

CHAPTER 800 – GENERAL STANDARDS OF PERFORMANCE

801. Environmental

1. Soils and Erosion Control

- a. In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage and sewage disposal.
- b. The Maine State Plumbing Code requirements shall be met.
- c. The requirements and standards of the State of Maine Department of Environmental Protection shall be met.
- d. No person shall perform any act or use of the land in a manner that would cause erosion or create a nuisance. Temporary vegetation or mulching to protect exposed critical areas during development shall be used.
- e. See Mirror Lake /Grassy Pond and Chickawaukie Lake Overlay Districts.

2. Removal of Earth Materials

Top soil, rock, minerals, sand, gravel and similar earth materials may be removed for commercial purposes from locations where permitted under the terms of this Ordinance only after a special permit for such operations has been issued by the Code Enforcement Officer, provided that:

- a. Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than 1 foot vertical to 2 feet horizontal. Excavation below the water table is prohibited.
- b. The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source.
- c. No excavation shall be extended below the grade of adjacent streets unless 100 feet from the street line or unless provision has been made for reconstruction of the street at a different level and approved by the Road Commissioner or Selectmen with advice from the Public Works Director.
- d. Sufficient top soil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions, all in accordance with Best Management Practices, contained in the publication entitled *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, Cumberland County SWCS, Department of Environmental Protection, March 1991, as amended.
- e. A surety bond payable to the Town in an amount recommended by the Planning Board and approved by the Board of Selectmen shall be filed with the Town Clerk of Rockport. The amount shall be sufficient to guarantee conformity with the grant of approval.
- f. No topsoil shall be removed, except for approved construction and landscaping, from lands which, due to their soil characteristics, are identified as prime farmlands.

3. Water Quality

- a. No new building, structure, activity or use shall discharge untreated wastewater directly to a water body.
- b. Where a use or activity presently discharges untreated or improperly treated waste water directly to a water body, there shall be no increase or change in that use that will increase the volume or pollution load of the untreated waste water so discharged.
- c. There shall be no storage of materials that by their volume, toxicity, temperature or obnoxiousness or by their location will run off from or percolate into the soils and pollute surface or ground waters.

4. Surface and Stormwater Drainage

Adequate provision shall be made for surface drainage so that removal of such waters will not adversely affect neighborhood properties, downstream water quality, soil erosion or the public storm drain system.

5. Clearcutting

- a. There shall be no clearcutting of trees within 75 feet of any public right-of-way.
- b. Before trees are clear-cut elsewhere within the Town, a written plan endorsing the clear-cut and prescribing steps and a timetable for the revegetation of the land to retard erosion and preserve natural beauty shall be obtained from a professional forester registered in the State of Maine and filed with the Code Enforcement Officer. The plan shall be carried out by the property owner according to the timetable in the plan.

6. Nuisances

- a. Uses or structures judged to be dangerous, unsightly, noisy, bad smelling, contributing to air pollution, or otherwise offensive to the surroundings or the community as a whole are prohibited.
- b. No person shall make or cause to be made repetitive loud noises which disturb, injure or endanger the comfort, health, peace or safety of others.
- c. The playing of amplified music that can be heard beyond the property line is prohibited after 10 P.M., except that events on Town owned property may extend the playing of music that can be heard beyond the property line to no later than 11 P.M. if:
 - i. The event proceeds shall be primarily for the benefit of one or more non-profit organizations serving Knox County; and
 - ii. The event received prior approval from the Select Board.
- d. Commercial construction, including the movement of earth-moving equipment, dump trucks, and construction equipment, is prohibited between 6:30 P.M. and 6:30 A.M.

7. Lighting

- a. No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.

Lighting with a lumen output equal to or greater than a 200-watt mercury light shall not be directed toward the sky or adjacent to properties.

- b. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.

- c. Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.
- d. The following provision shall apply to new or expanded commercial, industrial, municipal, institutional, and multi-family housing building or structures, and parking lots, and private roads.
 - i. Lighting fixtures shall be cut-off luminaries which means that less than 2.5% of the lamp lumens occur at or above the horizontal plane and no more than 10% of the lamp lumens occur above 80 degrees.
 - ii. The light level at the lot lines shall not exceed 0.5 foot-candles measured at ground level.
 - iii. Freestanding lighting fixtures except for street lights shall not extend beyond a height of 25 feet as measured from ground level.

8. Exposed Areas

Where allowed, exposed storage areas, exposed machinery installations, sand and gravel extraction operations and areas for the storage or collection of discarded or uninspected vehicles, auto parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on surrounding properties. At a minimum, a 6-foot screen made up of hedges, fences, berms and/or walls shall be required and shall be maintained in a slightly, well-kept condition. Plants that die shall be replaced within 1 growing season. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

802. Industrial Standards

1. Wastewater

- a. Industrial wastewaters may be discharged to municipal sewers in conformance with the Rockport Sewer Ordinance.
- b. The disposal of industrial wastewaters by means other than a municipal sewage system must comply with all Federal, State and local laws, ordinances, rules and regulations.

2. Air Pollution

- a. All air pollution control shall comply with minimum Federal, State and local requirements.
- b. Any activity emitting toxic or odoriferous substances must submit detailed plans to minimize such emissions to the Code Enforcement Officer before a permit for construction is granted.

3. Buffers

- a. Any industrial yard space abutting a residential area shall be maintained as a buffer strip to prevent adverse effects on environmental or aesthetic qualities of abutting properties. Natural features such as topography, stands of trees, shrubbery and rock outcroppings shall be maintained wherever possible to provide a break between the proposed development and abutting properties. When natural features do not exist or are insufficient buffers, the yard shall be landscaped with vegetation, berms or mounds in combination with fencing, as required, not less than 6 feet in width nor less than 4 feet in height.
- b. All buffers shall be properly maintained in durable and tidy conditions by the owner.

803. Parking, Loading and Driveway Standards

1. Off-Street Parking and Loading Standards

1. The purpose of this Section is to provide for adequate off-street parking spaces to meet the needs of the use or structure. The off-street parking shall provide sufficient parking spaces to minimize the need for on-street parking.
2. Applicability: All new construction and changes of use shall comply with this Section.
3. Off-Street Parking General Standards: Parking areas shall be set back at least 8- feet from the side and rear property lines. Off street parking shall be considered as an accessory use when required or provided to serve conforming uses. All required parking spaces shall be located on the same lot as the principal structure or use, subject to subsections 5, 6, 7, or 8 below.
4. Parking Space table, subject to subsections 5, 6, 7, or 8 below. The following table specifies the minimum number of parking spaces to be provided:

| | |
|--|---|
| Single Family Dwellings | 2 parking spaces per dwelling unit |
| Multifamily Dwellings | 2 parking spaces per dwelling unit |
| Motels, Hotels and Inns, Bed & Breakfast, Tourist Homes, Rooming Houses | 2 parking spaces plus 1 parking space for each room Offered for rent |
| Campgrounds | 4 parking spaces plus 1 parking space for each site Available for occupancy |
| Day Care Centers | 1 parking space for each 4-5 children |
| Schools, Post-secondary | 1 parking space for each 3 students based on the maximum number of students attending the school at any 1 period in the day |
| Schools, elementary and secondary, public & private | 1 parking space per adult employee plus parking space to accommodate student parking if applicable, and for other school and sports events. |
| Hospitals & Nursing Homes | 1 parking space for each 3 beds plus 1 parking space per employee based on the shift with the largest number of employees |
| Office Buildings | 1 parking space for each 400 square feet of gross floor area |
| Theaters, Auditoria, Churches, Arenas | 1 parking space for each 4 seats or for every 500 Square feet of assembly area of no fixed seats |
| Marinas | 1 parking space for every 3 slips |
| Boat Building/Repair | 1 space for every employee |
| Retail Uses and Personal Services | 1 parking space per 200 square feet of gross floor area |
| Bowling Alleys | 2 spaces for each bowling lane |
| Restaurants & Night Clubs | 1 parking space for each 4 seats plus 1 parking space for each employee per shift |
| Food trucks and establishments serving take-out food only | 5 parking spaces plus 1 parking space for each employee |
| Industrial Uses | 1 parking space for every 1.2 employees to account for overlap during shift change |
| All uses not specifically listed or able to be placed into one of the above categories | Sufficient number of parking spaces, as determined by the Planning Board during site plan review, or by the Code Enforcement Officer if there is no site plan review, to minimize the necessity of on-street parking. |

5. **Parking Location:** Off-street parking to meet the minimum number of parking spaces set forth in the table above that cannot be provided on the same lot as the principal structure or use may be located at a separate location subject to the approval of the CEO or the Planning Board. The CEO or Planning Board shall consider the following factors in making their decision: The separate parking site is a reasonable distance from the principal structure; the principal use will provide access to the separate site such as, but not limited to: walkways, transit bus/vehicle or valet service; and the separate site is held under the same ownership or lease as the principal use or structure.

To assist in considering these factors related to off-street parking, the CEO or Planning Board may order a study of such factors, paid for by the applicant, pursuant to Section 1302.

