

Performance Standards for Development

an Ordinance of the Town of Charlotte Maine

Accepted at Town Meeting March 22, 1999
Amended August 9, 1999 *Special Town Meeting*

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PURPOSE

The purpose of this ordinance is to Town of Charlotte
Performance Standards for Development
protect the Charlotte life style and way of life,
protect homes from incompatible uses,
preserve the rural nature of the Town,
protect the public health and safety,
promote the general welfare,
conserve the environment, groundwater, wildlife and fish habitat, unique natural areas,
wetlands and flood plains, and to protect historic and archaeological resources,
by establishing performance standards to which new development activities must conform.

2. APPLICATIONS REQUIRED FOR NEW DEVELOPMENTS

This ordinance does not affect existing buildings or uses of the land. Any person intending to commence any development activity for which prior approval is required under section 3 of this ordinance shall prepare and submit to the Planning Board an application containing the information required by section 5. Persons who are not sure whether or not an application is required for a particular activity should ask the Planning Board.

3. DEVELOPMENTS FOR WHICH PRIOR APPROVAL IS AND IS NOT REQUIRED UNDER THIS ORDINANCE

This ordinance supplements other state and local laws and ordinances, such as the Town of Charlotte's Shoreland Zoning Ordinance, which will also apply to certain developments.

3.1 Developments for Which Prior Approval *Is* Required

Any person must obtain approval prior to commencing a junk yard, automobile graveyard or recycling facility, gravel pit or other extractive activity, commercial campground or tenting area, hotel or motel, commercial kennel, recreation or amusement facility, or any other activity involving:

- 3.1.1 Alteration or improvement of a site involving grubbing or grading of an area of 5,000 square feet or more.
- 3.1.2 Construction, placement, or expansion of any building or structure with total area for all floors of 1,000 square feet or more of gross non-residential floor area.
- 3.1.3 Establishment of a new nonresidential use of the land of 2,500 square feet or more with no new buildings or structures.
- 3.1.4 Erection of a cellular or other communication tower
- 3.1.5 Expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.
- 3.1.6 Conversion of existing building, in whole or in part, from residential to nonresidential use.
- 3.1.7 Construction of a residential building containing three or more dwelling units.
- 3.1.8 Conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if this will increase impacts subject to the standards of Section 7 of this ordinance.
- 3.1.9 Modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three or more.
- 3.1.10 Conversion of an existing nonresidential building or structure, in whole or in part, into three or more dwelling units.
- 3.1.11 Construction or expansion of paved areas or other impervious surfaces, including drives, and parking lots involving area of 5,000 square feet or more.
- 3.1.12 Any other development activity which the Planning Board determines is not exempt from review under section 3.2.

3.2 Developments for Which Prior Approval *Is Not* Required

The following development activities shall *not* require prior approval under this ordinance:

- 3.2.1 Alteration or improvement of a site involving grubbing or grading of an area of less than 5,000 square feet within any three year period.
- 3.2.2 Construction or placement of any new building or structure with less than 1,000 square feet of gross non-residential floor area

- 3.2.3 Establishment of a new nonresidential use of the land of less than 2,500 square feet with no new buildings or structures.
 - 3.2.4 Construction, alteration, or enlargement of a site-built single family or two-family dwelling, including accessory buildings and structures.
 - 3.2.5 Placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
 - 3.2.6 Agricultural activities, including agricultural buildings and structures.
 - 3.2.7 Timber harvesting and forest management activities.
 - 3.2.8 Establishment or modification of home occupations that do not result in changes to the site or exterior of the building.
 - 3.2.9 Conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if this will not increase impacts subject to the standards of section 7.
 - 3.2.10 Construction or expansion of paved areas or other impervious surfaces, including drives, and parking lots involving an area of less than 5,000 square feet within three year period
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4. PREAPPLICATION MEETING

Prior to submitting a formal application, the applicant, or the applicant's representative, may request a preapplication meeting with the Planning Board. This meeting shall be informal and informational in nature. There shall be no fee for this meeting, and it shall not cause the plan to be a "pending application or proceeding" under state law. No decision on the substance of the plan may be made at this meeting.

4.1 Purpose

The purposes of the preapplication meeting are to:

- 4.1.1 Allow the Planning Board to understand the nature of the proposed use,
- 4.1.2 Allow the applicant to understand the review process and required submissions,
- 4.1.3 Identify issues that need to be addressed in the formal application, and
- 4.1.4 Make the applicant aware of opportunities for coordinating with Town goals and policies.

