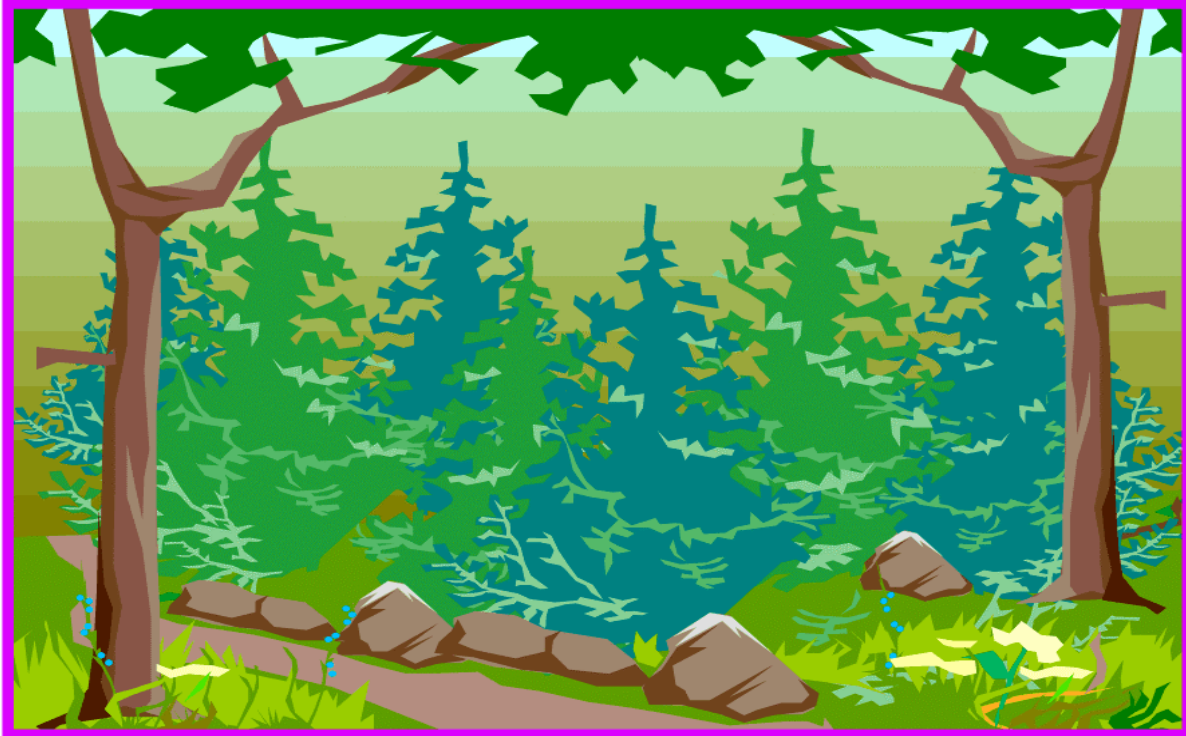


Town of Levant – Land Use Ordinance



Adopted
At the Annual Town Meeting
June 22, 1996

Amended at the Annual Town Meeting
June 26, 2000
June 24, 2002
June 23, 2007

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Article 100 Title and Purpose

This Ordinance shall be known and may be cited as the Land Use Ordinance of the Town of Levant, Maine and will be referred to herein as this "Ordinance". It is enacted by the voters of the Town of Levant to protect public health, safety, welfare; provide for efficiency of public service; prevent and control pollution; and provide for orderly development in Levant.

Article 200 Authority and Administration

210 Authority

This Ordinance is enacted under authority granted to the Town by the constitution and the statutes of the State of Maine.

220 Administration

The Planning Board, Board of Selectmen, and the Code Enforcement Officer (as specified in this Ordinance) shall administer this Ordinance.

230 Effective Date

The effective date of this Ordinance shall be the day it is adopted by vote of the legislative body of the Town of Levant.

Article 300 Applicability

This Ordinance shall apply to all buildings or structures hereinafter erected, reconstructed, enlarged, or moved, and all uses of premises in the Town of Levant.

Article 400 Severability

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

Article 500 Conflict with Other Ordinances

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, the provisions of this Ordinance shall prevail.

Article 600 Repeal of Conflicting Ordinances

The Land Use Ordinance of the Town of Levant, Maine, adopted March 24, 1984, and all amendments thereto, is hereby repealed. Provided, however, that the repeal of said Ordinance shall not preclude the prosecution of any violations thereof that occurred on or before the effective date of repeal.

Article 700 Amendment

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

710 Initiation

A proposal to amend this Ordinance may be initiated by:

- The Planning Board, by majority vote;
- The Board of Selectmen, through a request to the Planning Board;
- The Public, through a written petition signed by at least ten percent of the number of voters in the last gubernatorial election and registered to vote in the Town of Levant.

720 Review

The process to be followed in adopting an amendment to this Ordinance is as follows:

- A. Proposed amendments must first be submitted to the Planning Board for their consideration.
- B. The Planning Board and Board of Selectmen shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a joint public hearing on the proposed amendment.
- C. Notice of the public hearing shall be posted in the Municipal Office at least fourteen (14) days before the hearing. Notice shall also be published at least twice in a newspaper that complies with 1 M.R.S.A. s.s. 601 and has a general circulation in town. The date of the first publication must be at least fourteen (14) days before the hearing and the date of the second publication must be at least seven (7) days before the hearing. This notice shall contain a brief description of the nature of the proposed amendment.
- D. After the Planning Board votes to either support or oppose a proposed amendment, that proposed amendment shall be placed on the warrant for the Town Meeting next following the public hearing.
- E. The Planning Board shall report its official findings and conclusions in support or opposition report at the next Town Meeting following the public hearing.

730 Enactment

A majority of the voters present and voting at the Town Meeting shall be required to enact the amendment(s).

740 Effective Date

The provisions of this Ordinance and any amendments thereto shall become effective the day of their enactment.

Article 800 Filing

A copy of this Ordinance and any amendments hereto shall be filed with the Town Clerk and shall be accessible to any member of the public.

