpers or wheel stops shall be provided where improperly parked cars might restrict traffic flow or pedestrian movement on adjacent walkways, or damage landscape material.
		4. Oversized parking spaces may be designed in areas that ordinarily serve such vehicles as recreational vehicles, travel trailers, delivery trucks or tractor-trailer trucks.
1. Standards for Number of Parking Spaces
	1. Basic Requirements of Parking Spaces.

Adequate off-street parking shall be provided by the developer. The table below shall be interpreted as a guide, subject to adjustments in subsection 2, following. For uses not listed, the publication Parking Demand (ITE, 1987 or most recent edition) shall be consulted. Within each development, at least one space, plus one additional space for every twenty-five (25) 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
2. Multifamily buildings

**Places of Public Assembly** – spaces per seat based on maximum seating 1/4 Assembly Hall with fixed seating

1/3 Convention Center, Meeting Hall, and Grange without fixed seating

1/2 Restaurant.

**Places of Commerce and Industry** – spaces per 1000 sq ft of gross floor area 1 1/2 Warehousing, inside sales of motor vehicles

1. Grocery stores, Offices, professional, and personal services, except as noted.
2. Retail Sales as noted
3. Banks, Medical and Dental Offices, Fitness Clubs, Child Care

**Public and Institutional Facilities** – spaces per 1000 sq ft of gross floor area

2 Elementary Schools

4 Secondary School, Community Center, Municipal Office

6 College, Hospital

**Miscellaneous** – criteria as specified

1 per 1000 sf Indoor Sports Facility (Tennis, Fitness, etc.) no spectators

1 per 4 seats Stadiums, Arenas, Racetracks, and other spectator sport based on max venues seating capacity

30 per acre Mini-Golf, Go-Carts, and other Outdoor Amusements 5 per lane Bowling Alley

3 per service bay Motor Vehicle Sales and Service 1 per 10 vehicles displayed

* 1. Flexibility in Standards: The Planning Board is permitted to modify these standards as minimum requirements, under the following circumstances:
		1. By up to ten (10) percent, based upon a showing that similar uses under similar circumstances generate greater or less demand.
		2. The following specified uses, because their peak hour/day varies from conventional parking demand, may meet up to fifty (50) percent of their parking requirement through a shared-use agreement with another use: churches, clubs, restaurants, theaters, sport facilities.
		3. A development may include as a portion of its parking requirement the provision of parking spaces not located on the same lot provided 1) that the spaces are located within two hundred-fifty (250) feet of the property, 2) that a written agreement is in place for a long-term use of the spaces, and 3) that the spaces would not be among the minimum required for the use already existing on that lot.
		4. 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.
		5. 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 on the permit. Such conditions may require permanent set-aside of adequate space, and provision of construction plans along with the specified conditions under which the installation will be triggered.
	2. Impact on Physical and Environmental Resources.

Parking lots shall not be excessively large, nor contain an area more than twenty-five (25) percent greater than the minimum set by these standards. The Planning Board may require use of pervious or semi-pervious materials as an alternative to pavement in order to reduce the quantity or improve quality of stormwater runoff.

* 1. Uses: Any portion of a building or lot with a use that is distinct from principal use identified on the chart above shall be considered as a separate use for the purpose of calculating spaces, if it exceeds in area or seating capacity twenty-five (25) percent of the overall extent of the development. If a mixed use consists of any residential use combined with any commercial use, the Planning Board may waive or modify space requirements for the residential use unless it consists of more than sixty-seven (67) percent of the total floor space.
	2. Loading bays shall be provided as necessary. Loading bays shall be a minimum of twelve (12) feet by fifty-five (55) feet and be designed and delineated so as not to interfere with traffic flow or other parking spaces.

**Section 10. Screening Of Structures, Parking Lots, and Other Commercial Uses**

1. Screening for Structures and Parking Lots

New commercial and multi-family developments shall be separated from the street by a vegetative screen. The buffer shall include a mixture of native shrubs and trees selected for adaptability to roadside conditions.