6. **Shared Parking:** The joint use of a parking area by 2 or more principal structures or uses to meet the minimum number of parking spaces in the table above may be provided by the CEO or Planning Board where it is demonstrated by the applicant that shared parking would substantially meet the purpose of this subsection by reason of variation in the probable time of maximum use by patrons or employees of such establishments or other factors that the applicant demonstrates will result in adequate parking spaces provided. The applicant shall provide evidence of a lease or other agreement establishing the shared parking.
7. **Parking Options:** The CEO or Planning Board may consider the following options if an applicant can show that adequate and safe parking can be provided:
 - a. A reduction in the minimum number of parking spaces from the table above, if the applicant can demonstrate that the structure or use requires less parking than specified in the parking space table.
 - b. For designated peak overflow parking to provide space for infrequent increase in parking such as seasonal or holiday activity, the applicant shall provide evidence to show that the structure or use generates peak demand which is not typical for most times of the year.
8. **CEO or Planning Board Conditions:** The CEO or Planning Board may establish conditions to any of the parking space modifications allowed in subsections 5,6 and 7 to make sure that adequate and safe parking is provided for the structure or use.
9. **Off-Street Loading Standards:** Retail, wholesale and industrial operations shall provide for the loading requirements of the proposed use. Loading areas and bays shall be designated to minimize the interference with parking and traffic flow within the parking area. The loading area shall be designed so that access to the loading area does not require blocking the public roadway.
10. **Landscaping of Parking Areas:** The following minimum standards for landscaping of parking area shall apply:
 - a. Where a parking area borders an existing residential structure, adequate landscape screening shall be provided where the commercial property abuts the residential property.
 - b. Where a parking area abuts a public right-of-way, the parking area shall be set back a minimum of 6 feet from the public right-of-way. Landscaping of the parking area shall not interfere with sight distances and traffic safety.

2. Driveway Entrance Standards

These standards shall apply to all driveways except those fronting on state highways.

1. Driveway Angles: Driveways must intersect roads between sixty (60) and ninety
2. (90) degrees.
3. Driveway Spacing: The minimum distance between driveways must be forty (40) feet measured from the centerlines of the driveways at the right-of-way line. The Public Works Director may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.
4. Driveway Setback from Intersections: Driveways must be located at least fifty (50) feet, centerline to centerline, from the closest intersection. The Public Works Director may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions.
5. Driveway Slope: Driveway slope shall not exceed 4% within the first twenty feet
6. (20) of the road/driveway interface. Driveways shall be graded in a manner to minimize runoff onto the public way.
7. Driveway Line of Sight: The Public Works Director shall determine driveway location based on line of sight standards contained in the Uniform Traffic Code and on-site considerations.

804. Cluster Development

1. Objective

1. Cluster developments are intended to enable and encourage greater flexibility in the design of subdivisions, to minimize sprawl, to facilitate the most appropriate use of the land, to promote land conservation, and to protect the natural and scenic attributes of the land, in accordance with the goals and objectives of the Rockport Comprehensive Plan.

2. Where Allowed

1. Cluster development is allowed in all districts except for the Industrial Zone 916.

3. Compliance with Ordinances and Comprehensive Plan

1. All applications for subdivisions under the clustering provision of the Rockport Land Use Ordinance shall comply with the Comprehensive Plan of the Town of Rockport, with all applicable provisions of the Rockport Land Use Ordinance, and the Rockport Subdivision Ordinance and with all applicable state and federal laws.

4. Regulations Governing Cluster Residential Development

1. Cluster developments shall be designed and constructed to achieve the purposes of this ordinance.
2. Permitted Uses: Cluster residential developments may allow uses as described in the Land Use Table in section 917.
3. Open Space, Recreation, or Agriculture: Cluster developments shall provide open space to be owned, operated, and maintained by an Owner Association of the development.
4. Utilities: All utilities, including electric and telephone lines, shall be installed underground unless an underground installation is financially impracticable, in which case the applicant shall provide supporting documentation.
5. Building height shall not exceed those heights specified in the Rockport Land Use Ordinance.
6. Applications shall show the density allowed for a conventional subdivision application. The density shall be used in calculations for requisite open space and any possible density incentives. This calculation is the “base development density”. Any land encumbered at the time of the application by conservation easement cannot be included in the calculation of based development density.

5. General Design Requirements

1. All roads shall be designed and constructed in accordance with the applicable Road Standards of the Town of Rockport.
2. Public water and sewer systems and private wells and subsurface wastewater systems shall be designed and installed in accordance with design criteria of the Town of Rockport and the State of Maine.
3. Open Space, Recreation, or Agricultural in a Cluster Development shall be owned in common by an Owners Association.
4. Setbacks from Water Bodies and Shorelands: Setbacks from waterbodies and other shoreland area requirements cannot be waived.
5. Pedestrian walkways, such as but not limited to sidewalks, are required in Cluster Developments to encourage walkability between parcels.

6. Natural surface drainage channels shall either be incorporated into the overall site design or shall be preserved as part of the required undeveloped land. All disturbed surfaces shall be treated to prevent erosion.
7. Lots, buildings, streets, parking areas, and cluster units shall be designed and arranged to; minimize alteration of the natural site features to be preserved, including but not limited to maintaining compatibility with the existing topography of the site; relate to surrounding properties, including but not limited to architectural harmony of surrounding existing buildings; improve the view from and view of buildings; lessen the area devoted to motor vehicle access; and avoid the adverse effects of noise, shadows, lights, and traffic on residents of the development.
8. Parking Requirements shall follow Section 803, except for Multi-Family developments within a Cluster Development. Multi-Family development shall include a minimum of 2 off street parking spaces per 3 dwelling units.
9. Development proposals shall include a landscaping plan to illustrate the proposed treatment of space, roads, paths, service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.
10. Diversity and originality in lot layout and individual building design is encouraged to achieve the best possible relationship between the development and the land.
11. Lot size requirements within a Cluster Development on the sewer line may be reduced up to fifty percent (50%) of that required in the zone, as determined by the Planning Board. This provision does not allow for further increased density for either the Base Development Density calculation or to increase above the allowed density bonus outlined in Section 804.C.
12. Other lot dimensional requirements may be reduced as follows:
 - ii. Lot frontage: up to fifty percent (50%) of that required in the zone, with exception regarding minimum width for a driveway and lots on Rt 1, 17, & 90.
 - iii. Side and rear setbacks: up to one hundred percent (100%) of that required in the zone.
 - iv. Front Setbacks: up to one hundred percent (100%) of that required in the zone with exception of lots on Rt 1, 17, & 90.

6. Intensity of Development

1. An increase in the number of dwelling units above the base development density will be considered on the following bases:
 - i. For every additional affordable dwelling unit above the required allotment as determined through the base development density, one additional market-rate dwelling unit may be allowed.
 - ii. For each 10% in addition of the required open space dedicated on the application parcel, one additional dwelling unit may be allowed.
 - iii. For the provision by deed and construction of active recreation space, or through a payment-in-lieu of dedication in an amount of \$5,000 per dwelling unit, for upkeep/maintenance or acquisition of Town owned active recreation space, one additional dwelling unit may be allowed.
 - iv. For projects that are designed to meet the certification standards of Leadership in Energy & Environmental Design (“LEED”), or other approved equivalent sustainable building certification program, for all dwelling units, either by application or by affidavit that performance metrics will or have been met by the project, one additional dwelling unit may be allowed.

- v. For projects constructing new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, one additional dwelling unit may be allowed
 - vi. For projects that provide formal access to public transportation, one additional dwelling unit may be allowed.
 - vii. For projects that restore or preserve an historic resource existing on the property as part of the application, one additional dwelling unit may be allowed.
 - viii. For projects that bury all utilities, an additional two dwelling units may be allowed.
2. A Cluster Development, outside of a PUD, may never exceed the allowable number of dwelling units by more than 2.5 times the base development density.

7. Cluster Residential Management Requirements

- 1. The applicant or developer shall provide for and establish an Owners' Association or other legal entity with the same purpose. The Owner's Association shall have the authority, through the unit owners, to manage the common open space areas. The articles of the association or incorporation of such an entity must conform to all State regulations.
- 2. Membership in such Owner's Association shall be mandatory for Cluster property owners and made a required covenant in all deeds issued. The Association shall provide voting and use rights in the open space area(s) when applicable and may charge dues or levy assessments to cover expenses which may include tax liabilities of common areas, and for the maintenance of such common areas, open space areas, improvements, rights-of-way, utilities, etc. Such organizations shall be responsible for the perpetuation, maintenance, and function of all common lands, uses and facilities.
- 3. All common lands and improvements shall be described and identified as to location, size, use and control in a Restrictive Covenant. These Restrictive Covenants shall be written so as to run with the land and become a part of the deed of each lot or dwelling unit within the development. The Restrictive Covenant proposal shall be submitted with the application for review and approval by the Planning Board.
- 4. Such Restrictive Covenants and the Owner's Association shall continue in effect to control the availability of facilities for their intended function and to protect the development from additional unplanned densities and use. No open space or land can change hands by sale or otherwise, except to an organization or association conceived and organized to maintain such areas as Open Space.