Article 900 Non-Conformity

910 Non-Conformity Defined

A legally existing (grandfathered) non-conforming lot, structure, sign, or use that lawfully existed immediately prior to the enactment of this Ordinance, or any subsequent applicable amendment hereto, and which, as a result of the enactment or subsequent amendment, fails to comply with any of the requirements of this Ordinance.

920 General Provisions

The following provisions apply to non-conformities generally:

A. Normal Repair and Maintenance

The normal upkeep and maintenance of non-conforming structures, including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require are permitted.

B. Transfer of Ownership

Any legal non-conformity may be transferred and the new owner may, subject strictly to the requirements of this Section, continue such non-conformity provided, however, that nothing contained herein shall be construed to permit any person or entity to occupy or use any lot or structure or to continue any use in violation of any other Federal, State, or Municipal statute, ordinance, or regulation.

C. Burden of Proof Related to Establishing Legal Non-Conformity

The burden of proof establishing that any non-conformity is a legal non-conformity shall, in all cases, be upon the owner of such non-conformity and not upon the Town of Levant.

D. Conversion To Conformity Encouraged

All non-conformities shall be encouraged to convert to conformity whenever possible and, when required by this Ordinance, shall convert to conformity.

E. Reversion to Non-Conformity Prohibited

Once converted to conformity, no lot, structure, or use shall revert to non-conformity.

930 Non-Conforming Structures

The following provision shall apply to non-conforming structures:

A. Expansion of Non-Conforming Structures

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority identified in Section 1000 as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 1. and 2. below.

1. If any portion of a structure is less than the required setback from a property line, that portion of the structure shall not be expanded, as measured in floor area or volume by 30% or more during the lifetime of the structure.
2. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided:
 - a. The structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the planning board or its designee, basing its decision on the criteria specified in ***Subsection B. Relocation of Non-Conforming Structures***, below;
 - b. The completed foundation does not extend beyond the exterior dimensions of the structure.

B. Relocation of Non-Conforming Structures

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the Applicant demonstrates that the present subsurface sewage disposal system meets the requirements of *State Law* and the *State of Maine Subsurface Wastewater Disposal Rules* (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the system to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider size of the lot, clearing needed, slope of the land, relationship to roadway entrances, potential for soil erosion, location of the septic system, and other on-site soils suitable for septic systems.

C. Reconstruction or Replacement of Non-Conforming Structures

Any non-conforming structure which fails to meet the dimensional requirements of Sub-section 1210C, and which is damaged, destroyed, or removed, by more than fifty percent (50%) of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced within one (1) year of the date of said damage, destruction, or removal, provided that such reconstruction or replacement is in compliance with the setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any nonconforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repairs, may be repaired or reconstructed in place within one (1) year of such damage or destruction, with a permit from the Code Enforcement Officer.

In determining whether the structure reconstruction or replacement meets setbacks to the greatest practical extent, the Planning Board shall consider the type of foundation present, if any, and the considerations contained in Sub-section 930B, second paragraph. It is not the intent of this Sub-section to require the destruction of functional concrete or block foundations in order to meet setback requirements.

940 Existing Non-Conforming Mobile Homes

Notwithstanding any other provision of this Ordinance, the lawful use of a mobile home as a single-family dwelling and not certified pursuant to M.R.S.A. 30-A 4358, which legally existed on the date of the enactment of this Ordinance, may be continued, except that the mobile home shall not be:

- A. Rebuilt, altered, or repaired after being damaged in excess of fifty percent (50%) of its assessed value at the time of destruction as determined by the Code Enforcement Officer. The damaged home must be removed within sixty (60) days.

Any mobile home lawfully used as a single-family dwelling may be improved by the addition of a foundation or by other new construction, alteration, or repair, subject to the requirements of any applicable building code or other law, and subject to the other provisions of this Ordinance including performance standards in Section 1200 and 1300.

950 Non-Conforming Uses

The following provisions shall apply to non-conforming uses:

- A. **Expansion**
Expansion of non-conforming uses is prohibited.

B. Resumption Prohibited

A lot, building, or structure in or on which a non-conforming use ceases to be actively pursued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

C. Change of Use

An existing non-conforming use may not be changed to another non-conforming use.

960 Non-Conforming Lots**A. Non-Conforming Lots**

A single parcel of land, the legal description or dimensions of which are recorded on a document or map on file at the Penobscot County Registry of Deeds at the effective date of this Ordinance or any amendment, and which, as a result of the enactment or respective amendment of this Ordinance, does not meet the lot area, road frontage, 150x150 area requirements may be built upon or conveyed without the need for a variance, subject to the following:

1. Such building or construction shall, in all other respects, comply with the provisions of this Ordinance.
2. No permit shall be granted until the owner demonstrates to the satisfaction of the Code Enforcement Officer that there is or will be reasonable access to the site for emergency vehicles.
3. Such lots shall be limited to single-family dwellings and accessory structures.
4. Variances relating to setback or other requirements not involving lot size, road frontage, or the 150x150 area requirement shall be obtained by action of the Board of Appeals.

B. Contiguous Built Lots

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that they conform to all other provisions of this Ordinance and they meet the dimensional requirements to the greatest extent possible as determined by the Planning Board.

Article 1000 Permits Required

Depending on the type of activity planned to be undertaken, a permit from the CEO or Planning Board approval may be required.

No building, structure, or use for which Planning Board approval and/or CEO permit is required shall be constructed until and unless Planning Board approval and/or CEO permit has been obtained from the Code Enforcement Officer.

No building or structure for which a Planning Board approval and/or CEO permit is required shall be inhabited or used until requirements of Section 1030 have been met.

NOTE: Even if no permit is required, compliance with all standards in this Ordinance is still mandatory.

1010 Table of Permitting Responsibilities and Requirements

<i>No Permit Required</i>	<i>CEO Permit Required</i>	<i>Planning Board Permit & CEO Permit Required</i>
Filling and grading less than 200 cu. yds.	Filling and grading between 200 cu. yds and 1000 cu. yds.	Filling, grading, or removing in excess of 1000 cu. yds.
Residential accessory structures up to 100 sq. ft.	Residential accessory structures over 100 sq. ft.	
Maintenance and repair of Town facilities and roads	Expansion at commercial establishments up to 200 sq. ft.	Expansion over 200 sq. ft. at commercial establishments and public developments
Fences and boundary walls	Single Family Residential & duplex construction	Multi- unit housing
Activities not listed for CEO or Planning Board approval	Barns and associated structures for agricultural purposes	Change in use on non-conforming lots
Removal or demolition or relocation on same lot (unless building is non-conforming).	Reconstruction of a damaged building	Any new business, commercial or public development
	Relocating or locating 1 or 2 buildings on to a lot	Three or more principal structures on a single lot.