4.2 Information to be Presented

There are no formal submission requirements for a preapplication meeting. However, the applicant should be prepared to discuss the following with the Board:

- 4.2.1 Proposed site, including its location, size, and general characteristics,
 - 4.2.2 Nature of the proposed use and potential development,
 - 4.2.3 Issues or questions about existing regulations applicable to the project, and
 - 4.2.4 Requests for waivers from the submission requirements.
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5. APPLICATION REQUIREMENTS

The application shall consist of a written statement describing exactly what is proposed, and plans and drawings clearly showing the proposal. The purpose of the written materials, plans and drawings is to provide the information necessary to allow the Planning Board to review the application for conformance with the performance standards of section 7. The application shall include:

5.1 General Information

- 5.1.1 Owner's name, address, and phone number and applicant's name, address and phone number if applicant is not the owner.
- 5.1.2 Names and addresses of all property owners within 500 feet of all property boundaries.
- 5.1.3 Sketch map showing general location of the site within the Town of Charlotte
- 5.1.4 Copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property by applicant.
- 5.1.5 Name, registration number, and seal of the person who prepared the plan, if applicable.
- 5.1.6 Evidence of applicant's technical and financial capability to carry out the project.

5.2 Existing Conditions

- 5.2.1 Location and length of all property lines of the site to be developed.

- 5.2.2 Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- 5.2.3 Location and size of any existing culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles and an assessment of their adequacy and condition to meet the needs of the proposed use.
- 5.2.4 Location, names, and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.
- 5.2.5 Location, dimensions and ground floor elevation of all existing buildings on site.
- 5.2.6 Location, dimensions and elevation of all existing signs on site.
- 5.2.7 Location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- 5.2.8 Location of intersecting roads or driveways within 200 feet of site.
- 5.2.9 Location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features such as floodplains, deer wintering areas, significant wildlife and fish habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
- 5.2.10 Direction of existing surface water drainage across the site.
- 5.2.11 Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- 5.2.12 Location of the nearest water supply for fire protection.

5.3 Description of Proposed Development

- 5.3.1 General description of the proposed use or activity.
- 5.3.2 Location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- 5.3.3 Location, front view, materials, and dimensions of proposed signs.
- 5.3.4 Location and type of exterior lighting.
- 5.3.5 Location and dimensions of proposed driveways, parking and loading areas, and walkways and indication of materials to be used in their construction.
- 5.3.6 Proposed landscaping and buffering.
- 5.3.7 Location and dimensions of all proposed easements, covenants and deed restrictions.
- 5.3.8 Location of all utilities, including fire protection systems.
- 5.2.9 For major residential developments: Estimate of number of additional school students that will result from the development.
- 5.3.10 Estimate of the peak hour and daily traffic to be generated by the project.
- 5.3.11 Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data.
- 5.3.12 Direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- 5.3.13 Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- 5.3.14 Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the size of the project or the existing conditions in the vicinity of the project.
- 5.3.15 Schedule of construction including anticipated beginning and completion dates.

5.4 Technical and Financial Capacity

The applicant must demonstrate the financial and technical capacity to carry out the project in accordance with this ordinance and the approved application.

5.5 Additional Application Requirements

The Planning Board may, if it determines that additional information is necessary in order for it to determine compliance with the performance standards in section 7, require the applicant to

provide specific additional information.

5.6 Waiving of Application Requirements

The Planning Board may, upon request of the applicant, waive specific application requirements when the applicant can show that such requirements are not relevant to the proposed development.

5.7 Application Fee

An application for project approval must be accompanied by a nonrefundable \$20 application fee to cover costs to the Town of Charlotte of processing of the application, such as copying and mailing of notifications. See also section 6.8.

6. APPLICATION REVIEW PROCEDURE

When an application is received, the Planning Board shall place it on the agenda of its next regular meeting, and at that meeting give a dated acknowledgement to the applicant of receipt of the application.

6.1 Notifications

The Planning Board shall, within one week of acknowledging receipt of an application, notify by mail all property owners within 500 feet of the parcel on which the proposed development is located, give written notice of the application to the Selectmen, Fire Chief, Plumbing Inspector, and other interested parties, and post the notice on the Town Bulletin Board.