8. Performance Guarantee

- 1. The developer shall provide the Town of Rockport at the time of submission of final plans a Performance Guarantee that shall conform to Article 13 of the Rockport Subdivision Ordinance.

805. Lots

1. Front Yards

Front yards of all non-residential uses shall be appropriately landscaped.

2. Waiver of Street Frontage Requirement

The Planning Board may waive the street frontage requirements on corner lots or cul-de-sacs to not less than 75 feet or 50 feet, if connected to municipal sewer where this will not be deemed harmful to the overall attractiveness of the subdivision.

3. Private Ways

Purpose: To provide submission requirements and performance standards for a “Plan of a Private Way” and amendments to such plans, depending in part on the number of lots proposed to be served. Private way approval may provide frontage and access to lots which otherwise would not have adequate frontage in accordance with the following provisions:

1. A plan shall be prepared by a registered professional land surveyor. The plan shall be labeled "Plan of a Private Way" and shall provide an approval block for the signatures of the Code Enforcement Officer or the Planning Board members, whichever is applicable. The plan shall be drawn to scale, shall delineate the proposed private way and the boundaries of each of the lots to be served by or abutting the private way.
2. Roads shall be designed so as not to be subject to seasonal flooding or washout and not to disturb wetlands. Drainage ditches and culverts shall be provided wherever appropriate. A street plan, cross section and drainage plan shall be submitted for each private way serving 2 or more lots.
3. The plan shall note that the Town of Rockport will not be responsible for the maintenance, repair or plowing of the private way, and that no additional dwelling units or lots may be served by the private way without prior approval in accordance with this subsection.
4. If the private way is to provide access to 2 or more lots, a maintenance agreement shall be required and recorded in the Knox County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way.
5. The construction of private ways shall comply with the following minimum standards.

| | Number of Lots Served | | |
|--|-----------------------------------|--------------|---|
| | 1 | 2 | 3 or more |
| Notice to abutters | Not required | Not required | In accordance with requirements of Subdivision Ordinance |
| Minimum road frontage on private way | 30' | 40' | In accordance with street design standards in Subdivision Ordinance |
| Minimum roadway width | 12' | 16' | |
| Minimum sub-base (heavy road gravel with min. stone size 4") | 12" | 15" | |
| Minimum wearing surface (fine gravel) | 2" | 2" | |
| Maximum grade | 10% | 10% | |
| Minimum grade | 0.5% | 0.5% | |
| Turnaround at dead end | Circle or "T" | | |
| Right-of-way width | 30' | 40' | |
| Storm water drainage | Approval of Public Works Director | | |

6. One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of the private way.
7. Visibility: The driveway shall not cause a hazard to pedestrian or vehicular traffic. The Site Plan Review criteria for vehicular access (minimum sight distance in each direction based on allowable speed) shall be used for driveways on Routes 1, 17 and 90 and where necessary elsewhere.
8. Not more than 1 driveway is to be allowed over a given front lot to serve back lots.
- ~~9. Any waiver requires Planning Board approval.~~
- ~~10.9.~~ Approval by the Code Enforcement Officer is required for private ways serving 1 or 2 lots. For private ways serving more than 2 lots, approval of the Rockport Planning Board is required.
- ~~11.10.~~ The plan and/or deed description of the private right-of-way shall be recorded in the Knox County Registry of Deeds within 90 days of the date of approval by the Code Enforcement Officer or Planning Board. If it is not recorded within this time period, the approval shall be null and void.
- ~~12.11.~~ Any change, such as the creation of another lot, shall require prior approval by the Planning Board or Code Enforcement Officer as applicable under this subsection.
- ~~13.12.~~ Private ways approved by the Code Officer or Planning Board must be constructed and utilized by the time any of the lots to be served is developed.

806. Livestock Control

Animals other than household pets may be kept only on lots of 40,000 square feet or more. Their enclosure must be no closer than 25 feet to any property line. In the Rural District, they may extend to the property line except where they abut a residential property of one acre or less, in which case the 25-foot requirement referred to above shall apply. Conditions resulting from the maintenance of animals shall conform to any and all State and local health standards.

807. Mobile Homes

1. Definitions

Mobile Home Park: A parcel of land approved by the Municipality for the placement of three (3) or more units of manufactured housing or older mobile homes on mobile home park lots in accordance with the provisions of this Ordinance.

2. Mobile Home Parks

In addition to receiving sub-division approval from the Rockport Planning Board, units of manufactured housing or older mobile homes shall be placed upon mobile home park lots. Each lot shall be occupied by only one unit of manufactured housing or by one older mobile home. Each unit of housing shall be placed on a pad.

3. Lot Requirements

| Lots Served by Subsurface Wastewater Disposal System | |
|--|--------------------|
| Minimum Lot Area | 20,000 Square Feet |
| Minimum Lot Width | 60 Feet |
| Lots Served by Centralized Subsurface Wastewater System Serving Two or More Dwelling Units Approved by the Maine Department of Human Services | |
| Minimum Lot Area | 12,000 Square Feet |
| Minimum Lot Width | 75 Feet |
| Lots Served by the Public Sewer System | |
| Minimum Lot Area | 6,500 Feet |
| Minimum Lot Width | 50 Feet |

Mobile Home parks located within any designated Shoreland Area shall meet the lot area, lot width and shore footage requirements of the District in which that lot is located or the requirements of the Shoreland Area pursuant to this Ordinance, whichever is stricter.

4. Setbacks

In lots which abut a public way, either within the park or adjacent to the park, the individual manufactured housing unit or older mobile home unit shall meet the setback requirement of the district in which it is located. Individual mobile home units or manufactured housing units must meet the minimum side and rear setback of fifteen (15) feet or the side and rear setback of the District, whichever is greater. Individual units or older mobile homes shall be located a minimum of thirty (30) feet from any other unit. Where a mobile home was lawfully placed on a lot before the date of adoption of this Ordinance such that it does not meet these setback requirements, it may be replaced by another mobile home in the same location of the same lot so long as the non-conforming aspects of the original placement are not worsened.

5. Buffer Requirements

All mobile home parks shall be designed with a fifty (50) foot wide buffer strip along the perimeter boundaries of that property. The buffer strip shall be maintained as a landscaped area, containing no structures. Roads may cross the buffer strip to provide access to the park and to provide access to utilities. On the first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park, the buffer strip shall be improved and maintained in the same manner as a seventy-five (75) foot buffer strip for commercial properties set forth in § 1002.3.5 of this Ordinance.

6. Open Space Reservation

For mobile home parks served by a public sewer system, an area equaling ten (10) percent of the combined area of the individual lots within the mobile home park shall be set aside and reserved as open space to meet the recreational and community needs of the residents of the mobile home park. The area reserved for open space shall be suitable for use by residents of recreational purposes or for use by residents for storage. The reserved open space shall have slopes of less than five (5) percent and shall not be located on poorly drained soils and shall be accessible from roads from within the mobile home park.

7. Road Standards for Mobile Home Parks

1. The layout, design and construction of roads within the parks shall conform to the following standards:
 - a. The road system shall be reasonably safe and convenient for travelers, shall provide access to all lots within the park and shall provide for all-season emergency vehicles access to every unit in the park;
 - b. Roads within the mobile home park that the applicant proposes as public roadways shall be designed and constructed in accordance with the design and construction standards for a road set forth in this Ordinance, under general standards of performance.

Mobile home park roads that are to remain private shall meet the following minimum standards:
 - c. The roads shall be designed by a professional engineer registered in the State of Maine;
 - d. The road shall have a minimum right-of-way of twenty-three (23) feet;
 - e. The road shall have a paved travel surface with a minimum width of twenty (20) feet;
 - f. The construction of these roads shall meet the standards of the Manufactured Housing Board.
2. The roads or lots shall be laid out so that no lot within the park shall have direct vehicular access to a public street.
3. The entrance to a mobile home park shall be in conformance with Article 12.2 (Traffic Conditions) of the Town of Rockport Subdivision Ordinance.
4. Applications for approval of a mobile home park shall contain an estimate of average daily traffic flow. Estimates of traffic generation shall be based on the Trip Generation Manual, current edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than four hundred (400) vehicular trips per day, the application shall also include a Traffic Impact Analysis, by a registered professional engineer with experience in transportation engineering.

5. Utility requirements: All mobile home parks shall provide permanent electrical, water and sewer disposal connections to each lot in accordance with applicable State and local rules and regulations. Electrical utilities and telephone lines may be located above ground.

808. Access Management

1. Access Permit Required (Routes 1 and 90 only)

In order to provide municipal oversight over driveways and other access ways which connect or intersect with Routes 1 and/or 90, and avoid costs resulting from improper installation, an Access Permit is required from the Code Enforcement Officer for single-family dwellings and duplexes and from the Rockport Planning Board for commercial and multi-family and all other uses including subdivisions prior to the construction, installation, relocation or establishment of a driveway, road or other access way into a site. Permits must be approved when the proposed use complies with the standards set forth in sections 808.2 and/or 808.3 below.