1005 Fees

- A. No permit shall be issued without payment of a fee according to the following schedule:
 - CEO Permit for Residential and Commercial activities: \$50.00, except residential accessory structures and commercial accessory structures (less than 200 sq. ft.) which are \$20.00
 - a) Planning Board Review: \$25.00
 - b) Occupancy/Use Permits: Free
 - c) Entrance Permit: Free
- B. CEO permit, after expiration, may be renewed at no charge.

- C. Additionally, a late fee equivalent to the permit fee will be required in the event a Building permit is not first obtained prior to the start of construction.
- D. Any person who fails to keep a scheduled appointment for an inspection shall be required to pay an additional permit fee equal to that previously paid. If the CEO fails to keep a scheduled appointment, the CEO Permit fee shall be refunded on request. Cancellation of an appointment may be made within five (5) hours of scheduled appointment without penalty.
- E. No inspection shall be made and no permit shall be issued until the permit fees are paid in full.
- F. For those projects requiring a Planning Board approval, no permit shall be issued until said approval has been obtained.

1020 Procedure

A. Filing an Application for a Permit

Any person requiring a CEO Permit shall file an application with the Code Enforcement Officer. Within seven (7) days of the filing of an application for a CEO Permit, the Code Enforcement Officer shall act on the application. The Code Enforcement Officer shall determine whether Planning Board approval is required:

- If Planning Board approval is required, the Code Enforcement Officer shall so inform the Applicant, in writing, and shall inform the Applicant of the procedures for Planning Board approval.
- If Planning Board approval is not required, the Code Enforcement Officer shall review the application to determine whether it meets all relevant performance standards in Section 1200 and 1300-Performance Standards of this Ordinance. If all performance standards are met, the Code Enforcement Officer shall issue the permit. If all relevant standards are not met, the Code Enforcement Officer shall deny the permit and inform the Applicant, in writing, of the reasons for denying the permit.

B. Issuance of Permit

No CEO permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, in writing.

C. Application Attachments

The Code Enforcement Officer shall require that any application for such permit shall be accompanied by a plot plan, accurately drawn to scale, showing the actual shape and dimensions of the lot to be built upon, an on-site soils survey as appropriate to the proposed development, the exact location and size of all buildings or structures already on the lot, the location of the new building to be constructed

together with the lines within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

D. Application Records

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

E. Permit Expiration

CEO permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within six (6) months of the date on which the permit is granted, or if the work or change is not substantially completed within two (2) years of the date on which the permit is granted. The Code Enforcement Officer may grant an extension to the foregoing deadlines for a period not to exceed six (6) months. The Board of Selectmen, in its sole discretion, may grant an additional extension for good cause shown.

F. Plumbing Permit Required

No Building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless a valid Plumbing permit has been secured by the Applicant or his authorized agent in conformance with the Plumbing Code of the State of Maine.

1030 Occupancy/Use Permit

A certificate of Occupancy/Use certifying that all applicable provisions of this Ordinance have been satisfied shall be obtained from the CEO.

- A. After the Applicant notifies the CEO that the work specified by Planning Board Approval and/or CEO Permit has been completed:
1. Inspections on residential structures or commercial structures open to the public are to be performed by the CEO within five (5) business days of notification.
 2. A permit issued for a use other than that specified in Section 1030A.1. shall be approved or denied for occupancy or use within five (5) business days of notification. Otherwise, the Applicant may use or occupy the land or structures referenced in the Permit.

1040 Entrance Permit

Before a driveway is placed onto a town road, an entrance permit must be obtained from the CEO.

A. The CEO will do the following before issuing a permit:

- Check with the Road Commissioner or Agent to determine the size of the culvert needed and if the proposed culvert is new or in good condition.
- That the proposed location of the driveway conforms to the provisions of this Ordinance.

Article 1100 Planning Board Approval

1110 Purpose

These Planning Board approval regulations are established to promote the public health, safety, and general welfare by requiring plans to be submitted to and reviewed by the Planning Board for certain uses which have a potential for significant impact on a neighborhood, but which when properly designed with respect to their surroundings can be acceptable uses in the neighborhood. The overall purpose of such a review shall be to ensure orderly and beneficial development of the Town of Levant and to encourage the most appropriate use of the land.

1120 Applicability

The Planning Board shall review and make recommendations concerning all plans for non-residential units and mobile home parks whether or not such development includes a subdivision or re-subdivision of a site.

1130 Application and Review Procedures

1131 Procedures

A. Pre-application Meeting With CEO

CEO will explain the permit review process to the Applicant and review a copy of the proposed application. The CEO may inform the Applicant of the general completeness of the application.

B. Copies of Applications

Persons seeking a Planning Board approval shall submit five (5) copies of an application, with all the information required in Section 1132 of this Ordinance, to the Planning Board at least fourteen (14) days before a regularly scheduled meeting of the Planning Board.

C. Verification

The CEO, Town Clerk, or agent shall issue the Applicant a dated receipt for the application and application fee. The CEO shall verify that the abutter notification

forms are complete (see item E Section 1132) and in a pre-addressed stamped envelope. The CEO or Town staff shall mail these within five (5) business days.

D. Determination of Complete Application

Within thirty five (35) days of the filing of an application for Planning Board approval, the Planning Board shall determine if the application is complete. The Planning Board shall notify the Applicant, in writing, either that the application is a complete application or, if the application is incomplete, the additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall begin its full evaluation of the proposed site plan.

E. Public Hearing

The Planning Board shall hold a public hearing on the application, such hearing to be held within thirty five (35) days of the Board's determination that the application is complete. The hearing shall be advertised by the Town, at least seven (7) days prior to the hearing. Notices shall be posted in the same location as Selectmen's Warrants. The purpose of the public hearing shall be to receive input from the general public relative to the elements listed in Section 1140 — Standards for Governing Site Plan Review.

