

CHAPTER 101
LAND USE ORDINANCE

DAMARISCOTTA, MAINE

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§101.1 AUTHORITY

This ordinance is enacted pursuant to MRSA T30-A §4352.

§101.2 PURPOSE

The purpose of this Ordinance is to further the maintenance of safe and healthful conditions and the general welfare, to prevent and control water pollution, to protect wildlife, to control building sites and location of structures and land uses, and to conserve shoreland areas, at the same time providing the greatest possible latitude in individual choices of land use. The Ordinance is intended to preserve the character and objectives of the community as determined by its citizens and outlined in its Comprehensive Plan. This ordinance is designed to implement the purposes included in the Maine Revised Statutes for Municipal Land Use plans.

§101.3 APPLICABILITY

This ordinance shall apply to all of the land area within the Town of Damariscotta.

§101.4 DEFINITIONS

Except where specifically defined, all words used in this ordinance shall carry their customary meanings. The word "shall" is always mandatory. The word "may" is always permissive. For the purposes of this Ordinance, the following words or terms shall have the following meanings, unless the context clearly indicates otherwise.

Academic Institution

Any public, parochial, private, charitable, or nonprofit institution, (including but not limited to, elementary, secondary, pre-kindergarten, college, junior college, university, trade, and vocational schools) established for the dissemination and maintenance of an education, including academic instruction, recreation, and other incidental activities. In addition to classrooms, gymnasiums, auditoriums and other common school features, facilities of an Academic Institution may include dormitories, living quarters, kitchens, cafeterias, dining rooms, athletic facilities, utility buildings, and other incidental facilities for students, teachers and employees.

Accessory Dwelling Unit (ADU)

A dwelling unit, on a lot with a legally existing primary dwelling unit, which may be exempt from certain density, parking, and other standards, as specified in this Ordinance.

Accessory Structure

A structure which is incidental and subordinate in nature to the principal structure(s).

Accessory Use

A use which is incidental and subordinate in nature to the principal use(s) on the same lot.

Affordable Housing, Owned:

An owner-occupied dwelling unit for which the occupying household's income, at the time of initial occupancy, does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, and said household can afford the unit without spending more than 30% of the household's monthly income on housing costs.

Affordable Housing, Rental:

A dwelling unit which a household whose income, at the time of initial occupancy, does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford the unit without spending more than 30% of the household's monthly income on housing costs, and any occupying household can afford the unit without spending more than 30% of the household's monthly income on housing costs.

Affordable Housing Development

A development in which 51% or more of the dwelling units are deed restricted to meet the definition of Affordable Housing, Owned or Affordable Housing, Rental.

Affordable Housing Unit

A dwelling unit which meets the definition of either Affordable Housing, Owned or Affordable Housing, Rental.

Adult Use Marijuana

Marijuana cultivated, manufactured, distributed or sold by an adult-use marijuana establishment.

Adult Use Marijuana Cultivation Facility

A facility licensed under state and local laws to purchase marijuana plants and seeds from other cultivation facilities; to cultivate, prepare and package adult use marijuana; to sell adult use marijuana to products manufacturing facilities, to marijuana stores and to other cultivation facilities; and to sell marijuana plants and seeds to other cultivation facilities and immature marijuana plants and seedlings to marijuana stores.

Adult Use Marijuana Product

A marijuana product that is manufactured, distributed or sold by a marijuana establishment for other than for medical use.

Adult Use Marijuana Products Manufacturing Facility

A facility licensed under state and local laws to purchase adult use marijuana from a cultivation facility or another products manufacturing facility; to manufacture, label and package adult use marijuana and adult use marijuana products; and to sell adult use marijuana and adult use marijuana products to marijuana stores and to other products manufacturing facilities.

Adult Use Marijuana Store

A facility licensed under state and local laws to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Adult Use Marijuana Testing Facility

A facility licensed under state and local laws to develop, research and test adult use marijuana, marijuana products and other substances.

Agriculture

The cultivation of the soil for the production of crops, the raising and keeping of livestock, and/or the processing of agricultural products. This includes crops in commercial greenhouses, orchards, truck gardens, plant nurseries, use of manure and fertilizers as well as animal husbandry, keeping of poultry, bees, and other nondomestic animals.

Airport

Any area of land or water designed and set aside for the landing and take-off of aircraft (including helicopters) as well as any necessary facilities for the housing and maintenance of aircraft.

Alteration

Any change, addition, or modification in construction, or change in the structural members of a building, such as bearing walls, columns, beams, and girders.

Antique Shop

An establishment for the sale or trading of articles of which 80 percent or more are over 50 years old and have collectible value.

Art Gallery

An establishment where original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

Artisan Workshop

An establishment, for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles, and similar or related items.

Assisted Living

A long-term residential establishment which provides supervision or assistance with daily activities, such as dressing, grooming, bathing, provision of meals, medication management, etc., to residents of any age or ability. Residential accommodations may be in the form of individual dwelling units or in the form of bedrooms with shared common space and facilities.

Automobile Dealership

Any business establishment that sells or leases new or used automobiles, trucks, vans, trailers, recreational vehicles, boats, or motorcycles or other similar motorized transportation vehicles.

Automobile Services

Facilities for major maintenance and repair of passenger vehicles, motorcycles, pickup trucks and similar vehicles. The type of work normally provided includes engine overhauls, transmission repairs, glass replacement, body work, painting and similar work. Automobile services shall include muffler shops, brake shops, body shops, paint shops, tune-up centers, car washes, detailing, automotive diagnostic centers, lubricating services, road services, rustproofing and other service uses similar to those listed.

Bed and Breakfast

A dwelling that accommodates paying guests for a duration of less than 31 consecutive days, with sleeping and dining facilities; having more than three (3) sleeping rooms; and in which some bath, sitting room and dining rooms are used in common by such guests.

Boat Yard

A facility where boats are stored, either indoors or outdoors, and where construction, reconstruction, repair, maintenance, and service of boats and related marine equipment may occur.

Building

A structure with at least three exterior walls and a roof, for shelter, support, or enclosure of persons, animals, or property.

Building Height

The building height shall be the height measured from the mean ground level at the foundation line to the highest point of the roof. Features of buildings and structures, such as chimneys, towers, ventilators, and spires shall not be considered as part of the roof. Buildings within the shoreland zone shall meet the definition of that ordinance.

Campground

Any area or tract of land used to accommodate two or more groups of people, in temporary living quarters, including tents, travel trailers or other temporary shelters.

Carwash

An establishment for washing and cleaning of passenger vehicles, recreational vehicles, light trucks, or other light duty equipment.

Code Enforcement Officer

A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Electrical Inspector, and the like, where applicable.

Commercial Recreation

Recreation facilities operated as a business and open to the general public for a fee. This includes but is not limited to equipment rentals; boat and craft rentals; climbing, bouncing, and trapeze facilities; batting cages; water slides; and skate- or bike-parks.

Community Garden

The use of a lot(s) or a portion thereof for the purpose of growing vegetables, flowers and/or other cultivated plants which are intended for consumption and/or use primarily by the surrounding neighborhood.

Conditional Use

A conditional use of land or buildings is a use that would not be appropriate in the land use district for which it is proposed, except with certain restrictions and controls, it will meet the intentions and purposes of this Ordinance. Except for Home Occupations, conditional uses are permitted only after review and approval by the Planning Board for conformance with the Site Review Ordinance.

Congregate Care

A long-term residential establishment which provides professional, skilled, licensed, or specialized medical care or other assistance. Residential accommodations may be in the form of individual dwelling units or in the form of bedrooms with shared common space and facilities.

Construction Material Sales and Services

Establishments primarily engaged in retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures, but specifically excluding automobile sales.

Construction Services and Support

The preparation, support, and servicing of construction and related trades, including storage and maintenance of equipment; the fabrication of building-related products; the storage of materials and the provision of services customary to the trade carried on by the contractor. Trades carried on by said contractor may include, but are not limited to construction, landscaping, paving, carpentry, masonry, plumbing, and other similar or related trades.

Day Care Center

A building, structure or other place in which a person, or combination of persons, maintains or otherwise carries out a regular program, for consideration, for any part of the day providing protection and child care for more than twelve (12) children under thirteen (13) years of age, who are unattended by parents or guardians for any part of the day.

Drinking Place (alcoholic beverages)

A business or commercial establishment which customarily excludes persons under the age of twenty-one (21) from admission to its premises, including, but not limited to, uses for which a special amusement permit is required class A lounges, dance halls and establishments serving alcoholic beverages other than restaurants as defined herein. Drinking places shall not include retail stores where alcoholic beverages are sold for consumption off premises.

Drive-through

A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

Dwelling

A building or group of buildings designed or used as the permanent or seasonal living quarters for one or more households.

Dwelling Unit

A room or group of rooms designed and equipped for use as living quarters for one household. The term shall include mobile homes, but not recreational vehicles or motels, hotels and other similar facilities not equipped with a kitchen.