2. Traffic Access - Single Family Dwellings and Duplexes (Route 1 and Route 90)

The following standards apply to new single-family and two-family dwellings which are established with a connection or intersection with Route 1 or Route 90 and which are established after June 14, 2000.

1. One Entrance Per Lot. In order to minimize traffic congestion and conflict no more than one entrance per lot providing direct access onto Route 1 or Route 90 is permitted. The Planning Board shall have the authority to allow a separate entrance and exit for one driveway per lot in the event that the Planning Board determines that a separate entrance and exit are required to meet reasonable safety concerns which arise from a single entrance per lot providing direct access onto Route 1 or Route 90.
2. Shared Driveways. Owners of adjacent properties are encouraged to construct shared driveways. Road frontage requirements, as referenced in Rockport's Land Use Ordinance, may be reduced by 10% when abutting property owners share one driveway.
3. Turn-Around Area. Driveways must be designed with sufficient on-site turn-around area on the lot to enable a driver to exit the premises without backing onto Route 1 or Route 90.
4. Width of Driveways. The traveled portion of such driveways shall be no greater than eighteen (18) feet in width.
5. Turning Safety. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
6. Angles. In order to minimize turning time and driver confusion, driveways that permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways permitting one-way access for ingress or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 90.
7. Corner Lots. Where a lot has frontage on two or more roads, the primary access to and egress from the lot must be provided to the road where the Planning Board determines there is less potential for traffic congestion and for traffic and pedestrian hazards.

8. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy-five (75) feet measured from the centerlines of the driveways at the right-of-way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.
9. Minimum Setback from Intersections. To minimize accidents at intersections, driveways and road entrances/exits must be located at least one hundred (100) feet from the closest unsignalized intersection of Route 1 or Route 90 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 90 and another public road. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.

3. Traffic Access – Commercial, Multi-Family and All Other Uses (Route 1 and Route 90)

The following standards apply to the connections or intersection of driveways and other access ways with Route 1 or Route 90 which are established after June 14, 2000 for multi-family residential dwellings, subdivisions, and all other non-residential uses which require direct access to Route 1.

1. Access into the Site
 - a. Safe Sight Distance. Unless otherwise specified by the Maine Department of Transportation, any driveway or road must be located and designed so as to provide, to the maximum extent possible, a safe sight distance measured in each direction. Refer to current Maine Department of Transportation Entrance Rules for site distance standards.

Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb line (or edge of shoulder) with the height of eye three and one-half (3.5) feet above the pavement and height of an object four and one-quarter (4.25) feet above the pavement.
 - b. Turning Safety. The intersection of any driveway or proposed street must function:
 - i. Adequately so that appropriate turning radii are provided to prevent tractor-trailer service vehicles or other large vehicles (buses, recreational vehicles, etc.) from encroaching into the opposing lane of travel where traffic is expected.
 - ii. Adequately without creating excessive delay to through traffic on Route 1 or Route 90. Auxiliary turning lanes shall be installed where it is essential for public safety as determined by the Planning Board.
 - c. Angles. In order to minimize turning time and driver confusion, driveways which permit traffic flow for ingress and egress must intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways that permit one-way access for ingress only or egress only shall form an angle of at least sixty (60) degrees with Route 1 or Route 90.
 - d. Grades. Steep grades can cause accidents and create icy conditions on public roads. For driveways and proposed streets, the maximum grade is three percent (3%) for the first forty-five (45) feet from the edge of the existing road.

- e. Driveway Turn-Around. Driveways must be designed with sufficient on-site turn-around area on the lot to enable a driver to exit the premises without backing onto the road. This standard is presumed to be met when a driveway terminates in an on-site parking lot.
- f. Driveway Length. Driveways must be of sufficient length and in no case less than 75 feet to avoid the queuing of vehicles (vehicles waiting in line) on Route 1 or Route 90.
- g. Corner Lots. Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided to the road where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be provided if it is safe and does not promote shortcutting through the site.
- h. Number of Access Points. Unchecked access points along Route 1 or Route 90 creates traffic hazards and increases congestion. The Maine Department of Transportation has specified standards for the number of access points intersecting or connecting with Route 1 and Route 90. Refer to current Maine Department of Transportation Entrance Rules for spacing standards.
- i. The intersection of any driveway or proposed street must function:
 - i. At a Level of Service D following development if the project will generate 1,000 or more vehicle trips per twenty-four (24) hour period; or
 - ii. At a level that will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- j. Parking Lot Access. So as to minimize traffic conflicts, no parking lot or portion of a parking lot may be directly accessible from any public way. Ingress to and egress from parking areas must be limited to driveway entrances.
- k. Right-Turn Deceleration Lane.
 - i. Where a driveway serves as an entrance to a development containing fifty (50) or more parking spaces and the adjacent arterial, either Route 1 or Route 90, has an average annual traffic volume (A.A.D.T.) exceeding 7,500 vehicles, a deceleration lane shall be provided, where suitable frontage exists, for traffic turning right into the driveway from the arterial. The deceleration lane shall be at least two hundred (200) feet long, not including taper, and at least twelve (12) feet wide measured from the road edge or curb line.
 - ii. The Planning Board may also require a deceleration lane where: (1) a traffic impact study determines a right-turn lane is necessary to meet the level-of- service criteria; or (2) at any intersection where the accident experience, existing traffic operations or engineering judgment indicates a significant hazard to right-turning vehicles; or (3) meets minimum volume warrants for right-turn lanes.

2. Left-Turn Lane. The Planning Board may require that the applicant construct a left-turn lane when the Planning Board can document, through an independent traffic study conducted at the expense of the applicant, that such treatment is necessary to avoid conflicts with through traffic, congestion or other unsafe conditions on the arterial, as set forth in the Maine Highway Design Manual, 1990 edition or later. To determine whether a left-turn lane is warranted, the independent traffic study shall include a determination of the advancing, opposing, and left-turning volumes at the point of access, and such determinations shall be determined based on the standards contained in the Maine Highway Design Manual, 1990 edition or later
3. Driveway Location and Spacing
 - a. Driveway Spacing. In order to minimize traffic accidents resulting from turning vehicles, the minimum distance between driveways must be seventy-five (75) feet measured from the centerlines of the driveways at the right-of-way line. This standard applies to driveways on the same lot or on adjoining lots. The Planning Board may reduce this requirement when the requirement cannot be met because of driveway location on adjacent lot(s) or because of topographic or other on-site conditions. Shared driveways are exempt from the driveway spacing requirement.
 - b. Shared Driveways. Road frontage requirements, as referenced in Rockport's Land Use Ordinance, may be reduced by 10% when abutting property owners share one driveway.
 - c. Minimum Setback from Intersections. To minimize accidents at intersections, driveways and road entrances/exits must be located at least one hundred (100) feet from the closest unsignalized intersection of Route 1 or Route 90 and another public road, and at least one hundred fifty (150) feet from the closest signalized intersection of Route 1 or Route 90 and another public road. The Planning Board may reduce this requirement if the shape of the site does not allow conformity with this standard.
 - d. Commercial or Residential Subdivision Access. In order to minimize future road congestion and avoid traffic conflicts, in the event that a proposed subdivision, as subject to the Rockport Land Use Ordinance or subject to Title 30-A MRSA Sections 4401-4407, has access to Route 1 or Route 90, the following provisions shall apply:
 - i. Permitted Access. Access to the development shall include one of the following:
 - a. One driveway leading to a common frontage road running parallel to Route 1 or Route 90. The sideline of such common frontage road closest to Route 1 or Route 90 shall be least fifty (50) feet from the nearest sideline of Route 1 or Route 90.
 - b. A common driveway, which shall intersect Route 1 or Route 90, and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses; or
 - c. One or more minor roads, to be constructed by the developer, to serve the development.

- ii. Prohibited Access. Direct access from Route 1 or Route 90 to any individual lot is not permitted unless the Planning Board grants a waiver after finding that one or more of the following conditions is met:
 - a. There is too little road frontage to reasonably allow creation of a new road;
 - b. The shape or physical condition of the parcel does not permit access to or creation of a street other than Route 1; or
 - c. A common access or shared driveway will be utilized to serve proposed lots.

4. On-Site Vehicle Circulation

- a. Truck Loading/Unloading. In order to minimize traffic back-ups caused by parked delivery vehicles, non-residential uses that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate design to allow for on-site turning and backing.
- b. Emergency Vehicle Access. For public health and safety purposes, clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (e.g., fire lane - no parking).
- c. Loading Docks. Loading docks must not be located on any street frontage. Provision for handling all freight must be on those sides of any buildings that do not face on any street or proposed streets.
- d. Inter-Connections
 - i. For all uses, provision for vehicular connections to existing or future uses on adjacent properties shall be encouraged wherever feasible and to the maximum extent possible so as to minimize the traffic exit/enter movements.
 - ii. Where appropriate and feasible, shared circulation roads for major non-residential projects shall be located between 150 feet and 300 feet from the main highway in order to avoid intersection conflicts.
 - iii. The Planning Board may reduce lot size, road frontage, and parking requirements by 5 percent when the developer agrees to establish vehicular connections to adjacent developments of a type, scale and intensity similar to the proposed development.