F. Planning Board Review and Action

Within thirty (30) days after the public hearing, the Planning Board shall approve, approve with modifications, or disapprove the proposed action application. The Board shall limit its review to the criteria set forth in Section 1140 - Standards for Review of this Ordinance. The Board may consult with the Applicant or any other party in making its review.

The Board shall inform the Applicant of its decision, in writing. In cases of disapproval or approval with modifications, reasons for such actions shall be stated. A copy of the Board's decision shall be filed with the Code Enforcement Officer. No CEO permit shall be issued until Planning Board approval is granted.

G. Records of Applications

Applications for Planning Board approval with their accompanying plans and the Planning Board's action shall be maintained as part of the permanent record of the Planning Board.

H. Site Plan Approval

After Site Plan approval has been granted, the appropriate CEO Permit may be issued.

1132 Required Information on Plans

Applications for the establishment of uses requiring Planning Board approval shall be accompanied by plans, drawn to scale, containing the following information:

- A. Name and address of the Applicant
- B. Name and address of owner of property, if different than Applicant
- C. Project description: Include, if applicable, the number of employees, type of business, projected number of customers, solid waste disposal, water need
- D. A description of the interest the Applicant has in the property (option, land purchase contract, lease, record ownership, etc.)
- E. Abutter's names and addresses including those directly across roads.
- F. Scale of the map
- G. Boundaries of the tract of land
- H. Location of existing and proposed buildings and other structures, including use and proposed use thereof
- I. Location of buildings on abutting properties and within 300 feet of the property line of the proposed development
- J. Location of existing public streets
- K. Location of proposed access drives to the lot from public streets
- L. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas
- M. Location of existing and proposed pedestrian walkways
- N. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water, and electricity
- O. Location of existing natural drainageways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.
- P. Location, intensity, type, size and direction of all outdoor lighting
- Q. Location and proposed use of areas proposed for outdoor recreation
- R. Location and type of existing and proposed screening
- S. Contour lines at a minimum of twenty foot (20') intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled

- T. Location and size of signs and all permanent outdoor fixtures
- U. Information about soils conditions on the site:
 - If subsurface sewage disposal is proposed, the information shall include evidence of soil suitability according to the Maine State Plumbing Code. The Site Plan shall show the location of soil test areas.
 - If no subsurface sewage disposal is proposed, medium-intensity soils survey information about the site shall be included in the application. The Planning Board may require more intensive soils information if needed in order to adequately review the proposal.

1140 Standards Governing Site Plan Review

In approving an application for Site Plan Review, the Planning Board shall first determine that the development, as planned, will conform to the requirements of this Ordinance. Following such determination, the Board shall proceed to find that the proposed plan adequately meets the following standards applicable to the proposed development. In all cases, the burden of proof shall be upon the Applicant.

- A. The proposed use, buildings, design and layout meets the provisions of all applicable regulations and ordinances of the Town of Levant and meets the intent of the Comprehensive Plan, as amended.
- B. The proposed site development shall not adversely impact either the quality or quantity of groundwater available.
- C. The proposed layout will be of such a nature that it will make vehicular or pedestrian traffic no more hazardous than is normal for the area involved. Factors for the Planning Board to consider in this determination are the turning movements relative to traffic flow, proximity to intersections, location and access of off-street parking, provisions of pedestrian traffic, and minimization of pedestrian vehicular contacts.

- D. The proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping shall be such that it will not interfere with or discourage the appropriate development in the use of land adjacent to the proposed site.
- E. Signs shall be in accordance with the regulations of this Ordinance and, in addition, shall be designed and located so as not to present a hazard or glare to either adjacent property owners or to motorists.
- F. Buildings shall be located with consideration of the topography and other natural features of the site.
- G. The development is designed to minimize erosion.
- H. All manufactured slopes, other than those constructed of stone, concrete or other impervious materials, shall be planted or otherwise protected from the effects of storm runoff erosion. All graded slopes shall be of a character to cause the slope to blend with the surrounding terrain and development.
- I. Adequate drainage is provided for storm water runoff from developed areas.
- J. The proposed use is designed to minimize, as far as possible, adverse impacts on farm land.

Article 1200 Performance Standards

These standards shall apply to all buildings or structures and all uses of premises in the Town of Levant.

1210 Lot Dimensions

The following minimum lot dimensions shall apply to all uses in the Town of Levant:

- A. **Minimum lot area:** 1.5 acre; 1 acre in subdivisions.
- B. **Minimum road frontage:**
 - 1. 150 feet on Minor Streets or a 50 foot right-of-way. Minor Streets are here defined as dead-end roads and loop roads that have both entrances on the same street. They shall include but are not limited to: Black Stream Dr., Sunny Acres Dr., Wagner Rd., Hodgdon Rd., Sinclair Rd., Francis Dr., Robichaud Rd., Ross Rd., Dill Rd., Doughty Blvd., McIntosh Ave. and French Rd.
 - 2. 200 feet on Collector Streets and Arterials.
 - a. Arterials shall include but are not limited to: Union St., Avenue Rd., Stetson Rd. (East and West), Wing Rd. and Kenduskeag Rd.

- b. All existing roads and streets not classified as Arterials or Local Streets are classified as Collector Streets.
 - c. Future roads shall be classified by the Planning Board prior to submission to the Board of Selectmen for approval at a Town Meeting.
3. All lots must be capable of accommodating a square 150 feet by 150 feet.

C. Minimum setback

1. Minimum setback of all structures or buildings from all rear or side lot lines shall be 25 feet, except that one story accessory residential structures of no more than 1000 square feet in area and no more than 15 feet in height from the first floor to the highest point of the peak may have a 15 foot side and rear setback.
2. Minimum setback of all structures or buildings from the front lot line shall be 50 feet. For the purposes hereof, the front lot line shall be the line which separates the lot from the strip of land dedicated and used as a public or private street, regardless of whether the street exists as a right of way or is owned by the Town or State of Maine.
3. Structural elements such as ramps, enclosures, balconies, devices and appliances such as wheelchair platform lifts and similar accommodations necessary for providing access to a means of egress to existing buildings for the handicapped are exempt from the setback requirements for structures provided the encroachment in the setback is the minimum necessary to meet the provisions for handicap access when required by State or Federal Law or Regulation.