6.2 Determination if Application is Complete

Within 30 days of the receipt of an application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing specifying the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

6.3 Date for Consideration

As soon as the Board determines that the application is complete, the Board shall set a date, time, and place for a meeting to consider the application and send written notice of the meeting to the applicant and all persons who received notice in section 6.1. The notice shall make clear that all are welcome to attend the meeting and express their views on the application.

6.4 On-site Inspection

The Planning Board may inspect the site of the proposed development to see existing conditions, field verify the information submitted and investigate the development proposal. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in section 6.5 may be extended, which extension shall not exceed 30 days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties notified in section 6.1.

6.5 Final Action

The Planning Board shall take final action on said application within 30 days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of section 7 and other requirements of the Town of Charlotte. The Board shall send the applicant, officials who received notice in 6.1, and any other parties who requested to be notified of the action of the Board, copies of the minutes of the meeting containing the findings of fact and decision of the Board.

6.6 Extension of times

Any time limit provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

6.7 Approval and Filing

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the application shall be signed by a majority of the members of the Board and filed with the Town of Charlotte Clerk.

6.8 Professional Review Costs

If during its review of the application the Planning Board determines that it will require professional assistance in order to adequately complete the review in accordance with the performance standards, it will obtain estimates of the costs of such assistance and advise the applicant. The applicant and the Planning Board will then agree upon reasonable amount which such costs will not exceed. If the applicant desires the review to continue, the applicant shall agree to reimburse the Town of Charlotte for up to this amount. Such services may include, but need not be limited to, those provided by engineers, attorneys, and other professionals. As the review progresses, the Planning Board shall provide the applicant with written invoices itemizing the actual costs of these services. The applicant shall make payment of these amounts to the Town of Charlotte before final approval of the application can be made.

7. THE PERFORMANCE STANDARDS

The standards in this section shall be used by the Planning Board in reviewing applications and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable requirements have been met.

7.1 Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support the development. Buildings, lots, and support facilities must be placed on those portions of the site that have the most suitable conditions for the development. Environmentally sensitive areas such as wetlands, steep slopes, floodplains, significant wildlife and fish habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural natural areas, sand and gravel aquifers, natural drainage areas, and historic and archeologic resource areas must be maintained and preserved to the maximum extent. The development shall include appropriate measures, including but not limited to, the modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

7.2 Advertising Features

Exterior signs and outdoor advertising structures or features must be designed or installed in such a way that their size, location, or lighting do not detract from, or adversely effect surrounding properties, or constitute hazards to vehicles or pedestrians.

7.3 Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed and shielded to avoid undue glare, adverse impact upon neighboring properties and rights-of-ways, and unnecessary lighting of the night sky. Area lighting shall emit no light above the horizontal. Sodium vapor lamps are the preferred source for area illumination. Building and sign lighting shall point downward rather than up. All exterior lighting, except security lighting, must be turned off between 11:00 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period.

7.4 Noise Levels

Proposed developments which abut residential areas must be designed so as not to generate noise levels that will be a nuisance to neighboring properties. To assure this, developments with high noise levels may be required to conduct certain activities within enclosed spaces or to install sound

deflectors or shields. Continuous, regular, or frequent or intermittent sounds produced by any activity may not exceed 55 decibels at the property boundary between the hours of 10:00 p.m. and 6:00 a.m. Sound levels shall be measured four feet above the ground at the property line using a meter meeting American National Standards Institute's standard specification for general purpose sound meters

7.5 Air Quality

The proposed development must not emit dust, ash, smoke, or other particulate matter which can cause damage to human health, vegetation, or property by reason of concentration or toxicity, or which can cause soiling beyond the property boundaries, nor shall it emit non-farming odorous matter in such quantities as to be offensive at the property boundaries.

7.6 Buffering of Adjacent Uses

Where there is a need to shield abutting residential uses and users of public roads from any adverse external effects of the development or to shield the development from the negative impacts of adjacent uses, and topographical or other barriers do not provide reasonable screening, the development must provide, on its site, for buffering sufficient to minimize such effects. Buffers may be provided by distance, landscaping, solid fencing, changes in grade, or a combination of these or other techniques. Where a potential safety hazard to children is likely to arise, physical screening sufficient to prevent children from entering the premises must be provided.

7.7 Building Scale

When large new buildings or structures are proposed in areas where their size and other features may be significantly different from those which already exist in the immediate neighborhood, care must be taken to assure that the new building or structure is compatible with its neighbors through design or siting techniques.