For determining the density of Assisted Living Facilities; Bed and Breakfast Establishments; Congregate Care and Independent Living Facilities; Nursing Care Facilities; Residential Care Facilities; Rooming House (or Boarding House, Lodging House); or any other congregate, group, or similar dwelling, residential, or residential-related use, every two bedrooms, two guest rooms, or two guest suits shall count as at least one dwelling unit.

Emergency Operations

Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Equestrian Facility

Commercial horse, donkey, and mule facilities including: horse ranches, boarding stables, riding schools and academies, horse exhibition facilities, pack stations. This land use includes barns, stables, corrals, and paddocks accessory and incidental to the uses.

Equipment Sales and Services

An establishment engaged in the sale, rental, and repair or servicing of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment. This may include the incidental storage of such equipment.

Excavation

Any removal of earth or earth material from its original position.

Farmers Market

A food market at which local farmers sell fruit, vegetables, meat, cheese, bakery products and similar items directly to consumers.

Financial Institution

A bank, savings and loan, credit union, mortgage office, or similar financial and banking services establishment. This may include ATMs (automated teller machine).

Fitness Center

A facility where members or nonmembers use equipment or space for the purpose of physical exercise, leisure activities, or other recreational activities.

Forest Management

Activities designed and intended to manage timber resources, including timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting, and other harvesting, rejuvenation of forest stands, and other similar associated activities, not including the construction of roads.

Formula Business

A type of retail sales establishment (i.e., chain store, outlet store), restaurant, tavern, bar, or take-out food establishment, which along with 20 or more other establishments maintains two or more of the following features:

- (1) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings.
- (2) Trademark or service mark, defined as a word, phrase, symbol or design, or a combination or words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of store design.
- (3) Standardized interior decor including but not limited to style of furniture, wall-coverings or permanent fixtures.
- (4) Standardized color scheme used throughout the interior or exterior of the establishment.
- (5) Standardized uniform including but not limited to aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags).

Frontage

The length of a lot bordering on a street, road, or right-of-way. For a lot fronting on public waters, the length in a straight line measured between the intersections of the side lot lines with the shoreline at normal highwater elevation. For a corner lot, the frontage shall be on the way most traveled, as determined by the Code Enforcement Officer.

Gallery

An establishment that displays and sells works of art.

Gasoline Station

A facility that sells fuel and lubricants for motor vehicles.

Golf Course

An area or course for playing golf, consisting of at least nine holes. A Golf Course may include pitch-and-putt, driving-range, a clubhouse, restrooms, and similar facilities. Excluded from this definition is miniature golf or variations thereon.

Home Cultivation of Marijuana

Cultivation for personal adult use by a person 21 years of age or older is limited to cultivation of three (3) mature marijuana plants, twelve (12) immature marijuana plants, and an unlimited number of seedlings by each person 21 years of age or older who is domiciled on a parcel or tract of land.

Home Occupation

An occupation conducted in a dwelling unit or a structure accessory thereto, provided that all of the following criteria are met:

- (1) No more than two persons other than a member of the household residing on the premises shall be employed in such occupation; and
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the total floor area of the dwelling unit and accessory structures used in the home occupation shall be used in the conduct of the home occupation; and
- (3) There shall be no change in the outside appearance of the building or premises, or any visible evidence of the conduct of such home occupation other than one (1) sign, except as hereinafter permitted; and
- (4) No traffic shall be generated by such home occupations in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required yard; and
- (5) No equipment or process shall be used in such home occupation which causes noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in a radio or television receiver off the premises, or causes fluctuations in line voltage off the premises; and
- (6) There shall be no stock in trade regularly maintained or any new commodity sold on the premises; and
- (7) The following are specifically excluded as home occupations: Convalescent or nursing home, tourist home, animal hospital, restaurants, doctors' offices, dentists' offices, real estate offices, registered primary caregivers, beauty shops and barber shops, except those that are owner-occupied, one (1) chair, appointment-only shops that meet all the other home occupation criteria.

Hospital

An institution providing health services for human inpatient or medical or surgical care for the sick or injured, and including the related facilities such laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are integral parts of the facility. A Hospital may include acute care, intermediate care, adult day care facilities, physician's offices, clinics, and other related uses.

Hotel or Motel

A commercial building or group of buildings of more than 10 lodging rooms with each room having its own private bathroom and each room having its own entrance and built primarily to accommodate for a fee travelers and other transient guests, who are staying for a limited duration, with sleeping and associated rooms. A hotel or motel may include suites or rooms, cooking and similar facilities within the rooms to accommodate guests, restaurant facilities where food is prepared and meals served to its guests and other customers, and associated facilities for the convenience and servicing of guests. A hotel or motel room or suite of rooms, as distinguished from a dwelling unit, each shall contain less than a total of six hundred (600) square feet of living area, provided that the area may be larger if, in the sole opinion of the planning board, the facility will function or is functioning as a hotel or motel and not as a residential dwelling unit. For the purpose of determining land area requirements, 3 lodging rooms shall require the same land area as one dwelling unit.

Household

One or more persons living together as a single dwelling unit under a unified management with obligations of mutual support.

Humane Society

A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Industrial Use

An establishment engaged in the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or mineral extraction.

Junkyard

A lot, land, or structure, or part thereof, used for the collection, storage, and sale of waste material or discarded items; or for the collecting, dismantling, storage, salvaging, or sale of parts or machinery or vehicles not in running condition.

Kennel

An establishment where cats, dogs, or other domestic animals are boarded for compensation. This does not include the keeping of animals as, or relating to, an agricultural use.

Library

A public or non-profit establishment in which literary, musical, artistic, or reference materials such as but not limited to books, manuscripts, computers, recordings, or films are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

Light Manufacturing

Businesses manufacturing, assembling or storing products where there is no exterior effect of the manufacturing use, including no exterior noise, odors, or air pollution, as defined in the site review ordinance. It may include laboratory or research facilities, printing or publishing plants, warehousing, wholesale business or storage, building materials, contractor's offices, dry batch concrete plants, trade shops, (including cabinetry, carpentry, plumbing, electrical or finishing); and related exterior equipment and product storage for those uses. It shall not include heavy manufacturing or industrial uses such as asphalt and wet batch mixing plants, rock crushing or processing or chemical reprocessing and storage.

Local Government Services

A non-commercial function, activity, or service provided, operated, or otherwise directly controlled by municipal, county, or other local government entity. This includes the support and/or training for police, fire, ambulance, or other emergency services as well as judicial courts, government offices, and other local government activities.

Lot

A single parcel of land, described on a deed, plot, or other similar legal document.

Lot Coverage

The ratio of the total area of all structures on a lot divided by the area of the lot.

Marijuana Cultivation

The planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale. "Cultivation" or "cultivate" does not include manufacturing, testing or marijuana extraction.

Marijuana Establishment

A cultivation facility, a products manufacturing facility, a testing facility or a marijuana store licensed under state and local laws.

Marijuana Manufacturing or Manufacture

The production, blending, infusing, compounding or other preparation of marijuana and marijuana products, including, but not limited to, marijuana extraction or preparation by means of chemical synthesis. "Manufacturing" or "manufacture" does not include cultivation or testing.

Marijuana Product

A product composed of marijuana or marijuana concentrate and other ingredients that is intended for use or consumption. "Marijuana product" includes, but is not limited to, an edible marijuana product, a marijuana ointment and a marijuana tincture. "Marijuana product" does not include marijuana concentrate.

Marina

A shore front commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

Medical Clinic

An establishment providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis, including immediate care facilities, diagnostic services, training, administration, and services to outpatients, employees, or visitors.

Medical Facilities

Hospital and related uses shall include acute care, intermediate care, adult day care facilities, physician's offices, clinics, and other related uses.

Medical Marijuana Establishment

A registered caregiver retail store, registered dispensary, medical marijuana testing facility, or medical marijuana manufacturing facility.

Medical Marijuana Testing Facility

A public or private laboratory authorized under state and local laws to test medical marijuana for contamination, potency or cannabinoid profile.

Medical Marijuana Manufacturing Facility

A manufacturing facility authorized under state and local laws to manufacture marijuana products for medical use or to engage in marijuana extraction for medical use.

Mixed-Use

A single lot containing one (1) or more dwelling units and one (1) or more non-residential use(s).

Mobile Home

A prefabricated self-contained dwelling unit manufactured on a permanent chassis and transported as a single unit to the site where it is to be occupied.

Mobile Home Park

A lot on which 2 or more mobile home sites are to be rented.

Modular Home

A prefabricated self-contained dwelling unit which is manufactured and transported in 2 or more sections to the site where it is to be occupied, and there joined together and set on a permanent foundation.

Multi-Unit Residential

A use where more than four (4) dwelling units exist on a single lot.

Museum

A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

Nature Preserve

Sites with environmental resources intended to be preserved in their natural state and which may provide educational and scientific opportunities.

Neighborhood Store

A retail store that occupies less than five thousand (5,000) square feet of total floor space and within which no alcoholic beverages are consumed.