5. Traffic Impact Study

Developers shall provide a description of the traffic movement to be generated by the development including types and peak hour and average daily vehicle trips, travel routes, and duration of traffic movement both during and following construction.

a. Full Traffic Study Requirement

If the development will meet (i) or (ii) below, the developer shall provide a full traffic impact study at his or her own expense.

- i. Volume. During any one-hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound.

- ii. Safety or Capacity Deficiencies. The Planning Board, in consultation with the Maine Department of Transportation, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
- b. Content of Full Traffic Study

If a full traffic impact study is required under paragraph a., as determined by the Planning Board, the developer shall include the following at a minimum:

- i. Site description. A description of the site including, as applicable, the locations of driveways and streets located on any property immediately adjacent to the site and across the street or road in the immediate vicinity of the project driveway(s).
- ii. Use Description (Site). A description of the existing and proposed uses of the site.
- iii. Regional Map. A regional map showing the site, and roads in the vicinity of the development, and other proposed projects in the vicinity of the development.
- iv. Description of Traffic Increases. A description of any traffic increases that are likely to occur in the vicinity of the development during the study period. The developer shall include, as applicable, projects which are: under construction and not fully occupied; are pending state or local approval; or have state or local approval but are not constructed or fully occupied.
- v. Trip Generation Calculation and Summary Table. The study shall include a calculation of the trip generation for the development and other likely traffic increases, including a summary table listing each type of land uses, the size involved, the average trip generation used, and the resultant total trips generated.
- vi. Trip Distribution Description and Diagram. The study shall include a description and diagram of the anticipated distribution of traffic entering and exiting the site.
- vii. Define Study Area. The study shall include a definition of the study area including all links and intersections using the following threshold criteria:
 - a. The study area shall include the first major intersection to either side of the project driveway(s).
 - b. The study area shall be expanded beyond the first major intersection(s) to either side of the project driveway to include those links and intersections for which, during any one-hour peak period, traffic attributable to the development equals or exceeds the following at any intersection in the vicinity of the development:
 - 1. 25 vehicles in a left-turn only lane;
 - 2. 35 vehicles in a through lane, right-turn lane, or a combined through and right-turn lane; or
 - 3. 35 vehicles (multiplying the left-turn lane volume by 1.5) in a combined left-turn, through and right-turn lane.
- viii. Use Description and Diagram (Roads). The study shall include a description and diagram of the anticipated utilization of roads and intersections in the vicinity of the development.

- ix. Diagram/Documentation of Traffic Volume. The study shall include a diagram and appropriate documentation of the traffic volume on roads and intersections in the vicinity of the development for both the estimated annual average daily traffic and the a.m./p.m. peak hour traffic (including turns during the peak hour). The study shall show the following on the traffic diagrams.
 - a. Existing traffic volume based on actual counts.
 - b. Traffic attributable to other projects that are proposed or approved.
 - c. Traffic attributable to the development assuming full build-out and full occupancy.
 - d. Projected traffic volume for the design hour at the time the development will begin operation assuming full build-out and full occupancy of the development.
 - e. Left-turn lane/right-turn lane warrant analysis.
- x. Capacity Analysis. The study shall include a capacity analysis or determination of the level of service for each road and intersection in the vicinity of the development. Capacity analyses must be performed for all intersections that are currently operated or will be operated as part of a signal interconnect system. The analysis shall report whether or not length of storage for through or turning lanes are adequate.
- xi. Traffic Signal Analysis. The study shall include an analysis of the need for new traffic signals in the vicinity of the development. The Manual of Uniform Traffic Control Devices shall be used as the basis to analyze the need for construction or elimination of traffic signals, as appropriate.
- xii. Sight Distance Determination. The study shall include a determination of the available sight distance in all directions at each intersection in the vicinity of the development.
- xiii. Inventory and Analysis of accidents. The study shall include an inventory and analysis of traffic accidents in the vicinity of the development during the most recent 3-year period. A collision diagram shall be provided for all links and intersections found to meet Maine Department of Transportation criteria for "High Accident Locations."
- xiv. Description of Improvements. The study shall include a description of recommendations for improvements to deficient roads or intersections, and the results of implementation of the recommendations.

809. Wireless Telecommunications Facilities

1. Applicability

This section applies to all construction and expansion of wireless telecommunications facilities, including communication facilities and towers, except as provided in subsection 809.2.

2. Exemptions

The following are exempt from the provisions of this Ordinance:

1. Wireless Telecommunications Facility. Wireless communication facilities for telecommunications by public officials.
2. Amateur (Ham) Radio Stations. Amateur (ham) radio stations licensed by the Federal Telecommunications Commission (FCC).
3. Parabolic Antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
4. Maintenance or Repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
5. Temporary Wireless Telecommunications Facility. A temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
6. Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

3. Site Plan Review Application.

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of the Town of Rockport Land Use Ordinance, Section 1300, Site Plan Review, and shall also include the following additional information:

1. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility will comply with FCC regulations.
2. A USGS 7.5 minute topographic map showing the current location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (i.e. within thirty days of the date the application is filed) from the FCC Tower Registration Database. Include documentation of longitude and latitude.
3. A site plan prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American National Standards Institute (ANSI) and other applicable technical codes.
4. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
5. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

6. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application review. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
7. A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.
8. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, which may consist of any one or more of the following:
 - a. Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements.
 - b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements.
 - c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - i. Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii. The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii. Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d. For facilities existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this Ordinance or amendment thereto.
9. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;

- d. Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
10. A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

4. Standards

1. Location. A wireless telecommunications facility may be permitted only in the following locations:
 - a. Within 1,000 feet of the top of Ragged Mountain or within a Rural District;
 - b. Collocated on an existing facility;
 - c. Placed onto an existing structure when they are designed to blend harmoniously into the existing architecture and appearance of the original structure. Examples include, but are not limited to, a facility using a steeple which has the appearance of being part of the existing steeple or a facility atop a building which has the appearance of a chimney, vent, or other traditional appurtenance to the existing building.
 - d. Where there is no adverse effect on the health and safety of the public.
2. Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility on municipal property, or expand an existing facility on municipal property, the applicant must show the following:
 - a. The proposed location complies with applicable municipal policies and ordinances.
 - b. The proposed facility will not interfere with the intended purpose of the property.
 - c. The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
3. Design for Collocation. A new or expanded wireless telecommunications facility and related equipment must be designed and constructed to accommodate future collocation of at least three additional wireless telecommunications facilities or providers. Collocation shall not be considered an expansion.
4. Height. The maximum height of new or expanded wireless telecommunications facilities shall be 195 feet. The facility shall be designed to collapse in a manner that does not harm other property.

5. Setbacks. A new or expanded wireless telecommunications facility must comply with the setback requirements set forth in the Town of Rockport Land Use Ordinance or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.
6. Landscaping. The base of a new or expanded wireless telecommunications facility must be screened, with plants, from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
7. Fencing. A new or expanded wireless telecommunications facility must be fenced with a secured perimeter fence of a height of eight (8) feet to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
8. Lighting. A new or expanded wireless telecommunications facility must be illuminated as necessary to comply with FAA or other applicable state, federal and local requirements or Site Plan Review conditions. Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.
9. Color and Materials. A new or expanded wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
10. Structural Standards. A new or expanded wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
11. Noise. Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing municipal noise standards.

5. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval issued by the Planning Board. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

1. The owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a. Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation.

- d. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

6. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

810. Service Drops

1. Electric Service/Telephone Service

1. The placement of wires and/or the installation of utility poles shall be located entirely upon the premises of the customer requesting service or upon a roadway right-of-way.
2. Underground service shall be upon the customer's premises or upon a Roadway right-of-way.

2. Placement in Road Right-of-Way

Service Drops, including, but not limited to, sewer, water, electrical, gas, telecommunications, and all other utilities, shall not be placed on, over or beneath the ground in the right-of-way of any State highway or Town way without a permit from the Town of Rockport and all other required permits.

811. **Home Occupations**

No use permit shall be granted for a home occupation in any district unless the conduct and operation of the proposed home occupation meets each of the following criteria.

1. A day care center located in the home of the person(s) operating the day care center, serving 12 or fewer children, shall be considered a home occupation. An outside play area shall be permitted.
2. The home occupation shall be carried on wholly within the residence or an accessory building. The use of the dwelling for a home occupation shall clearly be incidental and subordinate to its use for residential purposes.
3. There shall be no more than six people engaged in a home occupation of which there can be no more than two people outside the family.
4. There shall be no exterior display, no exterior sign (except as expressly permitted by the district regulations of this Ordinance), no exterior storage of materials and no other exterior indications of the home occupation or variation from the residential character of the principal building.
5. There shall be no nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, traffic or parking problem generated by the home occupation.
6. There shall be no large-scale commercial or industrial machinery used by a home occupation to process goods, materials or food.
7. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of customers the home occupation may attract during peak operating hours.
8. The home occupation may include the retailing of items actually produced on the premises, provided all other conditions pertaining to home occupations are met.
9. The home occupation shall not utilize more than 50% of the total floor area of the dwelling unit and accessory structures.
10. If the average daily vehicle trip count, based on the Institute of Traffic Engineers, Trip Generation, Current Edition, is greater than twenty (20) business vehicle trips per day, then the project shall require site plan review.