7.8 Communication Towers

An applicant seeking to build a new cellular or other communication tower must demonstrate that adequate service can not be provided utilizing an existing tower or alternative structure before the application can be approved. A condition of approval shall be agreement to allow competitors to locate antennas on the tower in the future; and to allow, at no charge, providers of emergency, safety, and public works services to the Town to locate antennas necessary to adequately serve the Town on the tower.

7.9 Access To Site

The proposed use shall be provided with vehicular access by public or private road which has adequate capacity to accommodate the additional traffic anticipated to be generated by the proposed development. Private rights-of-ways shall be protected by permanent easements.

7.10 Access Into Site

To assure vehicular access to and from the development is safe and convenient, driveways shall:

- 7.10.1 Be designed in profile and grading to afford safety to traffic, provide for safe and convenient site ingress and egress, and to minimize conflict with the flow of traffic,
- 7.10.2 Not have an average slope in excess of eight percent within 50 feet of the point of intersection with the road serving the site,
- 7.10.3 Intersect the road at an angle of as near 90 degrees as conditions permit.
- 7.10.4 Be of such dimensions as to adequately accommodate the volume and character of vehicles anticipated to be attracted to the proposed development,
- 7.10.5 Be setback at least 15 feet from side property lines.

7.11 On-site Circulation and Parking

- 7.11.1 The layout of the site must provide for vehicular and pedestrian safety, snow removal and storage, and delivery and collection services.
- 7.11.2 Provision shall be made for safe and convenient all season emergency vehicle access to all buildings and structures at all times.
- 7.11.3 All roadways must be designed to harmonize with the topographic and natural features of

the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.

- 7.11.4 Every proposed use shall provide off-street parking spaces adequate to accommodate the motor vehicles anticipated to be used by occupants, customers, clientele, and employees.
- 7.11.5 Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the road.
- 7.11.6 All parking spaces, access drives, and impervious surfaces must be located at least 15 feet from property lines.

7.12 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that will run off proposed driveways, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan which, to the extent possible:

- 7.12.1 Provides for retaining stormwater on the site using the natural features of the site, and not allowing it to adverse impacts on abutting or downstream properties.
- 7.12.2 Preserves all natural drainage ways at their natural gradients and must not be filled or converted to a closed system unless approved as part of the project approval.
- 7.12.3 Provides for the disposal of stormwater without damage to adjacent properties, downstream properties, or adjacent roads.
- 7.12.4 Considers upstream runoff which must pass over or through the site to be developed and provides for this movement.

7.13 Erosion Control

Soil erosion and sedimentation of watercourses and water bodies shall be minimized by an active program meeting the requirements of the current edition of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

7.14 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Filling, excavation and earth moving activity must be kept to a minimum, avoiding undue cutting and filling, and the need for retaining walls.

7.15 Water Supply

The development must be provided with a water supply that provides each use with an adequate supply of water meeting the standards for safe drinking water as established by the State of Maine, and with adequate flows for fire protection. If necessary, a fire pond shall be constructed.

7.16 Sewage Disposal

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

- 7.16.1 All sanitary sewage from new or expanded uses must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- 7.16.2 When two or more lots or buildings in different ownership share the use of a common sub-surface disposal system, the system must be owned and maintained in common by an owners association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

7.17 Groundwater Quality Protection

The proposed site development or use must not adversely impact either the quality or quantity of groundwater available to abutting properties. Applicants whose projects involve on-site sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

7.18 Surface Water Quality Protection

All aspects of the project must be designed so that:

- 7.18.1 There is no storage or discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, or plant life.
- 7.18.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- 7.18.3 If the project is located within the watershed of a "body of water most at risk from development" as identified by the Maine Department of Environmental Protection, the project must comply with the Department's standards with respect to the export of total suspended solids and phosphorous.

7.19 Hazardous, Special and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

7.20 Shoreland Relationship

The development must not adversely affect the shoreline of any adjacent water body. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate. Developments within the shoreland zones must conform to the Charlotte Shoreland Zoning Ordinance in addition to the provisions of this ordinance.

7.21 Solid Waste Disposal

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

7.22 Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction, and extent of excavation.

8. AFTER APPROVAL OF APPLICATION

8.1 Limitation of Approval

Substantial construction of the improvements covered by any approved application must be commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the time specified in section 5.3.15, the approval shall be null and void. The applicant may request an extension of this deadline prior to its expiration. Such request must be in writing to the Planning Board which may grant up to two six-month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

8.2 Submission of As-Built Information

Upon completion of any project involving the construction of more than 20,000 square feet of gross floor area or 50,000 square feet of impervious surface, the applicant must provide the

Planning Board with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. This "as-built" information must be submitted within 30 days of project completion.