Non-conforming Use

A building, structure, or use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

Non-combustible

A material that, in the form in which it is used and under the conditions anticipated, will not aid combustion or add appreciable heat to an ambient fire. Materials, where tested in accordance with ASTM E136, Standard Test Method for Behavior of Materials in a Vertical Tube Furnace at 750 degrees C, shall be considered as noncombustible.

Nursery (Plant)

An establishment which raises trees, shrubs, flowers, and other plants for sale or for transplanting.

Nursing Care Facility

A facility that provides 24-hour skilled nursing care services, rehabilitation and long-term care nursing services to patients or residents. Nursing care facilities are regulated and licensed by the State of Maine.

Outdoor Recreation, Passive

Outdoor leisure activities which can be carried out with little alteration or disruption to the area in which they are performed, including but not limited to walking, jogging, hiking, swimming, and picnicking.

Parking

The short- or long-term storage of vehicles.

Permitted Use

One of the uses identified as such for the specified land use district, by the Land Use Table of this Ordinance.

Personal Service

A service exemplified by the types of services listed under NAICS 812, including but not limited to laundry and cleaning services, photography studios, shoe repair shops, funeral homes, mortuaries, beauty salons, barber shops, day spas, and similar services to the general public. This definition does not include tattoo parlors.

Petroleum Distribution Facility

A facility for the storage of fuels or other volatile products and for their distribution to retail sales facilities or other bulk purchasers.

Planned Unit Development

A concept of planned development to allow maximum variations of design provided that required residential densities are not exceeded. The development must be planned as a whole according to comprehensive and detailed plans including street, utilities, lots or building sites, design of all buildings to be constructed, and other uses and improvements on the land.

Principal Building

The building in which the primary use(s) of the lot is conducted.

Printing Facility

An establishment engaged in printing, imprinting, reproducing, or duplicating images and using commercial or industrial printing methods including but not limited to offset printing, lithography, flexographic, and screen process printing. This may include publishing, binding, and engraving.

Professional Office

Offices for the practice of the professions of medicine, law architecture, engineering, accounting, and dentistry, and other commonly accepted professions.

Public Utility

Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public, and subject to regulations by the Public Maine Utilities Commission.

Recreational Vehicle

A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling. It may include a pick-up camper, travel trailer, tent trailer, or motor home.

Recycling and Reprocessing

An establishment that accepts recyclable materials for collection or processing, including the separation, accumulation, packing, storage, purchase, sale, exchange, or otherwise facilitating the reuse of said materials.

Registered Caregiver

A person who is registered by the Maine Department of Administrative and Financial Services, or other Department designated by Statute, per 22 M.R.S. § 2425-A.

Registered Caregiver Retail Store

A store licensed under State and local laws that has attributes generally associated with retail stores, including, but not limited to, a fixed location, a sign, regular business hours, accessibility to the public and sales of goods or services directly to a consumer, and that is used by a registered caregiver to offer marijuana plants or harvested marijuana for sale to qualifying patients.

Registered Dispensary

A dispensary authorized under state law to cultivate and dispense medical marijuana to qualifying patients and caregivers.

Religious Facility

A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

Residence Use

A use where up to four dwelling units may be located on a single lot.

Residential Care Facility

A long-term residential establishment limited to residents above a certain age or life stage, and which includes some limited medical care or other assistance. Residential accommodations may be in the form of individual dwelling units or in the form of bedrooms with shared common space and facilities.

Restaurant

A business or commercial establishment which serves food to the public for consumption on the premises and may include the sale of food for consumption off premises. Restaurants serving alcoholic beverages, also referred to as food service establishments FSE-Class A, B, C, and E, must offer full course meals at all times while open, shall not exclude persons under the age of twenty-one (21) from full use of the establishment at all times, and shall not possess a special amusement permit for dancing. Restaurants serving alcoholic beverages that do not satisfy the above provisions shall be deemed to be and regulated as drinking places.

Retail Store

Business establishment for the sale of merchandise to the public.

Rooming House (or Boarding House, Lodging House)

A dwelling containing not more than one dwelling unit, where lodging with or without meals is provided for compensation. Cooking facilities are shared by the Household and not provided in individual rented rooms. Bathrooms may be private or shared.

Self-Storage

A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

Service Establishment

Profit and non-profit business whose function it is to provide service to the public.

Setback

The minimum horizontal distance from a lot line to the nearest part of a building.

Sewered

Connected to the municipal sewer system.

Social Organization

An establishment for a civic, educational, athletic, social, recreational, or similar purpose, to which membership is generally required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

Solar Energy System

A facility whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. (see §109 Solar Energy Systems Ordinance)

Solid Waste Disposal

An establishment for the disposition, storage, transfer, or composting of unwanted or discarded material.

Structure

Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

Theater

An establishment for conducting or displaying dramatic, operatic, motion picture, or other performances. Such establishments may include related services such as food and beverage sales and other concessions. This use does not include Drive-in Theaters.

Theater, Drive-in

An establishment utilizing an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of motion pictures to patrons seated in automobiles.

Transit

Transport services provided by a public, private, or nonprofit entity, to the general public, for the conveyance of persons from one place to another by means of a local transportation system which may utilize cars, vans, buses, boats, or other vehicles. This may include land, buildings, and equipment used or operated to provide said services including but not limited to stations, platforms, and shelters.

Utility Network

All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, stormwater, sanitary sewage, oil, gas, power, information, telecommunication and telephone cable. This does include electrical substations, telephone exchanges, pump stations, water standpipes, and similar, but does not include facilities for the generation of electricity.

Veterinary Clinic

A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. This may include short-term boarding incidental to veterinary services.

Wholesale Business

Business established for the sale or distribution of products to retail businesses.

Warehousing

The storage of goods, wares and merchandise in a warehouse.

Water Supply Standpipe

A structure associated with municipal utility that is a large water container on top of a tower usually 35 feet or more above ground to store water and to facilitate gravity flow, e.g. water pressure, to customers in buildings in the service area of a municipal water supply utility.

Wireless Communications (Use)

Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.

Wireless Communications Facility

Any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Yard

The area of land on a lot not occupied by the principal building or accessory structure.

Yard, Front

The area of land between the front lot line and the front line of any building, and extending the full width of the lot.

Yard, Side

The area of land between the side lot line and the side line of any building, and extending from the front yard to the rear yard. Any yard area not a front yard or rear yard, shall be deemed a side yard.

Yard, Rear

The area of land between the rear lot line and the rear line of any building, and extending the full width of the lot. A corner lot has no rear yard.

§101.5 LAND USE DISTRICTS

A. Districts and Purposes

To implement the provisions of this Ordinance, the Town of Damariscotta is hereby divided into the following Land Use Districts with the following purposes:

1. General Residential (GR)

To preserve the physical, aesthetic, and social quality of Damariscotta's developed residential areas and to provide for areas within the Town for residential growth.

2. Downtown Commercial (C1)

To preserve the scale character, and economy of the Downtown in accordance with the Comprehensive Plan.

3. Other Commercial (C2)

To provide general retail sales, service, and business space within the Town of Damariscotta in locations capable of conveniently servicing community wide and/or regional trade areas.

4. Rural

To allow a maximum diversity of uses, while still maintaining the essential rural character of this area.

5. Municipal

To allow a maximum use of the land by the Town of Damariscotta for the purpose of Municipal offices.

6. Medical

To provide standards and accommodations for development related to, and supportive of, medical, healthcare, hospital, and similar uses.

7. Wireless Communication Overlay

This district is an overlay district. All wireless telecommunication uses, structures, and facilities are limited to this area. All standards and procedures for permitting these facilities are contained in the Site Review Ordinance.

B. Shoreland Zoning

Land within 250 feet of waterbodies or wetlands, and land within 75 feet of streams, may also be regulated by the Damariscotta Shoreland Zoning Ordinance. In those cases, the requirements, standards, and permit procedures of the Shoreland Ordinance shall be in effect in addition to the requirements, standards, and procedures of this Land Use Ordinance and any other ordinances of the Town of Damariscotta.

C. MAP

1. The location and boundaries of the above districts are hereby established on the map entitled "Land Use Map of the Town of Damariscotta," dated January 23, 1998, filed with the Town Clerk, which map is hereby made a part of this Ordinance. And, as amended through September 27, 2019 on the map entitled "Damariscotta Maine - Zoning Map" filed with the Town Clerk.
2. Where uncertainty exists with respect to district boundaries as shown upon such map the following rules shall apply:
 - a. Unless otherwise indicated, district boundary lines are the center lines of roads, streets or rights of way.
 - b. Where discrepancy exists between the map and written description of each district, the written word shall prevail.
 - c. Where discrepancy exists between physical features existing on the ground and the official map and/or written district description, the Board of Appeals shall interpret the district boundaries.

D. DISTRICT DESCRIPTIONS

(see Appendix A)

E. DISTRICT REGULATIONS**1. General Regulations for all Districts****a. Unlisted Uses**

A use which is not specifically listed as a Permitted Use or a Conditional Use in the Land Use Table below may be approved by the Planning Board as a Conditional Use if:

- i. the Planning Board finds that the proposed use is substantially similar to a Permitted Use or a Conditional Use that is listed in the Land Use Table, and
- ii. the Planning Board finds that the proposed use compatible with permitted uses or conditional uses listed in the Land Use Table for that district.

b. Accessory Uses

- i. Uses which are accessory to a Permitted Use are permitted.
- ii. Uses which are accessory to a Conditional Uses are conditional.