812. Wind Energy Systems

812.1 Purpose:

The intent of the Section is to regulate the placement, construction, and modification of wind energy systems while allowing the safe, effective, and efficient use of this technology.

812.2 Siting Requirements for Small Wind Energy Systems

1. Wind energy systems shall be a permitted use in all Districts.
2. Each parcel shall be limited to one small wind energy system.
3. Wind energy system towers shall not exceed a maximum height of 100 ft. except school parcels which shall not exceed a maximum height of 140 ft. above existing grade.
4. Wind energy system towers shall not be lighted unless required by the Federal Aviation Administration (FAA).

812.3 Setback Requirements

Wind energy systems shall be set back a distance equal to one hundred and ten (110) percent of the height of the tower and blade length from adjoining property lines.

812.4 Sound Requirements

1. An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.
2. Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of the following standards, as measured at the closest property line.
3. After approval and installation of the wind energy system, the Planning Office shall perform sound measurements at the closest property line to determine ambient and operating decibel levels.

| Ambient Reading Without Wind Tower | Maximum Permitted Reading with Wind Tower |
|---------------------------------------|--|
| 45 | 55 |
| 50 | 56 |
| 55 | 61 |
| 60 | 62 |
| 65 | 66 |

4. Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Planning Office. The report shall be submitted to the Planning Office for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the system shall pay the fee.
5. If the maximum decibel readings are exceeded, the installation shall be considered a nuisance under the provisions of Section 801.6 of this Ordinance.
6. The nuisance violation must be corrected within 90 days from notification of the violation and if the violation cannot be corrected, the wind energy system shall be removed or relocated.

812.5 **Permitting Requirements**

1. In addition to the application and supporting documentation required by Section 602, the applicant for a wind energy system shall provide the following information to the Planning Office:
2. A site plan of the property showing the location of the proposed system, existing and proposed structures, and any other significant features on the property,
3. Structural drawings of the wind tower, base pad, footings, and guy wire prepared by the manufacturer or a professional engineer,
4. Drawings and specifications of the generator, hub, and blade, prepared by the manufacturer or a professional engineer,
5. Photographs of the proposed site and the specific small wind energy system to be installed.

812.6 **Prohibitions**

Any wind energy system larger than the standards outlined in this Section is prohibited in all districts.

813. **Blasting Standards**

813.1 **Purpose**

The intent of this Section is to provide for the health, safety and welfare of the residents of Rockport through the establishment of reasonable standards for blasting operations. It is further intended that this Section accomplish this purpose through provisions for permitting, notification, and monitoring of blasting operations within the Town of Rockport.

813.2 **Permitting Process**

813.2.1. **Permit Required**

A permit shall be obtained from the Planning Office prior to any blasting operations within the Town of Rockport.

813.2.2 **Permitting Requirements**

In addition to the application and supporting documentation required by Section 600, the applicant for a permit for blasting operations shall provide the following information to the Planning Office on their application.

1. Proof of insurance.
2. A description of the proposed blasting operation.
3. The projected blasting dates and estimated number of detonations per day.
4. The estimated number of cubic yards of materials to be removed or displaced by the blasting.
5. An estimate of the number of blasts required to complete the project.
6. An abutters map and address list of all residents within the 'notification radius'- *this information will be provided by the Planning Office from the assessing database.*
7. The schedule for pre-blast surveys that will be offered to all landowners within the notification radius.

813.3. Applicant Responsibilities

1. The applicant shall obtain a permit for blasting operations at least five (5) days prior to the scheduled blasting date.
2. The applicant shall notify all property owners within the ‘notification radius’ at least five (5) days prior to the scheduled blasting operations.
3. The applicant shall offer to conduct a pre-blast survey to all property owners within the notification radius.

813.4. Notification Process

1. Notification Radius: The applicant shall notify all owners of property within the ‘notification radius’ by delivery of a written notice of a proposed blasting operation. Notice shall be provided to all owners of property within the notification radius; District 908 - 500 ft in, Districts 903, 904, 907, 909 – 300 ft., and Districts 901, 902 and 916 – 200ft.
2. Contents of Written Notice: The applicant shall provide to property owners the following information in a written notice. The written notice shall contain all the information identified in Section 813.2.1 including a description of the blasting operation, the projected dates of blasting, the estimated number of cubic yards of materials to be removed by blasting, an estimate of the number of blasts required to complete the project, and information on the process that the property owner should follow if they want a pre-blast survey.
3. Method of Delivery of Written Notice: The written notice shall be hand delivered to all developed properties in the notification radius and also be sent by first class mail to all owners of property in the notification radius.
4. Unanticipated Small Blasting Projects: In unanticipated blasting projects of less than 10 cubic yards the notice period is shortened to 48 hours.

813.5 Pre-Blast Survey Process

1. Offer of Pre-Blast Survey: The applicant shall offer a pre-blast survey, at the applicant’s expense, to all property owners with structures within the notification radius. The pre-blast survey will be conducted by a representative of the applicant. The survey shall include video or photographic documentation of pre-existing conditions or structural features on the inside or outside of buildings that could be affected by a blasting operation.
2. Offer of Pre-Blast Water Test for Wells: The applicant shall offer a pre-blast water test, at the applicant’s expense, to all property owners with wells within the notification radius. The pre-blast water test will be conducted by a representative of the applicant. The water test shall document the static water level.

813.6 Post Blast Inspection

Offer of Post Blast Inspection: Property owners, who requested a pre-blast survey, may request the applicant to conduct a post blast inspection. The post blast inspection shall be at the applicant’s expense. The post blast inspection shall document any changes that have occurred on the property subsequent to the blasting operation.

813.7. Exemptions

This Section shall not apply to the Town of Rockport and utility companies such as Aqua Maine and Central Maine Power for emergency repairs of existing infrastructure.

813.8 Limits on Time of Detonation

Hours of detonation shall be limited to 8 a.m. to 5 p.m., Monday through Saturday. All other aspects of blasting operations shall adhere to the standards in Section 801.6.

814. Large Solar Energy Systems

1. Applicability

The section applies to the construction and expansion of Large Solar Energy Systems (LSES).

2. Site Plan Review Application for Large Solar Energy Systems.

1. An application for a Large Solar Energy System shall address applicable submission requirements identified in Section 1304, Site Plan Content, and shall address the following specific additional requirements identified below. It is recognized that certain information requirements identified in Section 1304 are not relevant to an application for a LSES, thus, the Planning Board shall have broad latitude in determining the Information requirements that do and do not apply.
A description of the owner of the system, the operator if different, and detail of qualifications and technical ability of the owner or operator to construct, maintain and operate the facility.
2. If the operator is leasing the site, a copy of the lease agreement (minus financial compensation) and any and all related easements, clearly outlining the relationship of the respective parties, inclusive of the rights and responsibilities of the operator, landowner and any other responsible party with regard to the LSES and the term or duration of the agreement. Further, the operator shall identify any and all agreements or obligations of the landowner to the operator regarding any premises that are not specifically subject to the lease agreement, but which the operator has certain rights to use as part of the operation of the solar energy system. Names and contact information for key technical personnel shall also be included.
3. A description of the maximum amount of energy to be produced and to whom it will be distributed.
4. A copy of the agreement and schematic details of the connection arrangement with the transmission system that clearly indicates who is responsible for various requirements and how such will be operated and maintained.
5. A basic description of the number and configuration of panels to be installed, including make and model, and associated major system components.
6. Site plan drawings that show a layout for panels and other equipment that will be used for the LSES. The drawing shall indicate North and have dimensions included. The property lines shall be shown and the placement of panels and equipment on the property. Access roads shall be shown.
7. A construction plan and timeline that identifies known contractors, site control, when project construction will commence and the anticipated date that the system will be on-line.
8. An operations, safety, and maintenance plan for the projected operating life of the system;
9. An emergency management plan that identifies potential hazards and the response to such hazards.
10. Evidence of financial and technical capacity to construct and operate the proposed facility;
11. Identification of methods that the operator will use to manage on-site vegetation.
12. Identification of how the applicant will address buffering and screening requirements.
13. Submission of a decommissioning plan that includes estimated expenses for decommissioning in average inflation adjusted dollars. Plan should include the expected operating life of system in years.
14. Evidence provided, that prior to receiving Site Plan approval by the Planning Board, the owner or operator, has applied for any State, Federal, and all non-city permits that may be required for the installation of the proposed system; for example, a stormwater management permit from the State Department of Environmental Protection.

3. Placement and Size

Large Solar Energy Systems shall only be permitted in the 908 Rural zoning district. A single LSES installation, shall not exceed 50 acres in land area, inclusive of setbacks and buffers. At the discretion of the Planning Board, larger projects may be considered for approval.

