

ARTICLE 12 – NONRESIDENTIAL IMPACT ASSESSMENT AND DIMENSIONAL REQUIREMENTS**12.1. ASSESSING IMPACT AND ASSIGNING TIER CLASSIFICATION**

12.1.1. All non-residential development projects will be assigned to a Tier classification based on an Assessment of Impact by the Planning Board.

12.1.2. A Tier 1 *use* is a project of a non-residential nature but that is located on a principally residential lot and is assessed as having minimal impact on the neighborhood and/or the environment and shall be classified as a Tier 1 Home Occupation – Level 1 or a Tier 1 Home Occupation – Level 2 and shall be regulated as a Residential use.

12.1.3. A Tier 2 *use* is a non-residential project assessed as having light impact on the neighborhood and/or the environment and shall comply with the Non-Residential Standards of this Ordinance.

12.1.4. A Tier 3 *use* is a non-residential project assessed as having low, moderate or high impact on the neighborhood and/or the environment and shall comply with the Non-Residential Standards of this Ordinance.

12.2. IMPACT ASSESSMENT

With the belief that good fences make good neighbors, the intent of this Ordinance is to minimize negative impacts of non-residential uses on adjacent and near-by residential uses and on the Community as a whole. To accomplish this intent, this Ordinance manages non-residential uses in two ways. The primary management tool is the application of land use standards. Secondly, management is by regulating location of non-residential *uses* including non-residential uses on lots otherwise regulated under residential standards.

Step 1: When the Code Enforcement Officer receives the application, the CEO shall make a preliminary determination of the classification of the non-residential activity using the criteria that follow. If the CEO determines that the use/activity falls within the provisions for a Tier 1 Home Occupation Level 1, the CEO shall inform the applicant that no permit is required. If the assessment determines a Tier 1 Home Occupation Level 2, the CEO shall proceed with permitting. If the CEO determines that the use/activity falls within the provisions for a Tier 2 or Tier 3 use, the CEO shall proceed to prepare the application for referral to the Planning Board. If the CEO is unsure of the determination of Tier classification, the CEO shall refer the application to the Planning Board for their assessment and determination.

Step 2: As part of the pre-application process (See **Article 6.4. Application Process**), the Planning Board shall make a second preliminary determination of the Tier classification of the non-residential activity using the Tier classification process and advise the applicant of this determination.

Step 3: A final determination of the Tier status of the non-residential project shall be made during the Site Plan Review procedure (See **Article 6.4.5. Non-Residential Impact Assessment and Clarification of Procedural Issues**).

As part of a pre-application conference as set out in **Article 6.4**, the Planning Board **may** evaluate applications and assign the project a provisional rating for each factor in **Table 12 A** below. The Board **shall** make such assessment of impact and determination of classification prior to completion of the review items in **Article 6.4.6. Plan Submittal and Review Process**.

In keeping with **Article 3** as an amendment to this Ordinance, the Town may adopt one or more **Development Overlay Areas** to provide additional locations for Tier 3 non-residential uses.

TABLE 12 A: ASSESSMENT OF IMPACT

ASSESSMENT FACTORS IN DETERMINING THE IMPACT OF NONRESIDENTIAL DEVELOPMENT					
ASSESSMENT FACTOR	IMPACT RATING				
	Minimal Impact (Tier 1 characteristics)	Light Impact (Tier 2 characteristics)	Low Impact (Tier 3 characteristics)	Moderate Impact (Tier 3 characteristics)	High Impact (Tier 3 characteristics)
FACTOR #1 Size of principal structure	3,500 sq. ft. or less	3,500 to 5,000 sq. ft.	5,000 to 10,000 sq. ft.	10,000 to 15,000 sq. ft.	More than 15,000 sq. ft.
FACTOR #2 Height of occupied structures	35 feet maximum (rating = 1)		35 feet to 65 feet (rating = 3)		More than 65 feet (rating = 5)
FACTOR #3 Acreage involved	Can be accommodated on three acres with sufficient buffers and light impact protection on the neighborhood and environment (rating = 1)		Requires five or more acres to adequately accommodate the land use activity and provide sufficient buffers	Requires ten or more acres to adequately accommodate the land use activity and provide sufficient buffers	Requires fifteen or more acres to adequately accommodate the land use activity and provide sufficient buffers
FACTOR #4 Traffic generated by the project	No more than 10 more passenger vehicle trips per day involved with the land use activity	Will not impact traffic flow or road maintenance on local roads, Route 180 or Route 9	Would impact traffic flow and/or road maintenance costs on local roads; would have no impact on level of service on Route 9 or Route 180	Would exceed the capacity of local roads; would impact traffic flow or maintenance costs on Route 180; no impact on level of service on Route 9	Reduces level of service on roads within ½ mile
FACTOR #5 Number of employees	Less than five	Fifteen or less	Twenty-five or less	Twenty-six to fifty	More than fifty
FACTOR #6 Sound level generated	No business related noise level over 85 dB(A) generated continuously for more than a minute at any time outside of a building.	No sound level increases of more than 5 dB(A) at a residential property bound for more than four hours total in a 24 hour period.	No sound level increases of more than 10 dB(A) during the day or 5 dB(A) at night at a residential property bound for more than four hours total combined during a 24 hour period. Day and night based on nautical sunrise and sunset during the calendar year. (rating = 3)	Sound level of 50 dB(A) or more at 500 feet from the non-mobile source. (rating = 5)	