2. SCHEDULE OF LAND USES

GR General Residential

R Rural

C1 Downtown Commercial

M Municipal

C2 Other Commercial

MD Medical

P = Permitted Use C = Conditional Use

Land Use	District					
	GR	C1	C2	R	M	MD
Residential						
Accessory Dwelling Unit (Adu)	P	P	P	P		P
Assisted Living	C	C	C	C		C
Bed & Breakfast	C	P	P	C		
Congregate Care			C			C
Hotel Or Motel		C	C			C
Mobile Home Park				C		
Multi-Unit Residential	C	C	C			C
Residence	P	P	P	P		P
Residential Care	C		C			C
Rooming House	C	P	P	C		C
Mixed-Use		P	P			P
Commercial-Service	GR	C1	C2	R	M	MD
Veterinary Clinic			C	C		
Kennel				C		
Humane Society				C		
Day Care Center	C	C	C	C		C
Professional Office						C
Research Laboratory			C	C		C
Restaurants		C	C			C
Formula Business			C			
Drinking Places		C	C			
Adult Business Establishments			C			
Hotel Or Motel		C	C			C
Theaters		C	C			
Financial Institution		C	C			C
Neighborhood Stores		C	C			C
Artisan Workshop	C	C	C	C		
Antique Shop	C	C	C	C		
Art Gallery	C	C	C	C		
Personal Services		C	C			C
Retail Stores		C	C			
Construction Material Sales And Services			C			
Construction Services And Support			C	C		
Gasoline Service Stations			C			
Service Stations		C	C			
Automobile Dealership			C			
Equipment Sales And Service			C			
Automotive Services		C	C			
Boat Yard			C			
Farmer's Market	C	C	C	P		

Industrial	GR	C1	C2	R	M	MD
Light Manufacturing			C			
Industrial Use						
Printing Facility			C			
Building And Construction Contractors			C	C		
Petroleum Distribution Facility			C			
Wholesale Sales			C			
Warehousing & Distribution			C			
Self-Storage			C			
Solid Waste Disposal						
Junkyard						
Recycling Facilities			C	C		
Transportation	GR	C1	C2	R	M	MD
Airports				C		
Car Wash			C			
Parking (As A Principal Use)			C	C		C
Transit			C	C		C
Public And Utility	GR	C1	C2	R	M	MD
Utility Network	C	C	C	C	C	C
Solar Energy Systems						
Wireless Communication (Use)	C	C	C	C	C	C
Institutional	GR	C1	C2	R	M	MD
Religious Facilities		C	C			C
Cemeteries	C		C	C	C	
Assisted Living		C	C	C		C
Hospitals			C			C
Medical Clinic			C			C
Museum		C	C			C
Library		C	C			C
Academic Institution		C	C			C
Social Organizations		C	C	C		
Local Government Services	C	C	C	C	C	C
Natural Resource	GR	C1	C2	R	M	MD
Agriculture		C	C	P		
Equestrian Facilities				C		
Nursery (Plant)		C	C	P		
Forest Management				P		
Earth Material Removal				C		
Community Gardens	C	C	C	C	C	P
Nature Preserve	P	P	P	P	P	P
Recreation	GR	C1	C2	R	M	MD
Outdoor Recreation, Passive			C	C		C
Campgrounds				C		
Golf Courses				C		
Commercial Recreation		C	C	C		
Theater, Drive-In			C	C		
Fitness Centers		C	C			C

Marijuana-Related	GR	C1	C2	R	M	MD
Home Cultivation Of Marijuana	P	P	P	P		
Marijuana Cultivation Facilities			C	C		
Marijuana Products Manufacturing Facilities			C	C		
Medical Marijuana Manufacturing Facilities			C	C		
Marijuana Stores			C	C		
Registered Caregiver Retail Stores			C	C		
Marijuana Testing Facilities			C	C		

§101.6 GENERAL PROVISIONS

A. Conformance

1. All buildings or structures hereinafter erected, altered, enlarged, or moved, and all uses the real property in the Town of Damariscotta shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which such building, structure, land or water area is located. The lawful use of real property existing at the time of the adoption of this Ordinance or any subsequent amendment may be continued as provided in this Ordinance.
2. Non-conforming uses shall be subject to the following provisions:
3. A non-conforming building or structure may be repaired, maintained, and improved, provided that there is no expansion of the non-conforming use.
4. The purchaser of property that is a lawful non-conforming use may continue that use.
5. A non-conforming use may not be enlarged, or extended except as follows:
6. Expansion shall be limited to 30 % of the existing Building floor area or volume whichever is less building floor area and volume shall be as defined in the Damariscotta Shoreland Zoning Ordinance.
7. Whenever a non-conforming use is changed to a permitted use, such use shall not revert to a non-conforming status notwithstanding any other provisions of this Ordinance.
8. Any non-conforming use shall be presumed extinguished if it is abandoned or not used for a period of one year. The Board of Appeals may find this presumption does not apply because of extenuating circumstances beyond the control of the applicant or undue hardship.
9. Undersized lots shall conform to the following criteria:
10. A single lot of record, which at adoption of this Ordinance does not meet the area or width requirements, may be built upon provided that such a lot is at least 10,000 square feet in a sewered area of town or 20,000 square feet in other areas of town, adheres to the Maine State Plumbing code as far as sewage disposal is concerned and structures must be in compliance with setbacks and other requirements as designated for the area by this and other ordinances.
11. Except for an approved subdivision, two or more contiguous lots in single ownership at the time of adoption of this Ordinance shall be considered a single parcel.

§101.7 USE STANDARDS

A. Conditional Use Standards.

Conditional uses shall meet the requirements of the Site Review Ordinance in addition to any requirements of this ordinance.

1. Conditional Uses

The Planning Board may approve a conditional use upon presentation by the applicant of proof of the following:

a. Certain Requirements Met

That the use requested meets the requirements of this Ordinance as set forth in Articles 1 through 8 and the requirements for the Damariscotta Site Review Ordinance.

b. Effect Not Adverse

That the use requested will not have an adverse effect on the health, safety, or general welfare of the residents of the area or the general public. In making this determination, the Planning Board shall take into consideration the potential effect of the use on the environment from air, water, or soil pollution, noise, traffic, congestion, soil erosion, the burden on the sewage disposal, or water supply systems or other municipal facilities, services, or public ways, and any other relevant factors as set forth in Articles 1 through 8.

c. Conditions Attached To Conditional Uses

The Planning Board may attach such conditions as necessary to ensure that the above requirements are met.

B. Residential Use Standards

1. Accessory Dwelling Unit (ADUs)

a. Purpose

To allow additional dwelling units, by exempting certain specific standards, and to increase the local housing supply at a scale that is compatible with existing and traditional development.

b. Review

- i. Accessory Dwelling Units may be permitted on any lot with a legally existing Residence use.
- ii. Accessory Dwelling Units shall not be permitted on any lot with without a legally existing Residence use.

- iii. Accessory Dwelling Units shall not count towards the total density of a lot for the purposes of this Ordinance.
- iv. Accessory Dwelling Units shall not be required to provide any parking.

c. **Form**

- i. Accessory Dwelling Units may be created:
 - (a) Within an existing Residence;
 - (b) Attached to or sharing a wall with an existing Residence;
 - (c) Attached to or sharing a wall with an existing ADU; and
 - (d) As a separate building, on a lot occupied by a Residence.
- ii. Accessory Dwelling Units, or parts thereof, may occupy legally existing non-conforming structures.
- iii. The entire floor area of an Accessory Dwelling Unit shall be no larger in floor area than the finished and heated portion of the largest dwelling unit on the lot.
- iv. The entire floor area of an Accessory Dwelling Units shall be no smaller in floor area than 200 square feet.
- v. No more than two Accessory Dwelling Units shall be permitted on any lot, except:
 - (a) No more than one Accessory Dwelling Unit shall be permitted on any lot containing more than two (2) Dwelling Units.
 - (b) No more than one Accessory Dwelling Unit shall be permitted on any lot within the Rural District.
- vi. Wastewater Disposal
 - (a) Accessory Dwelling Units located on a lot which is served by a public sewer system, or when any part of that lot falls within 200 feet of a public sewer system, all units on the lot shall be connected to the public sewer system.
 - (b) Accessory Dwelling Units not served by a public sewer system shall conform to the State of Maine Minimum Lot Size law, specifically §4807-A of Title 12, Chapter 423-A Minimum Lot Size Required, and the sewage disposal system(s) for all dwelling units on the lot shall comply with the Maine Subsurface Wastewater Disposal rules, as determined by the Local Plumbing Inspector.