D. Minimum setback of all structures or buildings from waterbodies and wetlands: Regulated by the Shoreland Zoning Ordinance.

E. Minimum lot area for multi-family housing: One-half acre for every dwelling unit.

F. No more than one principal structure may be placed on a lot unless permission for additional principal structure(s) is granted by the CEO under the following conditions:

1. Adequate subsurface sewage disposal is available for all uses on the lot.
2. No unsafe or unhealthy condition is created by establishing the additional uses on the lot.
3. The layout of the buildings are such that legal lot(s) as defined by this ordinance and state law can be created in the future. **-OR-** Only one structure is occupied during construction of a principle dwelling.

1220 Excavation, Removal or Fill of Land**A. General.**

The following provisions shall apply to excavation, removal or fill of soil, earth, loam, sand, gravel, rock and other deposits. Existing gravel pits may continue to operate as long as the extraction does not make the pit more non conforming. Excavation, removal, or fill of land or other earth moving activity which would result in erosion, sedimentation, or impairment of water quality or fish or aquatic life is prohibited.

All existing gravel pits at the time of the adoption of this ordinance do not need Planning Board Approval to continue operation.

B. Excavation, removal, or fill activities not requiring a permit.

The following activities shall be allowed without a permit:

1. The excavation, removal, or fill of less than 200 cubic yards of material from or onto any lot in a calendar year.
2. Excavation, removal, or fill activities associated with the construction of any structure for which a valid Building permit or valid Plumbing permit has been issued.
3. Routine road maintenance and winter sanding performed or contracted by the Town of Levant.

C. Review and permit required.

- All excavation, removal, or fill in excess of 200 cubic yards and up to 1000 cubic yards in a calendar year shall require a CEO permit before the activity is commenced; greater than 1000 cubic yards in a calendar year shall require Planning Board approval before the activity is commenced. Site Plan approval is only required once as long as the approved plan is followed.
- In addition to the information required in a Site Plan Review application, before granting Site Plan approval, the Planning Board shall require that the Applicant present a conservation plan for the operation of the activity and the restoration of the land. Such plan shall indicate the manner of operation of the activity. It shall include provision for preventing erosion, siltation, sedimentation, and runoff and plans for temporary and permanent conservation practices.
- The restoration plan shall indicate how the site will be stabilized and revegetated at the completion of the operation, the expected completion date, and the final relief of the land after it has been restored.
- One condition of the issuance of Site Plan approval shall be that the plan approved by the Planning Board must be followed by the operator.

D. Mineral excavation activities.

The following requirements shall apply to mineral excavation activities:

1. All excavations, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety.
2. Access way approaches to stream channels shall be located and designed so as to divert water runoff from the way in order to prevent such runoff from directly entering the stream.
3. In addition to the foregoing minimum requirements, when conducting mineral exploration activities and creating and maintaining associated access ways, provision shall be made to effectively stabilize all areas of disturbed soil so as to reasonably avoid soil erosion and sedimentation of surface waters. These measures shall include seeding and mulching if necessary to insure effective stabilization.
4. A natural vegetative buffer of not less than fifty feet (50') in width shall be retained between any facility intended primarily for public use, excluding privately owned roads and the mineral exploration or extraction activity.

Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist of a berm or minimally, two staggered rows with at least 6' of height, placed 12' on center, of nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties.

5. If the owner is operating under Planning Board approval and within twelve (12) months following the completion of extraction operations at any extraction site, or when less than one hundred (100) cubic yards of materials are removed in any consecutive twenty-four (24) month period, ground levels and grades shall be established in accordance with the following:
 - a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials originating on-site may be buried or covered on-site.
 - b) The final graded slope shall be one vertical foot to two horizontal feet (1:2) slope or flatter.
 - c) Material capable of growing vegetation shall be retained to cover all disturbed land areas which shall be reseeded and stabilized with vegetation native to the areas. Additional material shall be

obtained from off-site sources, if necessary, to complete the stabilization project.

6. No ditches, trenches, pumping or other methods shall be used to lower the water table or permit more gravel extraction than could occur under normal conditions. Extraction operations shall not be permitted within one hundred fifty feet (150') of any property line, without written permission of the owner of such adjacent property. In no event shall they be permitted closer than twenty-five feet (25') to any property line, unless there is another mineral extraction operation on the other side of the property line in question. The distance may not be reduced to less than twenty-five feet (25') from a cemetery.
7. Access roads into and around the pit shall not be oiled. Dust from the pit, including dust associated with traffic, must be controlled by watering, paving, sweeping or other best management practices.
8. The pit shall not be used for storage or dumping of any substances that could produce a harmful leachate, both during operation of the pit and following its permanent closure.
9. Storage of hazardous materials and petroleum products in the pit is prohibited.
10. Refueling and oil changes in the pit are prohibited, unless adequate protection and containment is provided. Adequate protection and containment means a spill prevention, control and counter measures plan as required by 38 M.R.S.A. Section 490-D. Excavation may not occur below road level within one hundred fifty feet (150') of a road or right-of-way except that excavation below road level may occur within one hundred fifty feet (150') of a private right-of-way with written permission of the owner of the right-of-way.

1230 Signs

A. Off-Premises Signs

No off-premise sign shall be erected or maintained in the Town of Levant except in conformity with M.R.S.A. Title 23, Section 1901-925, the Maine Traveler Information Services Law. Off-premises official business directional signs may be located in the Town of Levant in such location and in such manner as allowed under M.R.S.A. Title 23, Section 1901-925 and under the rules and regulations of the State of Maine Department of Transportation.

B. On-Premises Signs

All on-premises signs shall be located and erected in conformity with State Law M.R.S.A. Title 23 Section 1901-1925. In addition, the following regulations shall apply:

1. No sign shall be erected adjacent to any public way in such manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. Flashing, moving, or animated signs are prohibited. No sign shall exceed 25 feet in height.
3. No sign shall be located within 10 feet of front property line and/or 25 feet of any other lot line.
4. Roof signs shall not extend more than 10 feet above the roof line.
5. No sign shall exceed a total area of 32 square feet.
6. No more than 3 signs per parcel.