The owner shall be responsible for maintenance of the buffer planting and shall replace decreased plant material within one growing season. The buffer shall be designed as follow:

* 1. All buffer areas shall maximize the retention and use of naturally occurring woodland and shrubs, with minimal clearing, unless required by the Planning Board to be replaced or augmented with plantings to achieve a reasonable screening from public ways.
	2. 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 the access points or driveways lanes. The number and width of lanes shall be the minimum necessary to achieve safe and efficient passage of vehicles.
1. In cases where a parking lot exceeds one hundred-fifty (150) spaces, additional landscaping shall be placed within the lot, sufficient to divide the lot into two (2) smaller units of no more than 100 spaces each. Landscaped islands should consist of fifteen (15) feet planted width, except that a pedestrian walkway may be placed within the area, provided that it occupies no more than one-half the width.
2. Screening of Adjacent Residential Properties

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

* 1. Screening shall consist of a natural (preferred) or artificial 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 related commercial activity. Areas shall be maintained, and vegetation replaced as necessary. The following is intended as a guide:
		1. A seventy-five (75) foot minimum will be required if the buffer will consist of natural woodland, provided that the Planning Board may require supplemental plantings to achieve an effective visual screen.
		2. A fifty (50) foot minimum will be required if the buffer will consist primarily of dense planting of native coniferous trees.
		3. Visual buffers shall consist of a minimum of two (2) staggered rows of trees at a minimum height of eight (8) feet at the time of planting.
	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.
1. Screening of Adjacent Agricultural and Forest Resources
2. Whenever a proposed development is located adjacent to property enrolled in the Maine Farm, Open Space, or Tree Growth Programs, suitable provisions shall be incorporated in the proposal to minimize future conflicts between commercial and industrial sites and agricultural or forest operations.
3. Provisions to reduce conflicts between commercial and industrial sites and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular development. Some possible options include:
4. A “no-build” buffer of one hundred (100) feet from the farm or forest site.
5. A vegetative buffer along property lines or zoning districts

**Section 11. Signs**

1. Purpose

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

1. Permit Required

No sign shall be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a building permit.

1. Abandoned Signs

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

1. Sign Area and Placement
	1. All signs are prohibited in all residential, agricultural and resource protection districts except for the following:
		1. Signs over show windows or doors of a business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed twenty (20) square feet.
		2. Real Estate signs not to exceed eight square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporally located.
		3. Name, occupation and warning signs not to exceed four square feet located on the premises.
		4. Official signs such as traffic control, parking restrictions, information, and notices.
		5. Non-lighted temporary signs or banners when authorized by the Code Enforcement Officer for a period of no more than thirty (30) days and not to exceed eight square feet in area.
	2. Signs are permitted in the Commercial and Industrial Districts subject to the following restrictions:
		1. A wall sign placed against the exterior walls of building shall not extend more than six inches outside of a building's wall surface; shall not exceed ten (10) percent of the wall area on which it is mounted; and the total square footage of all wall signs for a premise shall not exceed five hundred (500) square feet.
		2. A projecting sign fastened to, suspended from, or supported by structures shall not:
			1. Exceed one hundred (100) square feet in area for any one premises,
			2. Extend into any public right-of-way,
			3. Be less than ten (10) feet from any, and all, side lot lines,
			4. Exceed a height of twenty (20) feet above the mean centerline street grade,
			5. Be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.
		3. A ground sign shall not exceed twenty (20) feet in height, above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one side nor two hundred (200) square feet on all sides for any one premises.
		4. A roof sign shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed three hundred (300) square feet on all sides for any one premises.
		5. A window sign shall be placed only on the inside of commercial buildings and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed.
		6. A portable sign shall not be more than fifty (50) square feet on one side and shall be set back from the right-of-way a distance of at least ten (10) feet. Only one sign shall be allowed per property and no permit shall be issued for a period of more than thirty (30) days during any one six-month period.
		7. Changeable and illuminated signs are allowed so long as they meet all requirements established by Maine Revised Statutes Title 23, Chapter 21, Section 1914, Subsection 11-A.