1. Bed & Breakfast Use

- a. Dining facilities shall be limited to use by overnight guests of that particular establishment, unless a Restaurant use is permitted in addition to the Bed & Breakfast use.
- b. A Bed & Breakfast use shall not contain more than four sleeping rooms, except:
 - i. When the owner of the Bed & Breakfast use resides in the same building, the Bed & Breakfast use may contain up to ten sleeping rooms.

2. Hotel or Motel Use

- a. Hotels and Motels shall not contain more than 36 guest rooms.

3. Mixed Use

- a. All uses on a single lot must be allowable, in accordance with §101.5 D.1. Land Use Table, in the district within which they are located.
- b. Industrial uses may not occupy any part of a building which contains any residential use.

4. Mobile Home Park Use

- a. Mobile Home Parks shall meet all the requirements of the State Regulations.

5. Multi-Unit Residential Use

Multi-unit dwellings shall meet all of the following criteria:

- a. No building shall contain more than thirty-two (32) dwelling units, except housing for the elderly associated with extended care facilities, which shall contain no more than 45 dwelling units.

6. Residence Use

- a. No more than four dwelling units, including Accessory Dwelling Units, shall be on a lot where a Residence use is located.
- b. A Residence use shall not be located on the same lot as any non-residential use, except for the following:
 - i. A Residence use may occupy the same lot as a Home Occupation Use.

7. Rooming House Use

- a. Rooming House Uses located within the General Residential District shall meet the following standards:
 - i. No more than ten (10) rooms or individual rental units shall be permitted in a single building or on a single property.
 - ii. For the purposes of these standards, 2 rooms shall be deemed to be one dwelling unit.
 - iii. A minimum of one bathroom shall be provided for every 4 rooms of rent.

8. **Affordable Housing**

The owner of the Affordable Housing Development shall execute a restrictive covenant, recorded in the Lincoln County Registry of Deeds, for the benefit of, and enforceable by, a party selected by the Damariscotta Planning Board. The restrictive covenant shall ensure that each Affordable Housing Unit in the development will remain limited to households meeting the following standards for a minimum of 30 years from the date construction is completed:

a. **Owned Affordable Housing**

All Owned Affordable Housing units in the development shall only be occupied by households with an income at the time of initial occupancy that does not exceed 120% of the median income for the area, as defined by the United States Department of Housing and Urban Development.

b. **Rental Affordable Housing**

All Rental Affordable Housing units in the development shall only be occupied by households with an income at the time of initial occupancy that does not exceed 80% of the median income for the area, as defined by the United States Department of Housing and Urban Development.

C. **Non-Residential Use Standards**

1. **General Standards**

- a. All non-residential development shall meet the requirements of the Site Review Ordinance.
- b. Outdoor Sale and Storage
 - i. All outdoor sales and storage shall be stored in a neat and orderly manner.
 - ii. On lots within, or abutting lots within, the Residential District, materials shall be screened from view from Residential District lots by a fence, wall, or plantings.

2. **Campground Uses**

The following provisions apply to all campgrounds:

- a. An applicant for a campground permit must furnish specific information to the Planning Board concerning the campground, including a site plan illustrating the location and design of the sewage disposal and water supply systems, the means of firefighting, and the type and location of roads proposed within the campground as well as other documentation submitted to the State for their Review.
- b. In all other regards, the campground shall comply with the provisions of State law governing campgrounds.

3. Formula Business Uses

- a. Outdoor storage is prohibited on lots containing a Formula Business use.

4. Day Care Center

- a. Day Care Centers located on the same site as, and operated or otherwise controlled by, an Academic Institution or a Religious Facility shall be considered to be an Accessory Use.
- b. Day Care Centers within the GR District or the C1 District, shall not be occupied by more than 12 children (under the age of 13).

5. Marijuana Uses

- a. General
 - i. All non-medical Marijuana uses, including Home Cultivation of Marijuana, Marijuana cultivation facilities, Marijuana products manufacturing facilities, Marijuana stores, and Marijuana testing facilities, shall be located at least 1,000 feet from schools.
- b. Limit on Home Cultivation of Marijuana.
 - i. No person shall be permitted to cultivate marijuana plants or seedlings on a parcel or tract on which he or she is not domiciled.
- c. Limit on Location of Marijuana Establishments.
 - i. A marijuana establishment may not be permitted or operated within 1000 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.
- d. Limit on Location of Medical Marijuana Establishments
 - i. A medical marijuana establishment may not be permitted or operated within 1000 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school.

6. Parking

- a. Parking shall not be a Primary Use except in accordance with the Land Use Table under §101.5 E.2.
- b. Parking may be an Accessory Use in all districts.
- c. When more than ten parking spaces are located on the same lot:
 - i. The provision of up to 120% of the minimum number of parking spaces required by this Ordinance or the Site Plan Review Ordinance may be considered an Accessory Use.
 - ii. The provision of more than 120% of the minimum number of parking spaces required by this Ordinance or the Site Plan Review Ordinance shall be considered a Primary Use.

7. Personal Services Uses

- a. Personal Service uses are prohibited from storing anything related to the business outdoors.

8. Professional Office Uses

- a. Professional Office Uses located within the General Residential District shall meet the following standards:
 - i. Professional Offices proposed to locate within an existing building shall not substantially alter the exterior of the existing building.
 - ii. No more three (3) unaffiliated office units shall occupy a single building.
 - iii. Professional Office uses shall comply with Site Review Ordinances.

9. Retail Store Uses

- a. Retail Store uses are prohibited from storing anything related to the business outdoors.

10. Warehousing & Distribution

- a. The bulk storage of materials that are flammable, explosive, or present hazards is prohibited within 1,000 feet of any buildings containing a Residential, Academic Institution, Day Care, or Hospital use.

11. Wholesale Sales Uses

- a. Wholesale Sales uses are prohibited from storing anything related to the business outdoors.

12. Wireless Communications

- a. A Wireless Communications Facility may only be located within the Wireless Communications Overlay District.
- b. Wireless Communication uses and all associated buildings, structures, lots, and lands, shall meet all the standards contained in the Site Review Ordinance, in addition to the requirements of this Ordinance.

D. Automobile Parking Standards

The following minimum off-street parking requirements shall be provided and maintained.

- 1. Required minimum off-street automobile parking spaces may be provided on- or off-site.
- 2. The Planning Board may reduce or waive minimum off-street parking space requirements if the applicant demonstrates that fewer parking spaces will be adequate for the uses or buildings proposed. In making this determination, the Planning Board may consider on-street and municipal parking spaces as well as expert analysis or testimony.
- 3. No parking may be located between front property lines and primary buildings. Where no primary building exists, no parking may be located within 50 feet of the front property line.
- 4. All automobile parking spaces shall be a minimum of 9 feet wide by 18 feet long. Drive aisles shall be a minimum of 20 feet wide.
- 5. Groups of automobile parking spaces made up of more than eight (8) spaces shall be required to provide space for the storage of snow separate from the space needed for parking or circulation.
- 6. Minimum Required Automobile Parking Spaces by Use:
 - a. Residence.....1.0 per dwelling unit
 - b. Mobile Home.....1.0 per dwelling unit
 - c. Rooming House.....0.75 per dwelling unit
 - d. Bed & Breakfast.....0.75 per dwelling unit
 - e. Accessory Dwelling Unit none required
 - f. A maximum of 0.33 automobile parking spaces shall be required per Affordable Housing Unit.
 - g. For other uses, refer to Site Review Ordinance.

§101.8 LOT STANDARDS

A. DIMENSIONAL STANDARDS

1. Dimensional Standards Table

<u>GR</u> General Residential	<u>R</u> Rural
<u>C1</u> Downtown Commercial	<u>M</u> Municipal
<u>C2</u> Other Commercial	<u>MD</u> Medical

Dimensional Standard	District					
	GR	C1	C2	R	M	MD
Min. Lot Area	10,000 sf	5,000 sf	10,000 sf	80,000 sf	10,000 sf	10,000 sf
Maximum Residential Density						
- Sewered	9.00 DU/acre	40.00 DU/acre	11.00 DU/acre	0.55 DU/acre	11.00 DU/acre	11.00 DU/acre
- Non-sewered	1.00 DU/acre	n/a	3.00 DU/acre	0.55 DU/acre	2.00 DU/acre	2.00 DU/acre
Setbacks						
-Front	20 ft	10 ft	20 ft	20 ft	20 ft	20 ft
-Side	15 ft	5 ft	15 ft	15 ft	0 ft	15 ft
-Rear	15 ft	15 ft	15 ft	15 ft	0 ft	15 ft
Minimum Street Frontage						
- Sewered	30 ft	0 ft	20 ft	200 ft	200 ft	30 ft
- Non-sewered	100 ft	prohibited	100 ft	200 ft	200 ft	100 ft
Maximum building height	35 ft	40 ft	40 ft	35 ft	40 ft	40 ft

Note: DU means Dwelling Unit(s)

2. Dimensional Standards Adjustments

a. C1 District

- i. Front Setbacks in the C1 District may be reduced to 0 feet if the Planning Board finds the reduced setback is consistent or compatible with buildings on adjacent lots which front onto the same street as the proposed development.
- ii. Buildings in the C1 District which front onto Main Street may have the required side setbacks and/or rear setbacks reduced to 0 feet if the Planning Board finds this condition will be compatible with the directly abutting property.
- iii. All plans for buildings in the C1 District shall be certified by a licensed professional for compliance with relevant fire codes.
- iv. All buildings in the C1 District shall be served by the public sanitary sewer network.

b. C2 District

- i. Front Setbacks in the C2 District may be reduced to be no less than 5 feet if the Planning Board finds:
 - (a) In conjunction with an existing or proposed sidewalk, the reduced setback will encourage walkability and contribute to the character of the streetscape.
 - (b) The reduced setback location of the proposed building(s) will be compatible with existing buildings within 200 feet of the proposed building(s).

c. Affordable Housing Density

- i. When determining maximum residential density, Affordable Housing Units shall be considered to be 2/5 of a unit each.