ASSESSMENT FACTORS IN DETERMINING THE IMPACT OF NONRESIDENTIAL DEVELOPMENT					
ASSESSMENT FACTOR	IMPACT RATING				
	Minimal Impact (Tier 1 characteristics)	Light Impact (Tier 2 characteristics)	Low Impact (Tier 3 characteristics)	Moderate Impact (Tier 3 characteristics)	High Impact (Tier 3 characteristics)
FACTOR #7 Exterior Lighting	Proposed or needed lighting will not impact light level of adjacent residential properties	Proposed or needed lighting increases the light level of properties within 300 feet	Proposed or needed lighting increases the light level of properties within 500 feet	Proposed or needed lighting increases the light level of properties within 1000 feet	Proposed or needed lighting increases the light level of properties within 1500 feet
FACTOR #8 Air quality affects	No unpleasant odors will be generated that are detectable on adjacent properties; no fly ash or particulate generated	Odors and/or particulate will be generated, are not noxious and would be undetectable at a distance of 300 feet on a calm day	Odors and/or particulate will be generated, are noxious and would be detectable at a distance of 500 feet on a calm day	Odors and/or particulate will be generated, are noxious and would be detectable at a distance of 1000 feet on a calm day	Odors and/or particulate will be generated, are noxious and would be detectable at a distance of 1500 feet on a calm day
FACTOR #9 Surface water affects	No MDEP Stormwater permit required (rating = 1)		Requires MDEP Stormwater permit (rating = 3)		
FACTOR #10 Soil and water contamination potential	None or very small amounts of hazardous waste generated (rating = 1)		Hazardous waste generator (rating = 3)	Extremely hazardous substances stored or is a large quantity hazardous waste generator (rating = 4)	
FACTOR #11 Municipal service demands on waste management, schools, roads, police, fire, EMS, rescue, water, sewer	Slight or no increase in services required	Increased demand will not require new roads, new public safety equipment, more public safety personnel, or more than a slight increase in the municipal budget	Increased demand will require new roads, new public safety equipment, more public safety personnel, or more than a slight increase in the municipal budget	Increased demand will require new roads, new public safety equipment, more public safety personnel, and/or a significant increase in the municipal budget (rating = 5)	

12.3. DETERMINATION OF DEVELOPMENT PROJECT TIER CLASSIFICATION**TABLE 12 B: CLASSIFICATION WORKSHEET**

WORKSHEET FOR DETERMINING PROJECT CLASSIFICATION					
FACTOR	Minimal Impact Rating = 1	Light Impact Rating = 2	Low Impact Rating = 3	Moderate Impact Rating = 4	High Impact Rating = 5
FACTOR #1					
FACTOR #2					
FACTOR #3					
FACTOR #4					
FACTOR #5					
FACTOR #6					
FACTOR #7					
FACTOR #8					
FACTOR #9					
FACTOR #10					
FACTOR #11					

After assigning a rating from 1 to 5 for each Factor, the Planning Board shall designate the project to a Tier classification according to the following:

- A project may be designated a Tier 1 project only if there is no rating >1.
- A project will be designated a Tier 2 project only if there is no rating >2.
- A project will be designated a Tier 3, Low Impact project only if there is no rating >3.
- A project will be designated a Tier 3, Moderate Impact project only if there is no rating >4.
- A project will be designated a Tier 3, High Impact project if any rating is >4.