4. Dimensional Requirements

1. Ground Mounted Solar Energy Systems will not exceed 25 feet in height.
2. Minimum front setback from the nearest road shall be 50 feet, minimum side setback shall be 50 feet and minimum back setback shall be 50 feet.

5. Lighting

Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the LSES equipment shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of the Land Use Ordinance, Section 801.7. Other than required lighting, lighting shall not be used/visible between 9pm and 7am, except for emergencies.

6. Signage

The owner or operator shall install a sign that identifies the name of the owner, the name of the operator, and a 24 hour emergency contact phone number for the operator. The Sign shall comply with standards set forth in section 1100 Signs and Advertising related to the 908 zone district, and will be in the vicinity of the entrance to the LSES.

Educational signage around the perimeter of the LSES is permitted and encouraged.

7. Electrical Connections

All on-site electrical wires or piping associated with the system shall be installed underground except for the "tie-ins" from above ground mounted installation, and within 10 feet of connection to public utility company transmission poles, towers and/or lines.

8. Glint and Glare

All LSESs and their associated equipment shall be situated to eliminate concentrated glare onto nearby structures or roadways

9. Vegetation Management

The owner or operator of a LSES shall prepare a vegetation management plan associated with the operation of the system. A LSES, by its nature, may occupy a large land area. An application for a large system shall identify measures it will use to effectively manage vegetation, including methods such as but not limited to vegetating the solar array area as a pollinator-friendly manner and allowing the area for the grazing of farm animals or cultivation of crops. No chemical herbicides shall be permitted to control vegetation. The removal of trees to construct the LSES is discouraged and subject to the approval of the Planning Board.

10. Screening, Security, Maintenance and Regulatory Compliance

1. Subject to the approval of the Rockport Planning Board, the applicant shall make reasonable efforts, as determined by the Planning Board, to minimize visual impacts associated with the installation of a LSES. The Board shall consider the size, location and topography of the site and the characteristics of the surrounding property and the amount and type of development on said properties in determining the amount and type of screening and buffering that it deems appropriate.

2. Screening measures shall include but are not necessarily limited to the following:
 - a. preserving natural vegetation, particularly in the setback area for the solar energy system;
 - b. planting new vegetation, particularly in the setback area for the solar energy system;
 - c. installing a raised berm and appropriate plantings, particularly in the setback area
3. Subject to the approval of the Rockport Planning Board, the solar panels and associated equipment shall be protected by a perimeter fence. A fence with natural elements that blends with the surrounding environment, shall be favored over a chain link fence.
4. For purposes of emergency services, the owner or operator of a Ground Mounted Solar Energy Systems shall provide a copy of the project summary, electrical schematic, and emergency site plan to the Rockport Fire Chief. Upon request, the owner or operator shall cooperate with the Fire Department in developing an Emergency Response Plan. All means of shutting down the system shall be clearly marked on the plan. The owner or operator shall identify a responsible person to the Code Enforcement Officer and the Fire Chief for public inquiries throughout the life of the installation.
5. A sign shall be posted at the town roadway entrance to the site that includes names and contact information for emergencies and this same information shall provided to Rockport Police, Fire, and Public Works departments prior to the start of construction and operation. Additionally, one or more signs shall be affixed to the fence identifying the owner of the facility and emergency contact information. These signs are for the duration of construction and can be removed once construction is final.
6. The owner or operator of a LSES shall maintain the facility in good condition. Maintenance shall include but not be limited to, painting, structural repairs, vegetation control and integrity of security measures. Site access shall be maintained to a level acceptable to the Rockport Fire Chief. The owner or operator shall be responsible for the cost of maintaining the access road(s) unless the road(s) is accepted as a public way.
7. The owner or operator of a LSES shall build and maintain it in compliance with all relevant Federal, State and Local Laws, Regulations, and Ordinances.

11. Performance Guarantee

After the plan is approved but before a permit is issued, the applicant for a Ground Mounted Solar Energy System shall submit to the Town of Rockport a performance guarantee in the amount of 150% in average inflation adjusted dollars of the applicant's estimated demolition cost of the system, subject to a review of such cost by the Code Enforcement Officer. The applicant may apply to the Code Enforcement Officer for release of the guarantee at such time that it or its assignees remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Code Enforcement Officer.

12. Decommissioning and Removal

1. Any LSES that has reached the end of its useful life, ceases to generate power or has been abandoned shall be removed pursuant to a plan approved by the Rockport Planning Board during the application process. The owner or operator shall be complete in the physical removal the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.

2. Decommissioning shall consist of:
 - A. physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;
 - B. disposal of all solid and hazardous waste in accordance with Local, State and Federal waste disposal regulations; and
 - C. stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruptions to vegetation.
3. Absent a notice of a proposed date of decommissioning or written notice of extenuating circumstances, LSES shall be considered abandoned when it fails to generate electricity for more than one year, without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.
4. If the owner or operator of a LSES fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of Rockport retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.

815. **Accessory Dwelling Units**

This section defines the requirements for Accessory Dwelling Units (ADU), consistent with state legislation, Title 30-A §4364-B.

1. Purpose

The purpose of an ADU is to support increased housing density and affordable housing options in conjunction with a single family home, new or existing.

2. Restrictions

An ADU may be constructed subject to the following provisions:

- A. Within an existing single family dwelling unit on the lot; or
- B. Attached to or sharing a wall with a single-family dwelling unit; or
- C. As a new structure on a single family lot, for the primary purpose of creating an ADU.
- D. A newly constructed, detached ADU, shall not exceed the height nor floor area and shall be subordinate to the existing primary dwelling.
- E. Additionally, existing accessory structures can be converted into an ADU.
- F. One ADU is permitted to be added on any lot where a single-family dwelling unit is the principal structure, and
- G. No more than two ADU's are permitted to be added on any lot where a single-family dwelling unit is not the principal structure.
- H. Either the principal structure or converted ADU shall be occupied by the owner of the property as their principal residence.

3. Zoning Density Requirements

An ADU is exempt from zoning density requirements and lot coverage calculation of table 918, related to the area in which the accessory dwelling unit is constructed. In reviewing an ADU, the setback and dimensional requirements for a single-family home continue to apply to the primary structure and the ADU, as specified in the dimension tables of Section 918.

4. Parking

There are no additional parking requirements for the ADU, beyond those required for the single-family dwelling. See Section 803.

5. Accessory Dwelling Unit Size

ADUs must be at least 190 square feet in size.

6. Shoreland Zoning

An ADU must comply with shoreland zoning requirements established by the Department of Environmental Protection under Title 38, chapter 3 and the shoreland zoning requirements, Section 1400 of the Rockport Land Use Ordinance.

7. Water and Wastewater

The owner of an ADU must provide written verification to the municipality that the ADU is connected to adequate water and wastewater services before the municipality may certify the ADU for occupancy. Written verification under this subsection must include:

- a. If an ADU is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the ADU and proof of payment for the connection to the sewer system;
- b. If an ADU is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42, Maine statutes;
- c. If an ADU is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the ADU, proof of payment for the connection and the volume and supply of water required for the ADU; and
- d. If an ADU is connected to a well, proof of access to potable water must be supplied. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

8. Restrictive Covenants

Section 816 may not be construed to interfere with, abrogate or annul the validity or enforceability of any valid or enforceable easement, covenant, deed restriction or other agreement or instrument between private parties that imposes greater restrictions than those provided in this section, as long as the agreement does not abrogate rights under the United States Constitution or the Constitution of Maine.

816. Planned Unit Development

1. Purpose and Intent

1. The purpose of the Planned Unit Development (PUD) is to provide an opportunity for residential subdivision developments on tracts of land to embody the principles of:
 - i. Clustering of dwelling units to create buffers, open space and recreation areas;
 - ii. Reducing infrastructure needs;
 - iii. Reducing negative impacts to the environment from the development; and
 - iv. Promoting affordable housing per Title 30-A MRSA § 4364.
2. The intent of a PUD is to encourage development which benefits the Town as a whole by offering incentives. The PUD seeks to provide for enhanced planned development by:
 - i. Allowing greater freedom of design;
 - ii. Improving the opportunity for flexibility and creativity in the land development process; and
 - iii. Utilizing techniques which foster community and pedestrian access.

2. District and Authority

1. The PUD is a development option in the following zone districts: the Harbor Village 901, Village District 902, Residential 904, Mixed Business Residential 906, Mixed Business Residential 907, Rural 908, Hospital and Resort 909, and Downtown 913, in those areas served by the Town sewer system. Properties in the above noted districts with a portion of land in the Shoreland Residential, Resource Protection and Stream Protection Districts may apply for a PUD; however, these properties must still meet shoreland standards contained in Chapter 1400.
2. Applicants may choose to apply as a PUD; otherwise, the underlying zoning requirements apply.
3. The Planning Board is the permitting authority for a PUD; however, any other permits and approvals required must be sought and received by the applicant. A PUD does not relieve the applicant from obtaining any local, state or federal permits that may be required.
4. To achieve the purpose and intent of a PUD, the Planning Board may approve a waiver request of a requirement(s) outlined in the Land Use Ordinance if the requirement(s) is/are deemed to be unnecessary to a specific development project, pursuant to the authority in 30-A M.R.S. § 4353(4-C).