B. Undersized Lots

1. Lots which do not have sufficient lot area to meet applicable residential density requirements, set forth under §101.6 A. *Dimensional Standards*, may be permitted to contain and utilize one dwelling unit if all of the following conditions are met:
 - a. The lot was legally existing as of July 1, 2024,
 - b. The floor area of the dwelling unit will not exceed 1,200 square feet, and
 - c. All other applicable standards set forth under this Ordinance are met.

C. Corner Lots.

1. Buildings located at the intersection of two streets shall meet the front yard requirements of both streets and the rear yard shall meet the side yard requirement of the side street.

D. Planned Unit Development**1. Purpose**

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net density shall be no greater than is permitted in the district in which the development is proposed except that for a planned unit development that is served by public water and sewer, up to one-half of the land area excluded from net acreage may be included in calculating permitted residential density.

2. Basic requirements

Planned unit developments and cluster developments shall meet all of the following criteria:

- a. All planned unit and cluster developments shall meet all requirements for a residential subdivision.
- b. The minimum area of land in a planned unit development or cluster development shall be 5 acres.
 - i. Any lot abutting a public road shall have a frontage and area no less than normally required in the District. On other than public roads, any individual lot's area and road frontage may be reduced by not more than 50% from the requirements of the district in which the proposed development is located provided that the frontage of lots abutting a circular turn-around may be reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.
- c. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District.
- d. Except as provided for in § 101.6.G.c, lots in the planned unit development or cluster development shall meet all other dimensional requirements for the district in which they are located.
- e. If more than one principal building or accessory structure is located on an individual lot, they shall be separated by a minimum of 10 feet at their closest point unless fire protection codes require a greater separation.
- f. The setback from any internal property line shall be 20 feet.
- g. No building shall be located within 50 feet of the overall external perimeter of the planned unit development. This required setback shall be maintained as a vegetated buffer except for road, utility and similar crossings where the development abuts a property in residential use at the time of approval of the development.
- h. All residential dwelling units shall be sited so that each dwelling unit has a relationship to the common open space.
- i. At least one-third of the gross acreage of the planned unit development shall be retained as common open space. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by a trust or association or by the Town which has as its principal purpose the conservation or preservation of land in essentially its natural condition.
- j. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational conservation uses may be erected on the common land.

§101.9 BUILDING & STRUCTURE STANDARDS

A. Retail Size Cap

No single retail store, whether located in a single building, a combination of buildings, single tenant space, and/or combination of tenant spaces, shall exceed 35,000 gross square feet of floor area in the aggregate. This size restriction shall apply to new retail stores and expansion of existing retail stores.

B. Property Damage

An owner shall not permit any damaged building, structure or other ruins to be left abandoned, but shall remove or repair it within one year of the damage. Owner must secure the property for proper safety, pending removal or repair.

C. Mobile Home (HUD Code) Uses

1. Mobile Homes may be located on any lot where a Residence is allowable.
2. Mobile Homes shall meet all requirements for a Residence set forth under this Ordinance.
3. In the General Residential District, Mobile Homes shall meet the following additional criteria:
 - a. Mobile homes shall be placed on a permanent foundation of concrete or masonry.
 - b. Mobile homes shall have a pitched roof.

D. Public Utilities

1. Water Supply Standpipes
 - a. Water supply standpipes for publicly owned water supply utilities are exempt from height limits established under §101.6 A. *Dimensional Standards*, but shall be no more than 100 feet in height.

E. Drive-throughs

Drive-throughs shall not be permitted except within the C2 District.

F. Nature Preserves

Non-residential structures for educational, scientific, or nature interpretation purposes, containing a maximum floor area of ten thousand (10,000) square feet may be located within Nature Preserves.

G. Wireless Communications Facilities

1. All new or expanded Wireless Communications Facilities and all associated buildings and structures, must comply with the setback requirements for the zoning district in which it is located and be set back one hundred five percent (105%) of its height from all property lines. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:
 - a. The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
 - b. 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.
 - c. Hight
 - i. Structures which are primarily used to locate antennae shall not be located outside of the Wireless Communications Overlay.
 - ii. Structures associated with Wireless Communications Facilities, which are primarily used to locate antennae, are exempt from height limits established under §101.6 A. *Dimensional Standards*, but shall be no more than 190 feet in height (including the antennae).
 - iii. All buildings and all structures not primarily used to locate antennae shall meet height limits established under §101.6 A. *Dimensional Standards*.

§101.10 ADULT ENTERTAINMENT ESTABLISHMENT

A. Definitions:

Adult amusement store

means the same as ADULT BOOKSTORE.

Adult arcade

means any place to which the public is permitted or invited wherein coin operated or slug-operated or anatomical areas."

Adult bookstore or adult video store

means a commercial establishment that utilizes at least 15% of the establishment's floor space for display, sale, or rental, for consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas;" or instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

Adult cabaret

means a nightclub, bar, restaurant, cafe, or similar commercial establishment that regularly, commonly, habitually, or consistently features:

- a. persons who appear in a state of semi-nudity; or
- b. live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- c. films, motion pictures, video cassettes, slides, photographic reproductions, or other image producing devices that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- d. persons who engage in "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult entertainment establishment

means the operation of adult amusement stores, adult video stores, adult bookstores, adult novelty stores, adult motion picture theaters, on-site video screening establishments, adult arcades, adult entertainment nightclubs or bars, adult spas, establishments featuring strippers or erotic dancers, escort agencies or other sexually oriented businesses.

Adult entertainment nightclub or bar

means the same as ADULT CABARET.

Adult motel

means a hotel, motel or similar establishment that:

- a. offers accommodations to the commercial public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or
- b. offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or
- c. allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than twenty-four (24) hours.

Adult motion picture theater

means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly, commonly, habitually, or consistently shown that are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult novelty store

means the same as ADULT BOOKSTORE.

Adult theater

means a theater, concert hall, auditorium, or similar commercial establishment that regularly, commonly, habitually, or consistently features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are distinguished or characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adult video store

means the same as ADULT BOOKSTORE.

Employee

means a person who performs any service on the premises of an adult entertainment establishment on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.

Escort

means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency

means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Establishment

means and includes any of the following:

- a. the opening or commencement of any adult entertainment establishment as a new business;
- b. the conversion of an existing business, whether or not an adult entertainment establishment, to any adult entertainment establishment;
- c. the additions of any adult entertainment establishment to any other existing adult entertainment establishment; or
- d. the relocation of any adult entertainment establishment; or
- e. an adult entertainment establishment or premises on which the adult entertainment establishment is located.

Establishments featuring strippers or erotic dancers

means the same as ADULT CABARET.

Nude model studies

means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

Nudity or state of nudity

means the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

On-site video screening establishment

means the same as ADULT ARCADE.

Person

means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Premises

means the real property upon which the adult entertainment establishment is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult entertainment establishment, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the adult entertainment establishment.

Sexual encounter center

means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- a. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b. activities between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A principal business purpose exists if the services offered are intended to generate business income.

Sexually oriented business

means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

Specified anatomical areas

means:

- a. the human male genitals in a discernibly turgid state, even if fully and opaquely covered;
- b. less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

Specified sexual activities

means and includes any of the following:

- a. the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- b. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c. masturbation, actual or simulated; or
- d. excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

Substantial enlargement of an adult entertainment establishment

means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas existed on the date of enactment of this ordinance

B. STANDARDS

Adult Entertainment Establishments shall meet all of the standards contained in the Land Use Ordinance, Conditional Use Standards, and Site Review Ordinance as applicable, and Additional Standards specific to Adult Entertainment Establishments as set forth below:

1. Purpose

It is the purpose of this ordinance to regulate adult entertainment establishments and related activities to promote the health, safety, and general welfare of the citizens of the municipality, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of adult entertainment establishments within the Town of Damariscotta. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

The Town hereby finds that adult amusement stores in communities in Maine and elsewhere are associated with a wide variety of deleterious secondary effects including, without limitation, personal and property crimes, prostitution, potential spread of disease, public lewdness and indecency, obscenity, illicit drug use and trafficking, negative impacts on the condition and value of closely-situated surrounding properties, urban blight, litter, and sexual assault and exploitation. The location of adult amusement stores in proximity to residences, schools, daycares, places of worship, recreational and other public parks, liquor licensees, and other incompatible land uses are of particular concern. These findings are supported by research and studies by municipalities and others across the Nation, reflected in a substantial published literature on the subject, including materials provided by Town Counsel for the Legislative body's review and consideration, which materials are incorporated herein by reference as part of the record of the adoption of the following regulations for adult amusement stores.