8.3 Minor Changes to Approved Applications

Minor changes in approved applications necessary to address field conditions, and which do not affect approval standards, may be approved by the Planning Board provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Such changes must be added to the file copy of the approved application.

8.4 Amendments to Approved Applications

Approvals are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

8.5 Maintenance of Development

During the life of a development approved under the terms of this ordinance, all improvements necessary to bring the development into conformance with the performance standards shall be maintained in good condition. No changes may be made to the site or improvements that will cause the development to be out of conformance with the performance standards.

9. ENFORCEMENT

This ordinance shall be administered and enforced by the Planning Board. It shall be the duty of the Board or its agent to enforce the provisions of this ordinance. If the Board or its agent shall find that any provision of this ordinance is being violated, it shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. It shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The Board is hereby authorized to institute or cause to be instituted, in the name of the Town of Charlotte, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A §4452 MRSA. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Town of Charlotte Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

10. INTERPRETATION

The Planning Board shall be responsible for interpreting the provisions of this ordinance. Any person who believes that the Board has made an error in the interpretation or application of the provisions, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board of Appeals finds that the Planning Board erred in its interpretation of the ordinance, it shall modify or reverse the action accordingly.

11. APPEAL OF PLANNING BOARD ACTIONS

Appeal of any actions taken by the Planning Board with respect to this ordinance shall be made to

the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

12. AMENDMENTS TO THIS ORDINANCE

This ordinance may be amended by a majority vote at a Town Meeting. Amendments may be initiated by the Selectmen, the Planning Board, or the public. No proposed amendments to this ordinance shall be referred to a Town Meeting until after the Planning Board has held a public hearing on the proposal, and after the hearing made a recommendation to the Selectmen. Notice of the hearing shall be posted at least seven days prior to the hearing.

13. SEVERABILITY

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision.

14. CONFLICTING REGULATIONS

Where any provision of this ordinance imposes more stringent requirements, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern.

15. EFFECTIVE DATE

The effective date of this ordinance shall be the date of its adoption by Town Meeting.
(Adopted at annual Town Meeting, March 22, 1999, amended at Special Town Meeting August 9, 1999)

16. DEFINITIONS

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

ABUTTING PROPERTY: Any lot which is physically contiguous with the subject lot even if only at a point, and any lot which is located directly across a street or right-of-way from the subject lot.

ACCESSORY BUILDING: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot.

ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGGRIEVED PARTY: An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance, including a person whose land abuts land for which approval has been granted, and other persons who may have suffered particularized injury as a result of the granting or denial of such approval.

BUILDING: Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property.

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

CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

DEVELOPMENT: Any activity involving change to land or buildings.

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

ENLARGEMENT OR EXPANSION OF USE: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the

State Fire Code are not considered to be enlargements or expansions of use.

FISHERIES: Areas identified by a government agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, of Maine Department of Marine Resources as having significant value as Fisheries and any areas identified in the Charlotte Comprehensive Plan.

FLOOR AREA: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

GROUNDWATER: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

HISTORIC OR ARCHAEOLOGICAL RESOURCES: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Town of Charlotte's comprehensive plan.

HOME OCCUPATION: Occupation or profession which is carried on in no more than 50% of the area of a single family dwelling unit by the full-time permanent occupant of the dwelling, which is clearly secondary to the use of the dwelling for residential purposes, and which does not change the overall exterior appearance of the dwelling. A retail outlet is a home occupation only if the items sold are manufactured, created, or grown by the owner's labor.

IMPERVIOUS SURFACE: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

NATURAL AREAS AND NATURAL COMMUNITIES: Areas identified by a governmental agency such as the Maine Department of Conservation as having significant value as a natural area and any areas identified in the Town of Charlotte's comprehensive plan.

PRINCIPAL STRUCTURE: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE: A use on the same premises as another use which is wholly incidental or accessory to it.

RECHARGE AREA: Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

SETBACK, FRONT: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, REAR: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SETBACK, SIDE: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including cellular and similar towers, but not including tents or vehicles.

SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than 70 percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

USE: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

VEGETATION: All live trees, shrubs, ground cover, and other plants.

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the Town of Charlotte's comprehensive plan.