**Section 12. Stormwater Management**

1. All new construction and development shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity, and location of runoff. All systems shall be designed so as to have no significant adverse effect on neighboring properties, downstream water quality, soil stability, or the public drainage system. Where possible, existing natural features, such as berms, swales, terraces, and wooded areas shall be retained in order to control runoff and encourage infiltration of storm water.
2. Stormwater drainage systems shall be designed to minimize the volume and rate of outflow from the development, including engineered measures and off-site improvements such that the downstream system can accommodate peak discharge of two (2), ten (10), and twenty-five (25) year frequency, twenty-four

(24) hour duration storms.

1. Stormwater practices shall be as described in Stormwater Management for Maine, Best Management Practices, Maine DEP, 1995, or most recent edition.
2. A stormwater control plan prepared according to the requirements of DEP Regulation chapter 500, “Stormwater Management” and chapter 502 “Direct Watersheds of Waterbodies Most At Risk From New Development” shall be deemed suitable to meet these standards.
3. Within lake watersheds, stormwater systems shall include runoff from roof drains and camp roads to encourage infiltration and minimize phosphorus loading.
4. Stormwater systems shall be maintained as necessary to ensure proper functioning.
5. Development proposed within watershed of a great pond 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 Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, revised May 1992(herein referred to as “Phosphorus Control Method”)
	2. Applicability: This section applies to
6. Commercial development resulting in more than ten thousand (10,000) square feet of disturbed area.
7. The creation of new roads/driveways in excess of two hundred-fifty (250) feet.

**Section 13. Wastes**

1. Solid Waste

The development shall provide and bear the cost for the disposal of all solid wastes and recyclables 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.

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

# **Article 9: Development Standards for Specific Activities**

**Section 1. Adult Business**

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

1. Physical Separation: Adult businesses shall not be located within two hundred-fifty (250) feet of existing residence, nor within five hundred (500) feet of an existing educational or religious use.
2. Signs: In addition to the provisions of Article 8 Section 11 of this Ordinance, signs for adult business shall not depict the human figure in any unclothed or suggestive manner. No sexually explicit message, materials, or activity shall be visible outside the building.

**Section 2. Material Extraction Operations**

1. Special Permit Requirements

Because of the constantly expanding nature of mineral extraction, all Nonresidential Land Usepermits 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 7 of this ordinance. Applications to the Planning Board for the five-year permit shall include the following elements:

* 1. A site plan including the following features:
		1. Topography indicating not greater than ten (10) foot contours, based on USGS data.
		2. The location and slope of grades existing and proposed upon completion of the extraction operation.
		3. Proposed 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 competed excavation.
	4. The Planning Board may require a hydrogeological study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity.
1. Development Standards
	1. No part of any extraction operation shall be permitted within fifty (50) of any property or street line, except:
		1. 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. As agreed to by abutting owners.
	2. No slopes steeper than two (2) feet horizontal to one (1) foot vertical (2:1) shall be permitted at any extraction site unless provisions are made to limit the access to such locations.
	3. The sides and bottom 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.
	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 at any extraction site shall be limited, if necessary to ensure operational compatibility with neighboring residences.
	6. All access points from the extraction site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public roads.
	7. The five-year reclamation plan shall show that within twelve (12) months the following completion of extraction 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. 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.

Final slopes shall not exceed two fee 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) days following competition of extraction operations.

D. Existing Operations Not Grand fathered

Any mineral extraction process in lawful operation as of the effective date of this Ordinance, must comply with the provisions for a permit within five (5) years.

Within ninety (90) days of the enactment of this Ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his or her knowledge, contain existing operations, informing them of the requirements of this Section.

Discontinuation of any existing operation for a period of more than two (2) years shall result in the loss of grand fathered status for that operation.

Discontinuation is defined as the excavation, processing, or movement of less than two hundred (200) cubic yards of material within any two (2) year period.