The Town further finds that preventing the deleterious secondary effects associated with adult amusement stores through the adoption of content-neutral regulations of the times, places, and manner in which such establishments may be operated falls within the Town of Damariscotta's inherent police power as a municipal corporation and subdivision of the State of Maine, and its home rule authority granted by the Legislature pursuant to Title 30-A, Maine Revised Statutes, Section 3001, and serves the substantial governmental interest in preventing such deleterious effects. Finally, the proposed regulation is intended to be no greater than is necessary to achieve the purpose of preventing the deleterious secondary effects associated with adult amusement stores, and to allow for reasonable locations in the Town for such establishments.

2. Location Restrictions.

Adult entertainment establishments shall be a conditional use in accordance with Article V of the Town of Damariscotta Land Use Ordinance Section C and also provided that:

- a. The adult entertainment establishment may not be permitted or operated within:
 - i. 1,500 feet of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - ii. 1,500 feet of a public or private educational facility including but not limited to child care facility, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education school, junior colleges, and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;
 - iii. 1,500 feet of a public park or recreational area or private recreational facility which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities or a private entity;
 - iv. 1,500 feet of another adult entertainment establishment.
- b. An adult entertainment establishment may not be operated in the same building, structure, or portion thereof, containing another adult entertainment establishment.

- c. For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where an adult entertainment establishment is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected recreational facility or licensed child care facility.
- d. For purposes of subsection (C) of this section, the distance between any two adult entertainment establishment uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

3. Adult Entertainment Establishment Signage.

- a. All signs shall be in accordance with any Ordinances or Regulations of the Town of Damariscotta relative to Signs.
- b. Notwithstanding anything to the contrary, an Adult Entertainment Establishment shall not be permitted more than one (1) sign advertising its business, which shall be an on-premise freestanding or attached wall sign only. No such sign shall:
 - i. Be placed in any window, except that one sign no larger than one (1) sq. ft. may be placed on the door to state only the store's hours of operation and that admittance is for adults only;
 - ii. Be neon or internally-illuminated or contain any flashing lights, moving elements, or mechanically changing messages;
 - iii. Contain any depiction of the human form or any part thereof, whether by photograph, painting, drawing, silhouette, or pictorial representation;
 - iv. Contain any sexually explicit or suggestive language such as "nude dancing";
 - v. Be located off-site;
 - vi. Have more than two display surfaces; or;
 - vii. Exceed twenty (20) sq. ft.
- c. Any sign located on the premises of a multi-unit commercial center such as a shopping center or plaza and identifying one or more of the businesses that comprise the center shall also comply with this subsection if such sign identifies an Adult Entertainment Establishment on the premises.

4. Amortization of Existing Adult Entertainment Establishments

- a. Any Adult Entertainment Establishment lawfully operating upon the adoption of this Ordinance that is in violation of this Ordinance shall be deemed to be a nonconforming use. This nonconforming use shall be permitted to continue for a period of twenty-four (24) months from the effective date of this Ordinance, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. Such nonconforming use may not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.
- b. An Adult Entertainment Establishment lawfully operating as a conforming use as of the effective date of this ordinance, shall not be rendered a nonconforming use by the subsequent location of a church, synagogue, or other house of religious worship, public or private elementary or secondary school, recreational facility, or municipal facility, within the distance limitations of this ordinance.

C. Conflicts

Notwithstanding the foregoing, if there is any conflict between this Section 12 and other Damariscotta Codes and Ordinances, the more stringent provisions shall apply.

D. Severability

If any section, phrase, sentence, or portion of this Section 12 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

E. Retroactivity

The provisions set forth in this Section shall be effective, to the maximum extent permitted by law but subject to the severance clause herein, and shall be applied to all proceedings or applications not pending, and business activities not commenced, established, located or operating within the Town, as of August 20, 2014.

§101.11 ADMINISTRATION

A. Jurisdictions

1. The Board of Selectmen shall administer and enforce the provisions of this Ordinance and coordinate all actions of the Code Enforcement Officer, the Planning Board and Board of Appeals to maintain a documented trail of their actions on matters reviewed by them to substantiate proof for legal review.

B. Administration

1. The Board of Selectmen shall annually, following the Town Meeting appoint a Code Enforcement Officer.

C. Powers and Duties of the Code Enforcement Officer

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

1. Examine preliminary plans
2. Act upon building permit applications received by the Town Office.
3. Refer permits requiring Site Review, Conditional Use, Flood and Shoreland approved to the Planning Board as required.
4. The CEO may forward an application for an ADU(s) to the Planning Board for review.
5. Inspect sites where building permits have been issued to ensure compliance with this Ordinance.
6. Investigate complaints and report violations.
7. Keep written inspection reports and thorough records stored in the Town Office.
8. Issue violation notices.
9. Appear in court when necessary.
10. Offer advice upon request.
11. Participate in appeals procedures.
12. All powers conferred by state statute.
13. When there is a question concerning interpretation of this Ordinance, the Code Enforcement Officer shall refer to the Board of Appeals for interpretation.

D. Violations

1. If the Code Enforcement Officer believes a violation of this Ordinance has occurred, he shall notify by certified mail the person(s) responsible for such violations indicating the nature of the violation and ordering the necessary action to correct it. He shall order discontinuance of illegal use of land, buildings, or structures, or of any unpermitted additions, alterations, of structural changes thereto; or discontinuance of any illegal activity.

E. Fines

1. Any person, firm, or corporation violating a provision of this Ordinance shall be fined not more than \$100.00 for each day such violation exists. All fines shall inure to the benefit of the Town of Damariscotta.

F. Building Permits**1. Applicability**

The provisions of this section apply to all structure(s) constructed, reconstructed, enlarged, relocated or moved in the Town of Damariscotta. This Ordinance does not require permits for maintenance and repair, or for accessory structure(s) or addition(s) of less than 100 square feet. Except that, all accessory structure(s) or addition(s) of less than 100 square feet within the Shoreland Zone shall obtain permits.

The provisions of this Section shall apply to any change in ownership of any commercial enterprise within the Town of Damariscotta.

G. Permits Required

The owner of the property shall obtain a permit issued by the Code Enforcement Officer for all structure(s) constructed, reconstructed, enlarged, relocated in, or moved to, the Town of Damariscotta, prior to the fact.

1. Application

Each application shall contain a drawing of the structure(s) and a plan of the site shall accompany the application. The drawing shall include project dimensions, distances to property lines, names of abutters, roads, streets and bodies of water, location of sewer disposal and water supply. When required by the State Plumbing Code, the Code Enforcement Officer shall require evidence of adequate capacity of the septic system to support the structure(s) contemplated.

The application for the permit shall be in writing on a form available from the Municipal Office, and shall contain:

- a. a description of any structure(s) prior to their construction, reconstruction, enlargement, or relocation in, or movement to, the Town of Damariscotta is contemplated;
- b. a description of the establishment of any commercial business in the Town of Damariscotta or change in a business establishment, regardless of the size of the floor area;

2. Permit Approval

The Code Enforcement Officer, after receipt of the application, shall either issue the requested permit or transmit notice of refusal to the applicant within a reasonable time, not to exceed five (5) working days for residential applicants, and fifteen (15) working days for commercial applicants. The application shall be approved if all relevant ordinance requirements have been met. Notice of any refusal shall be in writing and shall state the reason therefore. All other permits required for the proposal shall be obtained prior to issuance of the permit.

3. Modifications

Any modifications to the description, drawing, or site plan required in Section 6 (a) of the proposed structure(s) shall require a revised permit application and a permit prior to beginning the work.

4. Appeals

An appeal to the Board of Appeals may be taken from an order issued by the Code Enforcement Officer or from his refusal to grant a permit. Such appeal shall be filed within thirty (30) days of the date of the order being appealed, accompanied by a \$50.00 fee to cover the cost of appeal. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance or unsupported by weight of the evidence in the record.

5. Duration of Permit

All building permits shall be void unless there is substantial completion of the project within three (3) years of the date of the permit. Construction authorized by a permit and which is not completed within three (3) years of the effective date of the permit shall not continue until another permit is obtained.

6. Conditional Use Permit

In cases where the CEO believes that a Conditional Use Permit is required, the CEO shall also provide a copy of his decision to the Planning Board.

7. Records

Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers and the Code Enforcement Officer.

8. Other Permits

Where plumbing or septic work is required to make a building habitable, no Building Permit shall be issued unless a Plumbing Permit has been previously obtained. All sewerage and water connections and systems must comply with the regulations of the Maine State Plumbing Code.