12.4. DIMENSIONAL REQUIREMENTS**TABLE 12 C: DIMENSIONAL REQUIREMENTS FOR TIER 2 NON-RESIDENTIAL USES**

DIMENSIONAL REQUIREMENT	GROWTH MANAGEMENT AREA		
	GMA 1	GMA 2	GMA 3
Requirements for Tier 2 Uses			
Minimum Lot Area	3 acres 2.25 NDA	3 acres 2.25 NDA	5 acres 4 NDA
Maximum Lot Coverage	25%	25%	25%
Setback	Front (from all roads and ways)	Side/Rear	
Signs	5 feet	5 feet	
Driving, Parking or Display Surfaces	15 feet	10 feet	
Accessory Structures	35 feet	20 feet	
Primary Structures	50 feet	20 feet	
Maximum Height of Occupied Structures	35 feet		
Maximum Height of Structures without Occupied Space	Unoccupied structures with height exceeding 65 feet are subject to height restrictions as determined by the board by written finding to be commonly accepted; the industry standard or necessary for the desired outcome for the proposed use.		
Minimum Lot Width and Road Frontage when fronting on Route 9 or Route 180 for lots created after June 7, 2010.	250 feet	250 feet	250 feet
Minimum Lot Width and Road Frontage when fronting on a Local Road or Private Way for lots created after June 7, 2010.	200 feet	200 feet	200 feet

TABLE 12 D: DIMENSIONAL REQUIREMENTS FOR TIER 3 NON-RESIDENTIAL USES

DIMENSIONAL REQUIREMENT	GROWTH MANAGEMENT AREA		
	GMA 1	GMA 2	GMA 3
Requirements for Low Impact Tier 3 Uses			
Minimum Lot Area	3 acres, 2.25 acres NDA	4 acres, 3 acres NDA	5 acres, 4 acres NDA
Maximum Lot Coverage	35%	35%	35%
Setback	Front (from all roads and ways)		Side/Rear
Signs	5 feet		5 feet
Driving, Parking or Display Surfaces	15 feet		10 feet
Accessory Structures	35 feet		35 feet
Primary Structures	75 feet		35 feet
Maximum Height of Occupied Structures	65 feet		
Maximum Height of Structures without Occupied Space	Unoccupied structures with height exceeding 100 feet are subject to height restrictions as determined by the board by written finding to be commonly accepted; the industry standard or necessary for the desired outcome for the proposed use.		
Minimum Lot Width and Road Frontage (all roads and ways)	300 feet	350 feet	400 feet
Requirements for Moderate Impact Tier 3 Uses			
Minimum Lot Area	5 acres, 4 acres NDA	10 acres, 7 acres NDA	10 acres, 7 acres NDA
Maximum Lot Coverage	50%	50%	50%
Setback	Front (from all roads and ways)		Side/Rear
Signs	5 feet		5 feet
Driving, Parking or Display Surfaces	15 feet		10 feet
Accessory Structures	50 feet		50 feet
Primary Structures	100 feet		50 feet
Maximum Height of Occupied Structures	65 feet		
Maximum Height of Structures without Occupied Space	Unoccupied structures with height exceeding 200 feet are subject to height restrictions as determined		

DIMENSIONAL REQUIREMENT	GROWTH MANAGEMENT AREA		
	GMA 1	GMA 2	GMA 3
	by the board by written finding to be commonly accepted; the industry standard or necessary for the desired outcome for the proposed use.		
Minimum Lot Width and Road Frontage when fronting on a Local Road or Private Way	400 feet	500 feet	500 feet
Requirements for a High Impact Tier 3 Use			
Minimum Lot Area	10 acres, 7 acres NDA	15 acres, 10 acres NDA	15 acres, 10 acres NDA
Maximum Lot Coverage	50%	50%	50%
Setback	Front (from all roads and ways)		Side/Rear
Signs	5 feet		5 feet
Driving, Parking or Display Surfaces	35 feet		20 feet
Accessory Structures	100 feet		50 feet
Primary Structures	100 feet		100 feet
Maximum Height of Occupied Structures	65 feet		
Maximum Height of Structures without Occupied Space	Unoccupied structures with height exceeding 500 feet are subject to height restrictions as determined by the board by written finding to be commonly accepted; the industry standard or necessary for the desired outcome for the proposed use.		
Minimum Lot Width and Road Frontage when fronting on Route 9 or Route 180	500	750	750
Minimum Lot Width and Road Frontage when fronting on a Local Road or Private Way	500	750	750

Retroactivity Clause: The ordinance revision regarding the maximum heights of structures without occupied space provides it shall be in effect retroactively to all proceedings, applications, petitions, and/or activities pending or otherwise by any affected party commenced on or after June 8, 2010 not withstanding the provisions of 1 MRSA §302.