**Section 3. Overnight Accommodations**

1. 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. No part of any building shall be closer that fifty (50) feet from the front lot line, rear lot line, or either side of such lot.
	2. Each rental room shall be equipped with an approved hardwired smoke detector.
2. Bed & Breakfast facilities shall comply with 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 system.
	2. In addition to parking required by Article 8 Section 9 of this Ordinance, two (2) spaces shall be provided for the owners or operators of the business.
	3. There shall be at least one (1) bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
	4. Each rental room shall be equipped with approved hardwired smoke detector.
3. Hotel, Motel, Cottage Units

Hotel, motel, or cottage units with self-contained kitchen and toilet facilities or otherwise designated as housekeeping accommodations are considered to be dwelling units and shall meet all applicable standards. In addition, the creation of three (3) or more units may be subject to review under the Town of Palmyra Subdivision Ordinance.

**Section 4. Telecommunications Towers**

1. 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 condition new permits to require co-location of other new facilities, which may be proposed, if feasible, and to ensure designs, which facilitate co-location.

1. Design and Construction
	1. New towers shall be designed in such a way as to facilitate co-location.
	2. 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.
	3. 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.
	4. All towers and supporting structures much comply with structural standards established by the Electronic Industries Association/Telecommunication

Industries Association. A registered professional engineer shall certify compliance with these standards.

* 1. Any communication tower that is unused or out of service for a period of eighteen (18) continuous months shall be considered abandoned and shall be removed as soon as practicable. The Town of Palmyra is hereby authorized to contract for removal of the tower and access the cost of the said removal as lien against the property.

**Section 5: Wind Energy Facilities**

Wind Energy Systems must meet the standards of this section and Section 7 and the standards of Article 8 of this ordinance.

1. Design and Construction
	1. Wind turbines shall be set back a horizontal distance equivalent to one hundred-fifty (150) percent 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 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 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 twenty-five (25) feet as measured at the lowest arc of the blades.
	5. With the exception of Meteorological 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.
2. 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 one hundred (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 any adverse shadow flicker effect at any occupied building.
	6. Sound levels due to the operation of any wind energy facility shall not exceed fifty (50) dBA at project property lines or thirty (30) dBA as measured at any occupied structures in the Town of Palmyra.
3. 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.
4. 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 and approved by the Planning Board and Select Board.

**Section 6: Medium and Large Solar Energy Systems**

Medium and Large Solar Energy Systems must meet the standards of this section and Section 7 and the standards of Article 8 of this ordinance.