H. Fees

1. Application Fee Required

- a. The following requirements apply only to applications subject to the Land Use Ordinance. Other ordinances may have separate or additional fees.
- b. All applications shall require the payment of a non-refundable Application Fee upon submittal of an application to the Town.
- c. All applications shall be considered incomplete until full payment of the required Application Fee is received by the Town.
- d. Application Fees shall in no way be contingent on, or in any way related to, the approval or denial of an application.
- e. Payments shall be made payable to 'Town of Damariscotta'. The Tax Map and Lot number should be provided in the memo.

2. Application Fee Amount

- a. The amount of the required Application Fee shall be the cumulative sum required for each structure proposed, as defined below under section §101.8, H.2.b.
- b. The Select Board shall establish and amend a fee schedule setting the required amounts for the following application types:

i. Residential Uses

- (a) Any building containing a Residence use.
- (b) Structures accessory to any building containing a Residence use.
- (c) Any building containing a Multi-Unit Residential use
- (d) Structures accessory to any building containing a Multi-Unit use.
- (e) Any building containing any other residential uses not identified above.
- (f) Structures accessory to any building containing any other residential uses not identified above.

ii. Non-Residential Uses

- (a) Any building containing a non-residential use.
- (b) Structures accessory to any building containing a non-residential use.

iii. Mixed Use Structures

- (a) Structures containing both a residential use and a non-residential use shall pay 50% of the applicable residential use amount and 100% of the applicable non-residential use amount.

iv. Additional Application Fees

- (a) Public Hearing notice

v. Variance

For each Variance hearing required, a fee will be charged to cover administrative and advertising expenses.

- (a) Variance hearing administrative hearing
- (b) Variance hearing advertising fee

3. After-the-fact Permit Fee:

If work is performed which requires a permit, but a permit is not obtained until after the work has begun, in addition to any other fees and fines, the fees for such after-the-fact permits shall be two (2) times the regular permit fee.

I. Proof of Compliance

No building shall be occupied after its construction, reconstruction, enlargement, or relocation in or movement to the Town of Damariscotta until a Certificate of Occupancy has been issued by the Code Enforcement Officer. The Code Enforcement Officer shall issue said Certificate after proper examination shows that all work performed is in compliance with the provisions of all State and Local codes.

§101.12 APPEALS AND VARIANCES

A. Authority

1. All Appeals or applications for conditional Use Permits shall be based upon a written decision of the Code Enforcement Officer or the Planning Board.
2. Board of Appeals Authorization:
3. The Board of Appeals as established in the Town of Damariscotta Board of Appeals Ordinance shall hear and decide applications for variances and appeals in accordance with State law and the provisions of that Ordinance.
4. The Planning Board shall hear and approve, approve with modifications or conditions, or deny an application for a Conditional Use Permit. A Conditional Use Permit shall not be issued unless specific provision for such conditional Use is made in this Ordinance.
5. On request of the Board of Appeals, the Planning Board shall prepare an informational report on pending requests for a variance.

B. Procedure

1. Application

- a. These procedures and limitations apply to all appeals and requests for variances or conditional use permits. In all cases, a person aggrieved by a decision shall commence his appeal within 30 days after that decision is made. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and shall specifically set forth the grounds for the appeal.
- b. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the Permit with the Planning Board on forms provided by the Town of Damariscotta. In order to describe the conditions adequately the applicant may be requested by the Code Enforcement Officer or the Planning Board to supply the following information.
- c. Detailed information to demonstrate compliance with the applicable standards or criteria.
- d. Plans showing location of new and existing buildings, parking areas, traffic access, driveways, landscaping, open spaces.

2. Notification

a. Publication

Within 30 days of the filing of an appeal or application for a variance, the Board of Appeals shall hold a public hearing in accordance with Section 4.D of the Board of Appeals Ordinance. The Board shall notify the Code Enforcement Officer and, in the case of an appeal, the Planning Board, at least 20 days in advance, of the time and place of the hearing. It shall publish notice of the hearing at least 10 days in advance of it in a newspaper of general circulation in the county.

b. Notification of abutters

The Board of Appeals shall notify by certified mail, the appellant or applicant at least 10 days in advance of the hearing. The appellant or applicant shall be responsible for notifying all abutting property owners and owners of property within 500 feet of the property involved (even if the property is on the other side of the road) of the nature of the hearing and the time and place of the hearing. For the purpose of this section, abutting property owners shall include properties directly across a street from the property involved.

c. Owners of Property

The owners of property shall be determined on the basis of town tax records. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

3. Hearing

- a. At any hearing, a party may be represented by agent or attorney.
- b. Hearings may be continued for good cause.
- c. The Code Enforcement Officer shall attend all hearings and may present to the Board all plans, photographs, or other material appropriate for an understanding of the appeal.
- d. The hearing shall proceed according to the By-Laws of the Board of Appeals.

4. Decision

- a. A decision shall require an affirmative vote of a majority of the members in accordance with Section 3 of the Board of Appeals Ordinance.
- b. The Board of Appeals shall reach a decision at the initial or continued public hearing and shall inform, in writing, the appellant or applicant, the Code Enforcement Officer, the Planning Board (on appeals) and the Municipal Officers of its decision with the conditions of the approval, or reasons for its denial.
- c. Upon notification of the decision of the Board of Appeals, the Code Enforcement Officer, as instructed, shall immediately issue or deny a permit, with or without conditions, as prescribed by the Board of Appeals.

C. Variance

1. A variance may be granted in accordance with Title 30-A Section 4353 by the Board of Appeals only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used are defined in accordance with Title 30-A Section 4353.
2. A variance is not justified unless all elements are present in the case.
3. As used in this Ordinance, a variance is authorized only for height, area, parking requirements and size of structures or size of yards or open spaces. Establishment of a use otherwise prohibited shall not be allowed by a variance. Financial hardship shall not constitute grounds for granting a variance.
4. Variances for dimensions are not allowed within the Shoreland Zone.

§101.13 SEVERABILITY

Should any section or provision of this ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

§101.14 CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not repeal, annul, or in any other way impair the necessity of compliance with any other rule, regulation, bylaw or provision of the Federal, State or local government including Damariscotta's Shoreland Zoning Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures than the State or Federal regulations, this Ordinance shall control.

§101.15 AMENDMENTS

All changes and amendments to this Ordinance must be made at a regular or special Town Meeting of Damariscotta, by a majority of the governing body.

§101.16 EFFECTIVE DATE

The effective date of this Ordinance is 1 April 1998 and revisions as of 2/23/2002, 6/12/2002, 7/10/2002, 12/4/03, 11/10/04, 3/21/06 6/11/08,1/21/09, 3/18/15, 3/10/15 and June 15, 2016.

Revised 11/05/2019, effective 01/06/2020- Medical and Adult-Use Marijuana

Revised TBD, effective TBD

Revised 06/15/2022, effective 06/16/2022 - Definitions, permitted & conditional uses, formula based businesses

§101.17 REPEAL OF EXISTING ORDINANCES

The enactment of this ordinance hereby amends the Land Use Ordinance of June 15, 2022.

Legislative History:

Revised 3/23/98
 Revised 2/23/2000: Article 2 - Definition of Light Manufacturing and Article 3. C.2.b Other Commercial (C2)
 Revised June 12, 2002: Wireless Communication
 Revised July 10, 2002
 Revised December 4, 2003: Article 10 - Building Permits, Article 3 - Districts, Article 5 – Commercial Districts, Article 8 - Municipal District; renumbered several sections for clarity.
 Revised November 10, 2004: Article 9 F (3)
 Revised March 21, 2006: Article 5-Commercial Districts A; 8(3)3; C(3); Article 9-General Provisions F(3) a.1.a & b
 Revised June 11, 2008 - Revisions to Board of Appeals: Article 11
 Revised January 21, 2009 - Revisions to Article 6 - Rural district and Article 2 - Definitions
 Revised March 18, 2015-Revisions to -Adult Entertainment, Article 5(C)(2) Conditional Uses, Article 5(C)(3) Standards, Article 12 Adult Entertainment Establishment Definitions and Standards
 Revised June 10, 2015: Art. 3.C.2.b - Change to Comm. C2 boundary near Biscay Rd.
 Revised June 15, 2016: Art. 3.C.2.b - Change from Rural to C2 District, Lots 1/67 & 3/32
 Revised November 16, 2016: Art. 2, 4, 5, 6, 9 - insert Accessory Apartment Ordinance
 Revised November 5, 2019- effective January 6, 2020- Medical and Adult-Use Marijuana & edibles
 Revised June 15, 2022: §101.4 Definitions, §101.6.D.1 Update Uses in Land Use Table, Add Formula Businesses, §101.6.D.2 Increase GR and R Residential Density, §101.6.G Expand Provisions for PUDs
 Revised December 10, 2024

SELECT BOARD:

Daryl Fraser, Chairman

Joshua Pinkham

Andrea Keushguerian

Dan Hunter

Tom Anderson

Attest: A true copy of an ordinance entitled "Land Use Ordinance Damariscotta Maine", as certified by me to the Municipal Officers of Damariscotta, Maine on _____

Rebecca J. Bartolotta, Town Clerk
Damariscotta, Maine

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