1240 General Welfare**A. Dust, Fumes, Vapors, Gases, Odors, Noise, Glare, and Explosive Materials**

1. Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk harm to human health or the environment shall be prohibited.
2. No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevations.
3. No land use or establishment shall be permitted to produce unreasonable noise, glare or brightness beyond its lot lines.
4. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Sections 30, 58, and 59-A.

B. Oil and Chemical Storage

1. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38, M.R.S.A., Section 541 et seq.

which establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.

2. Such storage shall be in conformance with the NFPA Codes applicable to the stored substance.
3. When applicable, the Applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permit may take place.

C. Pollution Levels

1. Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination.

D. Deer Yards

If a use is proposed in an Inland Fisheries and Wildlife (IF&W) mapped deer yard, the applicant must consult with an IF&W Biologist for best management practices.

1250 Aquifer Protection

A. Groundwater Protection

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line shall comply, following development, with the standards for safe drinking water as established by the State of Maine.

B. Uses Prohibited Adjacent to Significant Sand and Gravel Aquifers

The following uses are prohibited directly over and within one thousand feet (1000') of the boundaries of significant sand and gravel aquifers, as defined herein:

- Subsurface storage of petroleum and other refined petroleum products with the exception of household heating oil where the underground storage tank is in full compliance with Department of Environmental Protection regulations
- Petroleum storage for commercial or industrial use
- Engineered subsurface waste disposal systems as defined herein
- Multi-family dwellings
- Industrial uses except those permitted as home occupations

- Salt-sand and road salt storage and loading area
- Dumping of snow containing deicing chemicals
- Junkyards/ auto graveyards
- Sanitary landfills or construction/demolition debris or stump dumps
- Commercial animal feedlots
- Metal plating
- Commercial furniture stripping
- Dry cleaning establishments/ Laundromats
- Commercial motor vehicle repair or service
- Non-residential pipelines for transmission of oil, gas, or hazardous materials
- Spray irrigation of sewage
- Any other use that involves the manufacture, storage, use, transportation or disposal of toxic or hazardous materials

1260 Erosion Control

A. Erosion and Sedimentation Control

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval by the Planning Board:

1. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the Applicant, shall be implemented during the site preparation, construction, and clean-up stages.
2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:
 - a) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion.
 - b) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site.
 - c) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
 - d) The disturbed area and the duration of exposure shall be kept to a practical minimum.
 - e) Disturbed soils shall be stabilized as quickly as practicable.
 - f) Temporary vegetation or mulching shall be used to protect disturbed areas during development.

- g) Permanent (final) vegetation and mechanical erosion control measures, in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission, shall be installed as soon as practicable after construction ends.
- i) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
- j) The top of a cut or the bottom of a fill section shall not be closer than ten feet (10') to an adjoining property line, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred fifty feet (150') of any property line in the absence of prior written agreement of the owner of such adjoining property.
- k) During grading operations, methods of dust control shall be employed wherever practicable.
- l) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- m) Any activity on a stream, watercourse or swale, or upon floodway or right-of-way shall comply with the Natural Resource Protection Act, Title 38, M.R.S.A., Sections 480-A and 480-S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway, or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
- n) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

1270 Buffer Strip Requirement for Activities Requiring Planning Board Approval

- A. A fifty foot (50') wide buffer strip shall be provided along all property boundaries which require Planning Board approval and abut incompatible uses.

No structures, streets, or utilities may be placed in the buffer strip, except that utilities only may cross a buffer strip to provide services.

- B. Within twenty-five feet (25') of any property line and within the buffer strip, visual screening shall be provided. The visual screening shall consist minimally of two staggered rows with at least 6' of height, placed 12' on center, nursery stock landscaping (such as coniferous shrubs or trees). The screening shall be maintained throughout the life of the project. The screening shall effectively screen at least 80% of the structures from the view of the adjacent properties

1280 Road Entrances, Curb Cuts, Driveways

All road entrances, curb cuts, and driveways shall be designed – considering land topography, street design, and existing and expected traffic patterns – to promote to the greatest extent possible safe pedestrian and vehicular traffic and to protect public safety. Driveways and roads in multi-family housing projects shall be designed and laid out to provide for adequate traffic circulation and for access of emergency service vehicles to every housing unit on the premises.

Private roads must have a fifty foot (50') right-of-way and must be screened if the right-of-way passes within thirty-five feet (35') of a residence. The visual screening may consist of fences, berms, landscaping (such as coniferous shrubs and trees) and/or natural existing vegetation. The screening shall be maintained throughout the life of the right-of-way. The screening shall effectively screen at least 80% of the structures from the view of the right-of-way. If vegetative screening is chosen, the owner has five (5) years to comply with this standard.

NOTE: Any driveway or road on a state highway or state aid road requires an entrance permit from DOT.

A. Vehicular Access

The following standards apply to design and construction of vehicular access to properties:

1. Each property shall be provided with vehicular access to the property by abutting private or public ways. Private right-of-ways shall be protected by permanent easements.
2. The following criteria shall be followed for entrances and/or driveways to any use other than single and two-family dwellings:
 - a) All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient access to and from the site, and to minimize conflict with the flow of traffic.

- b) The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily.
- c) Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.
- d) For a distance of twenty feet (20') from the intersection of any two (2) streets along street lines, no wall, fence, sign, or other structure and no hedges, trees, or other growth shall be planted or erected in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten feet (10') above street level.
- e) Any exit driveway or driveway lane shall be designed in profile and grading and located so as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten feet (10') behind the curbline or edge of shoulder.

Allowable speed (Miles per hour)	Required Sight Distance (Feet)
25	160
35	240
40	275
45	325
50	350
55	425

- f) Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty feet (50') of the point of tangency of the existing or proposed curb radius of that site. Access to the lot shall be provided across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.
- g) The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which shall allow safe access into and out of the project if less than four hundred (400) trips are generated. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.
- h) Where two (2) or more driveways connect on a single site to any one (1) road, a minimum clear distance of one hundred feet (100')

measured along the right-of-way shall separate the closest edges of any two (2) such driveways, unless the driveways are one way only. In that case, the minimum clear distance shall be no less than fifty feet (50').