1. General Standards
	1. Medium and Large Solar Energy System layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory(ETL), Florida Solar Energy Center (FSEC), the National Fire Protection Association (NFPA 70E, National Electrical Code, or other similar certifying organizations, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
	2. All on-site utility transmission lines and plumbing shall be placed underground. If, however, the applicant can demonstrate that this would not be feasible, then this requirement may be waived by the Planning Board.
	3. All Medium and Large Solar Energy Systems shall be situated to eliminate concentrated glare onto nearby structures or roadways.
	4. Medium and Large Solar Energy Systems shall be screened from view of any adjacent property that is used for residential purposes. The screen shall consist of a vegetative barrier which provides a visual screen and is in conformance with Article 8 Section 10 of this ordinance. In lieu of a vegetative screen, a fence that provides visual screening and meets requirements of this ordinance may be used with Planning Board approval.
	5. All Medium and Large Solar Energy Systems shall be completely enclosed by chain link fencing with privacy fabric on any part of the energy system that is exposed to the public that consists of a minimum eight (8) foot high fence with a locking gate. 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 energy system informing individuals of potential voltage hazards.
	6. Medium and Large Solar Energy Systems shall be designed and sited to prevent the disruption or loss of emergency or private radio, telephone, television, or similar signals. Interference with such communications shall be grounds for ordering the immediate shut down of the solar energy system until the interference has been remedied.
	7. All Medium and Large Solar Energy Systems shall be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
	8. The color of Medium and Large Solar Energy Systems shall be off-white or grey or some other unobtrusive color approved by the Town of Palmyra Planning Board.
	9. Medium and Large Solar Energy Systems shall not be used to display signs or advertising except for signs at ground level identifying the equipment manufacturer, the System Owner/Operator, emergency contact information, and appropriate warnings as required by national, state, and local laws.
	10. All construction activities must conform to the approved application, including any conditions of approval and changes approved by the Planning Board.
	11. If at any time it appears necessary or desirable to modify the approved plans before or during construction of the solar energy system, the Applicant shall submit to the Planning board an amended plan for review and approval.
	12. The solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town of Palmyra. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. A key box shall be used to allow emergency service 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.
	13. No ground mounted solar energy system shall exceed fifteen (15) feet of overall height. Roof mounted Medium and Large Solar Energy Systems may exceed maximum building height by five (5) feet.
	14. All applications must include a detailed plan for vegetation removal and control.
2. Environmental Standards
3. If required by the laws of the State of Maine, a Department of Environmental Protection Site Location of Development permit shall be obtained and submitted with an application.
4. The design, construction, and maintenance of Medium and Large Solar Energy Systems shall protect all environmentally sensitive areas that may be affected by its siting. Such areas shall include, but not be limited to, wetlands, vernal pools, seeps or springs, steep slopes (equal to or greater than 15%), watersheds, one hundred (100) year flood plains, significant habitat for wildlife, fish, and plants as defined by The Maine Department of Inland Fisheries and Wildlife, The Maine beginning with Habitat Program, or the Town of Palmyra. An application for a permit shall demonstrate appropriate measures for protecting all such areas during both construction and operation of the project.
5. Medium and Large Solar Energy Systems shall be designed, constructed, and maintained so as to avoid undue adverse impacts to groundwater, including, but not limited to, sand and gravel aquifers. The Planning Board may require as condition of issuing a permit for a Medium or Large Solar Energy System that a pre-construction baseline study of the site’s groundwater and/or all wells, springs, and public water sources within the watershed of the project site be conducted. The study shall be designed and carried out by a water quality professional chosen by the Applicant and approved and contracted by the Planning Board and paid by the Applicant.
6. Within one year after the completion of construction of a Medium or Large Solar Energy System, for which the Planning Board has required a pre-construction baseline Water Quality Study as described in Article 9 Section 6 of this Ordinance, and each subsequent year thereafter, a Post Construction Water Quality study of all previously tested sites shall be designed and carried out by a water quality professional chosen by the Owner/Operator and approved by the Planning Board and paid and contracted by the Owner/Operator. If degradation or contamination is found to have occurred, fines and/or permanent remedies as required by the Town of Palmyra, or the State of Maine shall be the responsibility of the Owner/Operator.
7. The Applicant shall provide Safety Data Sheets, in accordance with the Hazard Communication Standard (29 CFR 1910.1200(g)), for all hazardous materials or products containing hazardous materials.
8. 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.
9. The owner or operator of the facility shall maintain a current general liability policy for the Medium and Large Solar Energy Systems 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 and approved by the Planning Board and Select Board.

**Section 7: Decommissioning Standards**

1. The Owner/Operator of any Wind Energy Facility or Medium or Large Solar Energy System shall, at his/her expense, be responsible for complete decommissioning of the project and site restoration within twelve months after it ceases to generate electricity, or after its permit has been revoked. Abandonment will be grounds for immediate revocation of permit.
2. Decommissioning shall include the removal and disposal of all parts of the project (including foundations) in accordance with local, state and federal laws and regulations. Areas of disturbed earth shall be graded, seeded, or otherwise re-vegetated following guidelines provided by the CEO.
3. A Professional Engineer shall be chosen by the Applicant and approved by the Planning Board and paid by the Applicant to produce a detailed cost estimate of the total decommissioning cost without consideration of the salvage value of the photovoltaic panels (solar panels). A detailed estimate will include, but not be limited to, itemized quantities of all units of work and materials to be salvaged or scrapped, copies of all contractor quotes, trucking quotes, copies of quotes from all material salvage or scrap yards, hazardous and special waste disposal cost quotes, and units of all other work required to complete the decommissioning. No permit for a Wind Energy Facility or Medium or Large Solar Energy System shall be issued until decommissioning funds have been posted by the Applicant with a bonding company or a federal or state-chartered lending institution (the Escrow Agent) authorized to conduct such business in the State of Maine and approved by the Town of Palmyra Planning Board and Board of Selectmen.
4. Estimates, as described above, shall be redone annually on the anniversary of the granting of a project permit and at the time of any transfer of ownership. The Owner/Operator of the project shall be required to maintain Decommissioning Funds that are at least equal to the most recent estimate. Annual estimates and proof of decommissioning funds shall be submitted to the Town for review.
5. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit or other form of financial assurance acceptable to the Town of Palmyra Planning Board and Board of Selectmen.
6. If the Owner/Operator of the project does not complete decommissioning within the time prescribed in this Ordinance, the Town of Palmyra may take such action as necessary (including court action) to secure the posted decommissioning funds and to ensure completion of the decommissioning.
7. The Escrow Agent shall not release the decommissioning funds except upon written approval of the Town of Palmyra Planning Board and Board of Selectmen.
8. Any Wind Energy Facility or Medium or Large Solar Energy System that is unused or out of service for a period of eighteen (18) continuous months shall be considered abandoned and shall be removed as soon as practicable. The Town of Palmyra is hereby authorized to contract removal of the development and assess the cost of said removal as a lien against the property.