3. PUD process

1. The PUD process shall include the requirements of a subdivision approval process as outlined in the Subdivision Ordinance.
2. In addition to Subsection 817.3.a, applicants shall provide an analysis including graphic illustrations of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
3. The Planning Board may require the applicant to prepare a plan to show a possible layout for a conventional subdivision application.

4. Parcel size and eligibility

1. The minimum size of a parcel seeking application of a PUD shall be the minimum lot size in its zoning district.
2. An application for a PUD may consist of land with more than one owner, provided that all land comprising the parcel lies entirely within the PUD overlay district and is contiguous. Lots separated by a minor street may be considered contiguous for this purpose.
3. Proposed developments may include preexisting buildings, provided that all PUD requirements are satisfied by each new or existing building, and that all buildings are included in calculations for the PUD as a whole.

5. Permitted Uses. PUD may allow residential uses as described in the Land Use Table in section 917.

6. Intensity of development

1. Affordable units and lots. In the final plan the minimum number of affordable units or lots must be at least 20% of the development. These units and lots must be in compliance with Section 818, Affordable Housing.
2. Parking Requirements shall follow section 803, except for Multi-Family developments within a PUD. Multi-Family development shall include a minimum of 2 off-street parking spaces per 3 dwelling units.
3. Open space.
 - i. All PUDs shall set aside by deed or easement an area in square footage at least 20% of the application parcel as open space.
 - ii. Open space calculation may not include land that is under conservation easement at the time of application.
 - iii. Open space shall be contiguous.
 - iv. No more than 75% in the aggregate of the following land types can be used in the calculation of open space:
 - v. Wetlands and significant vernal pools;
 - vi. Sustained slopes greater than 20%;
 - vii. Stormwater management systems; and
 - viii. Area(s) within 75 feet, horizontal distance, of the normal high-water line of a stream, great pond, river, saltwater body, or significant vernal pool, unless otherwise specified in Chapter 1400.
 - ix. Restrictive language. The applicant shall present the Planning Board with proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection, and maintenance of the common open space. Such language shall be subject to the approval of the Town Attorney to be sure it will accomplish its intended purposes. The applicant will comply with all reasonable requests of the Town to incorporate such language in appropriate documentation to ensure the purposes of this section will be met.
4. Number of allowable dwelling units
 - i. Applications shall show the density allowed for a conventional subdivision application. This density shall be used in calculations for requisite open space, affordable unit dedication, and also as the base requirement that the Planning Board may increase as noted below. This calculation is the “base development density”. Land encumbered at the time of the application by conservation easement cannot be included in the calculation of base development density.

- ii. An increase in the number of dwelling units above the base development density shall be considered for the following provisions:
 - 1. For every additional affordable housing unit as defined above the minimum required allotment as determined through the base development density, one additional market-rate dwelling unit may be allowed.
 - 2. For each 10% in addition to the required open space dedicated on the Site Plan , one additional dwelling unit may be allowed.
 - 3. For the provision by deed and construction of active recreation space, or through a payment-in-lieu of dedication in an amount of \$5,000 per dwelling unit, for upkeep/maintenance or acquisition of Town owned active recreation space, one additional dwelling unit may be allowed.
 - 4. For projects that are designed to meet the certification standards of Leadership in Energy & Environmental Design (“LEED”), or other approved equivalent sustainable building certification program for all dwelling units, either by application or by affidavit that performance metrics will or have been met by the project, one additional dwelling unit may be allowed.
 - 5. For projects constructing new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, one additional dwelling unit may be allowed.
 - 6. For projects that provide formal access to public transportation, one additional dwelling unit may be allowed.
 - 7. For projects that restore or preserve a historic resource existing on the property as part of the application, one additional dwelling unit may be allowed.
 - 8. For projects that place all public utilities underground on the applicable parcel, an additional two dwelling units may be allowed.
 - iii. A PUD may never exceed the allowable number of dwelling units by more than two and a half times (2.5) the base development density.
5. Dimensional controls.
- i. Setbacks may be modified through review by the Planning Board to promote cluster development pursuant to the authority in 30-A M.R.S. § 4353(4-C).
 - ii. Lot size requirements within a PUD on the sewer line may be reduced up to fifty percent (50%) of that required in the zone. This provision does not allow for further increased density for either the Base Development Density calculation or to increase above the allowed density bonus outlined in § 817.6.d.i.
 - iii. Other lot dimensional requirements may be reduced as follows:
 - 1. Lot frontage: up to fifty percent (50%) of that required in the zone, with exception regarding minimum width for a driveway and lots on Rt 1, 17 & 90.
 - 2. Side and rear setbacks: up to one hundred percent (100%) of that required in the zone. Front Setbacks: up to one hundred percent (100%) of that required in the zone, with exception of lots on Rt 1, 17, & 90. The aggregate lot coverage of a PUD cannot exceed that of the underlying district. In no event shall height requirements be allowed to exceed the requirements of the underlying district.
 - 2-3. Building Height maximum indicated in Section 918 Dimensional Tables may be increase by up to one additional story.

7. Criteria for approval

- i. In reviewing PUD applications, the Planning Board shall apply the requirements found in the Subdivision Ordinance and the Land Use Ordinance as applicable.
- ii. The Planning Board also shall use the requirements of Chapter 1400 Shoreland Zoning, which shall not be modified, for review of property in a shoreland zone.

817. Affordable Housing

- 1. Purpose.** The Town finds that an adequate supply of affordable housing for persons of moderate income is desirable for public health, safety and welfare in that it promotes a community rich in economic, social, and cultural diversity. It is therefore a public purpose to make available and integrate into the Town an adequate supply of housing for people of all economic segments of the community.
- 2. Applicability.** Any reference to affordable housing in this Ordinance shall comply with the following provisions unless otherwise modified by the Planning Board.
- 3. Standards.**
 1. Affordable Housing units, as defined in Chapter 300, shall be sold or rented to qualified parties. All affordable housing units shall be owner-occupied or, in the case of rental units, occupied by the renter.
 2. The applicant shall submit for Planning Board review and acceptance an agreement which preserves the long-term (fifty years) affordability of the units. The agreement shall be either a second mortgage or deed restriction, or a combination of the two. Agreements must include but not be limited to:
 - i. A proven method to preserve long-term (fifty years) affordability to moderate-income buyers;
 - ii. A formula for accruing limited equity to the buyer which includes any physical improvements to the property;
 - iii. An option giving the Town, or a qualified housing nonprofit organization, the right to purchase the affordable units if no qualified buyers apply at the affordable price within 180 days of publicly listing the property for sale;
 - iv. The option to return housing to market rates only if there are no qualified buyers within 180 days of the property being on the market with a method to return excess profits to the Town, or a qualified housing nonprofit organization, if the units are returned to market rates;
 - v. Terms of covenants that may be enforced by the Town of Rockport without unreasonable legal expense;
 - vi. Provisions for reimbursement of administrative costs incurred by the Town of Rockport if the Town is required to enforce terms of the agreement or administer transfers of the property; and
 - vii. Identification of other third-party entities that may be responsible for managing or supervising terms of the agreement.
 3. The mandatory affordable housing provisions shall run with the land.
 4. Affordable housing units shall be constructed and completed at a rate proportional to the market rate units in a subdivision or multifamily project. The rate of development shall be determined by dividing the total number of units in the development by the total number of affordable units. No building

permits shall be issued for a market rate unit in excess of the proportion of affordable housing units for which a certificate of occupancy has been issued.

5. When calculating proportionality, any fractional sum shall be rounded up to the nearest whole building unit.
6. Renters of affordable units shall:
 - i. Have income that qualifies for Affordable Housing as defined.
7. Buyers of affordable units shall;
 - i. Have income that qualifies for Affordable Housing as defined.
8. Affordable housing lots
 - i. Any lot created to meet the provisions for affordable housing may be sold or conveyed to a qualified nonprofit housing organization.
 - ii. Any conveyance of the affordable lot(s) shall be concurrent with the recording of the subdivision plan at the Knox County Registry of Deeds.
 - iii. All deeds shall contain language that preserves long-term (fifty years) affordability to moderate-income buyers. This language is subject to the approval of the Planning Board.
 - iv. A covenant shall be placed on the lot giving the Town or other qualified nonprofit housing organization the right to purchase the affordable lot if no qualified buyers apply at the affordable price within 180 days.
- 4. Optional payment.** In lieu of providing the requisite affordable housing units, the applicant shall make a payment to a nonprofit housing development organization with the mission to create affordable housing in Rockport, or within Knox County. The amount of the payment shall be calculated as follows: (The number of required affordable units) multiplied by (the annual average income for a family of four in Knox County, multiplied by 3). Evidence of payment shall be provided prior to the issuance of a building permit for the construction of the approved plan.