- i) **Angles.** Driveways used for two-way operation shall intersect the road at an angle of or as near to ninety (90) degrees as site conditions will permit and in no case less than sixty (60) degrees. Driveways used by vehicles in one (1) direction of travel (right-turn only) shall not form an angle smaller than forty-five (45) degrees with the road, unless acceleration and deceleration lanes are provided.
- j) **Dimensions.** The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated. The required maximum and minimum dimensions for driveways are indicated below. Driveways serving large volumes of daily traffic or traffic of over fifteen percent (15%) truck traffic shall be required to utilize maximum dimensions.

	One-way Operation Driveways* Width (Feet)	Two-Way Operation Driveways* Width (Feet)
Three (3) to ten (10) dwelling units	10 to 15	15 to 25
Ten (10) dwelling units or more	15 to 25	20 to 35
Commercial and industrial	15 to 30	25 to 35
* All driveways shall be five feet (5') wider at the curb line and this additional width shall be maintained for a distance of twenty feet (20') into the site.		

- k) **Grades.** For all driveways entering onto Route 222, the grade shall not be more than three percent (3%) for the first fifty feet (50') from the edge of the pavement. Driveways shall not be located where visibility is limited because of curves or topography.

B. Highway Access

The following provisions shall apply to all properties which abut and/or have frontage on Route 222:

1. All lots of record legally existing at the time of the adoption of this Ordinance shall be allowed one (1) direct access to Route 222 provided that the minimum sight distance is met.
2. One curbcut is allowed for every 150 feet of frontage provided it meets the minimum sight distances specified.

C. Emergency Vehicle Access

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

1290 Off-Street Parking and Loading Requirements**A. Off-Street Loading/Unloading Requirements**

On every lot on which a commercial or industrial use is hereafter established, space with access to a public street shall be provided as indicated below for the loading and unloading of vehicles.

1. **BUSINESS:** One (1) space twelve feet (12') by fifty-five feet (55') with a minimum overhead clearance of fifteen feet (15') for every ten thousand (10,000) square feet or fraction thereof of floor space.

B. Off-Street Parking

1. **PARKING SPACE SHALL BE PROVIDED:** No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as specified below is provided. Where a fractional number of spaces would be called for, at least the next higher whole number of spaces shall be required. Each parking space shall measure at least nine feet (9') in width by eighteen feet (18') in length and shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall be arranged so that vehicles can be turned around within such lots without entering the street. Private roads, separated from public right-of-ways, but not allowing for turn-around space are deemed adequate for these requirements.
 - a) **Automobile Repair and Filling Stations:** one (1) space for each regular employee, plus one (1) space for each one hundred (100) square feet of floor area used for service work
 - b) **Boarding and Rooming House:** one (1) space for each guest room
 - c) **Drive-in Restaurants and Dairy Stands:** ten (10) spaces plus one (1) additional space for each person serving or preparing food on the largest shift employed at least once a week on a regularly scheduled basis during the peak season of operations
 - d) **Hospitals and Nursing Homes:** one (1) space for each five (5) beds, plus one (1) space for each staff or visiting doctor, plus one (1) space for each four (4) employees

- e) **Fraternal Organizations and Clubs:** one (1) space for each five (5) members
 - f) **Business and Professional Offices:** one (1) space for each two hundred (200) square feet of working space
 - g) **Places of Amusement or Public Assembly:** one (1) space for each fifty (50) square feet of floor area devoted to patron use
 - h) **Residential:** Two (2) spaces for each dwelling unit
 - i) **Restaurants, Cocktail Lounges, and Bottle Clubs:** one (1) space for each four (4) customer seats, plus one (1) space for each two (2) employees
 - j) **Retail Business:** four (4) spaces for each one thousand (1,000) square feet of sales area
 - k) **Roadside Farm Stands:** four (4) spaces
 - l) **Elementary Schools:** two (2) spaces per classroom plus one (1) space for every four (4) seats of public assembly or ten (10) spaces for every one thousand (1,000) square feet of assembly space if no fixed seats
 - m) **Wholesale Business:** one (1) space for each three hundred (300) square feet of floor space
 - n) **Churches:** one (1) space for each three (3) persons seating capacity
 - o) **For uses not specifically listed in this section,** the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number to provide for employees and customers and visitors anticipated on the site.
2. **LOCATION ON OTHER PROPERTY:** If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property provided that such property lies within four hundred feet (400') of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner provided, however, that it may serve different principal uses at different times of day.

1300 Performance Standards (continued)

1310 Swimming Pools

Any in-ground private or public swimming pool shall be enclosed by a fence no less than four (4) feet high designed to prevent uncontrolled access.

1320 Sewage Disposal

All plumbing facilities in the Town of Levant and all sewage disposal systems shall be installed and operated in compliance with the State of Maine Plumbing Law.

Plumbing and sewage disposal systems shall be installed only after a Plumbing permit has been obtained.

1330 Building Construction Standards

All new structures built in the Town of Levant shall be designed and built to conform to the generally-accepted standards of good practice for such construction.

No manufactured housing shall be located within the Town of Levant unless it meets the standards of 30A M.R.S.A. sec 4358 as amended.

1340 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. Each tent or shelter site shall contain a minimum of twenty-five hundred (2,500) square feet of suitable land, not including driveways and roads, for each site.
- B. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each tent or shelter site.
- C. The area intended for placement of the tent or shelter site and utility and service buildings shall be set back a minimum of fifty feet (50') from the exterior lot lines of the camping area, and one hundred feet (100') from the normal high water mark of any river, pond, stream, and upland edge of a wetland.
- D. Screening shall be required to shield the campground from abutting areas.

All campgrounds established in the Town of Levant shall meet all the following standards:

Campgrounds shall be located on well-drained sites properly graded to insure rapid drainage and freedom from stagnant pools of water. The sites shall not be exposed to unpredictable adverse influences such as sudden flooding, land slumping, or erosion which would expose persons or property to hazards.

1341 Campers

All campers shall be located at least twenty-five feet (25') from all campground boundaries and at least ten feet (10') from any campground road.