# **Article 10: Definitions**

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

Abutter: Any lot which is physically contagious 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 structure and which is located on the same lot as that of the principal, 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, 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 or 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.

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 kind of 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.

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

dBA. The abbreviation designating both the unit of measure sound level, the decibel, and the mode of measurement that uses the A-weighting of a sound level meter.

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 drill operations.

Development Activity: Any physical activity involved in the process of the construction, reconstruction, conversion, renovation, alteration, relocation, or enlargement of any structure; or any physical activity involved in any mining, excavation, landfill or land disturbance process.

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

Essential Service: The construction, alternation, and maintenance of gas, electric, communication facilities, stream, 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.

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

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.

Large Solar Energy System: A solar energy system whose primary purpose is to harvest and manufacture energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted and is one whose physical size based on total airspace projected over a roof or the ground is greater than 87,120 square feet.

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

Material (Mineral) Extraction Operation: The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of more than 1000 cubic yards of product or overburden from the earth within 12 successive calendar months: any activity or process that for the extraction or removal of the product or overburden; and the preparation, washing, cleaning, or other treatment of that product so as to make it suitable for commercial, industrial, or construction use, but it shall not include excavation or grading preliminary to a construction project.

Medium Solar Energy System: A solar energy system whose primary purpose is to harvest and manufacture energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted and is one whose physical size based on total airspace projected over a roof or the ground is equal to, or greater than, 15,000 square feet but less than 87,120 square feet.

Meteorological Tower (MET): A tower used at a project site which is designed to measure and assess wind speed. Generally, a MET will have anemometers, wind direction vanes, temperature and pressure sensors, and other measurement devices attached to it at various levels above the ground.

Overnight Accommodation: A building or buildings in which lodging, or meals and lodging are 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 includes establishments commonly referred to as hotels, motels, inns, bed & breakfast, and guesthouses, 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 A.M. and a peak condition in the P.M. for which the roadway or intersection is analyzed for capacity and level of service.

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

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

Solar Access: The ability of one property to continue to receive sunlight across property lines without obstruction from another’s property (buildings, foliage or another impediment).

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 enclosed the advertising matter. No two-sided signs, only one side of the sign shall be counted towards sign area.

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

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

Solar Energy System, Ground-Mounted: A Solar Energy System that is structurally mounted to the ground and is not roof-mounted.

Solar Energy System, Roof-Mounted: A Solar Energy System that is mounted on the roof of a building or structure.

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

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

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 as citizen band and ham radio operations, and which are less than 50 feet in height, shall not be included in this definition.

Water body or watercourse: Any river, stream, brook, pond, lake, or wetland.

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

Wind Energy Facility: A facility that uses one or more wind turbines to harness wind energy to manufacture 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.

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*I certify that the foregoing ordinance entitled COMMERCIAL DEVELOPMENT REVIEW ORDINANCE was adopted at Special Town Meeting, July 29, 2020.*

*Revisions*

*March 12, 2022 Town Meeting – Ordinance name changed to NONRESIDENTIAL LAND USE ORDINANCE and major revisions adopted.*

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*Diane White, Town Clerk*