1342 Site size requirement

- A. Each campsite for motorized vehicles shall contain not less than twenty-five hundred (2,500) square feet and shall be at least fifty feet (50') wide.
- B. Each campsite for non-motorized devices shall contain not less than one thousand 1,000 square feet and shall be at least thirty-five feet (35') wide.

1343 Camper Siting

All campers shall be arranged so that there will be a minimum of fifteen feet (15') between each unit.

1350 Mobile Home Standards

All mobile homes in the Town of Levant shall meet the following design criteria:

- A. Placement on a permanent foundation.
- B. Constructed with a pitched, shingled roof.
- C. Constructed with exterior siding that is residential in appearance.

The terms "permanent foundation" and "pitched, shingled roof" shall have the meaning set forth at 30-A M.R.S.A. section 4358 (1) (D) & (E), as amended.

- D. Certified, pursuant to 30-A M.R.S.A. section 4358.

Article 1400 Enforcement

1410 Nuisances

Any violation of this Ordinance shall be deemed a nuisance.

1420 Code Enforcement Officer

The Code Enforcement Officer established in the Town of Levant shall have the duty to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record. Any such

notice is not a prerequisite to bringing legal action noted in Section 1430, and the failure to give notice shall not in any way affect the legal action.

1430 Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, and/or consent agreements, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

1440 Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452. Any fines imposed shall inure to the Town.

Article 1500 Appeals

1510 Board of Appeals

The Board of Appeals as established in the Town of Levant shall hear appeals relative to this Ordinance.

1520 Jurisdiction of the Board of Appeals

1521 Variance

The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance, when the Board finds that such application could cause undue hardship to the petitioner and his property. The words "undue hardship" mean:

- A. That the land in question cannot yield a reasonable return unless a variance is granted;
- B. That the need for a variance is due to the unique circumstances of the property;
- C. That the granting of the variance will not alter the essential character of the locality.
- D. That the hardship is not the result of action taken by the Applicant or the prior owner.

A variance shall be authorized only for lot area, frontage, and setback, and shall be limited to an appellate review

1522 Administrative Appeal

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. Such hearings shall be held in accordance with State Laws, and the Board's deliberations and decisions limited to appellate review.

Following such hearing, the Board of Appeals may reverse the decision of the Planning Board or Code Enforcement Officer only upon a finding that the decision is clearly contrary to specific provisions of this Ordinance.

A. Time Limit

An administrative or variance appeal may be taken to the Board by an aggrieved party from any decision of the Code Enforcement Officer or Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

1610 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

- The word "**person**" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- The present tense includes the future tense. The singular number includes the plural, and the plural includes the singular.
- The word "**shall**" is mandatory, and the word "**may**" is permissive.
- The words "**used**" or "**occupied**" include the words "intended", "designed", or "arranged to be used or occupied".
- The word "**building**" includes the word "**structure**", and the word "**dwelling**" includes the word "**residence**".
- The word "**lot**" includes the words "**plot**" or "**parcel**".

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have the customary dictionary meaning.

1620 Definitions

In this Ordinance, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Accessory	A structure of a nature customarily incidental or structure subordinate to that of the principal structure other than primary use to which the premises are devoted.
Arterial	Major roadways which serve long distance through traffic.
Camper	A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation and vacation use. This term shall also include travel trailers, camper-trailers, and other short-term shelter vehicles or devices, including tents.
Campground	Any parcel of land which contains, or is designed, laid out, or adapted to accommodate two or more campers, as defined.
Collector Streets	Roadways which connect local streets or arterials, and generally provide access to abutting land.
Dwelling	A fixed structure containing one or more dwelling units.
Dwelling Unit	A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating.
Excavation	Any removal of earth material from its original location.
Equipment	Anything constructed which is freely and immediately movable and does not require specific location for its use.
Filling	Depositing or dumping any matter on or into the ground or water.
Frontage, Road	The continuous linear distance, measured along the lot line which separates the lot from a public or private way.
Incompatible Use	A use or activity that creates a conflicting demand on current and reasonable uses of an adjacent property.
Living Space	Enclosed dwelling place used as principal structure. Enclosed porches are included in this definition.
Local Streets	Roadways which directly serve abutting properties.
Lot Area	The total horizontal area within the lot lines.
Lot of Record	A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the Penobscot County Register of Deeds.

<p>Lot Lines</p>	<p>The lines bounding a lot as defined below: <u>Front Lot Line</u> – On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street <u>Rear Lot Line</u> – The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. <u>Side Lot Line</u> – Any lot line other than the front lot line or rear lot line.</p>
<p>Manufactured</p>	<p>A structural unit or housing units designed for occupancy, constructed in a manufacturing facility, and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim.</p>
<p>Mobile Home</p>	<p>Manufactured housing which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, including plumbing, heating, air conditioning, and electrical systems contained therein.</p>
<p>Mobile Home Park</p>	<p>Any parcel of land which contains, or is designed, laid out, or adapted to accommodate three or more mobile homes. Nothing herein shall be construed to apply the term "Mobile Home Park" to any premises used solely for storage or display of mobile homes.</p>
<p>Multi-Family Structure</p>	<p>Building containing more than two dwelling units.</p>
<p>Parking Space</p>	<p>A parking space shall be an area adequate for parking an automobile with room for opening doors on both sides. Such a space shall measure at least 9 feet wide by 18 feet long.</p>
<p>Premises</p>	<p>One or more lots which are in the same ownership and are contiguous or separated only by a waterbody, including all buildings, structures, and improvements.</p>
<p>Principal Use</p>	<p>The primary purpose to which the premises are structure devoted, and the main purpose for which the premises exist. Examples of principal structures include a single-family residence, an auto service station, a school.</p>
<p>Screening</p>	<p>Is a visual barrier consisting of either: 1) two staggered rows of minimally 6’ in height, 12’ on center nursery stock landscaping (such as coniferous shrubs and/or trees) 2) A berm (to be utilized only in excavation activities)</p>

Setback	The minimum horizontal distance from a lot line to the nearest part of a structure.
Structure	Anything constructed or erected, except a fence or boundary wall, the use of which requires permanent location on the ground or permanent attachment to something on the ground. Signs, satellite dishes, and mobile homes are structures.
Use	The purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.