

3-29-2018

Town of Waterboro Zoning Ordinance

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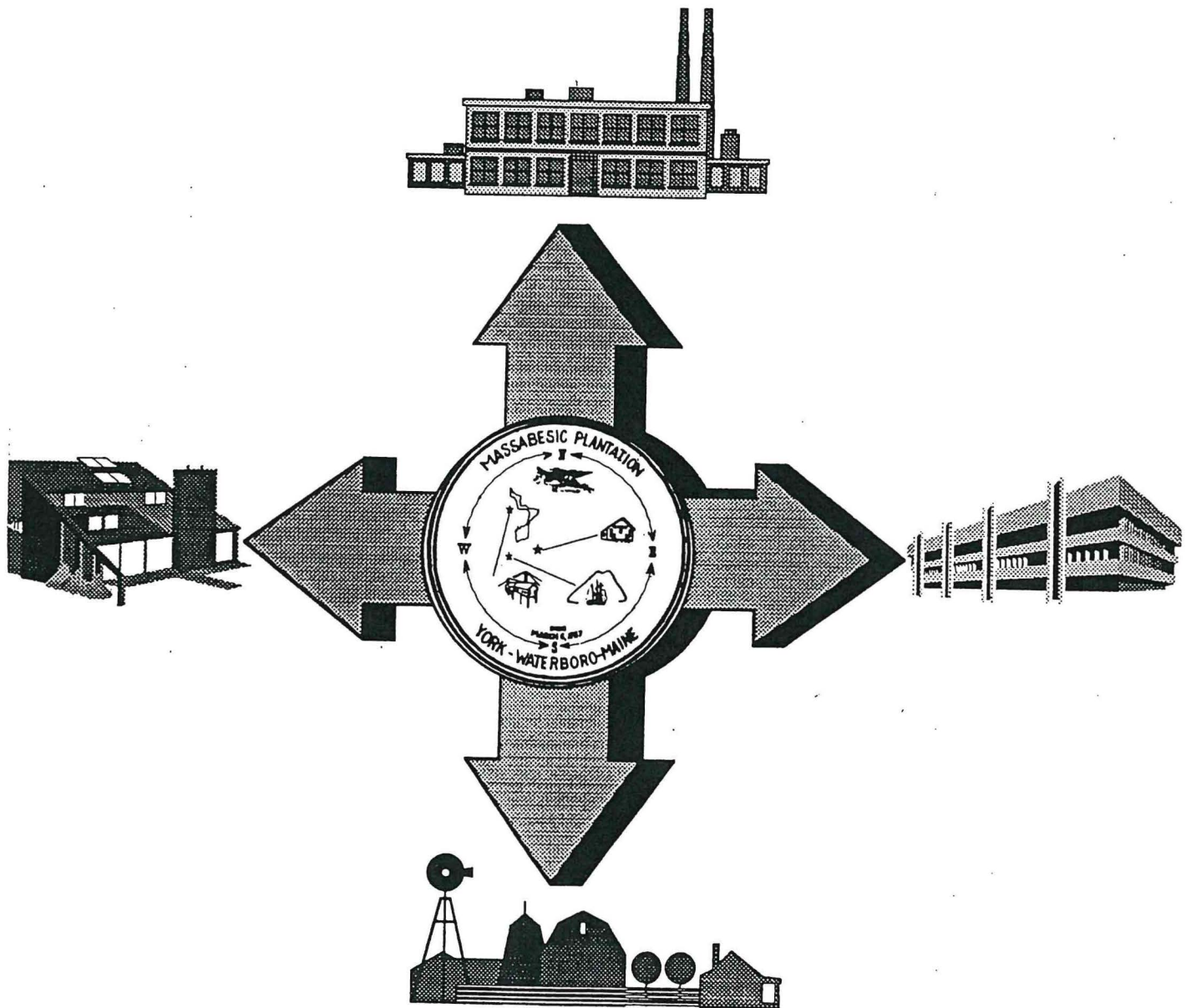
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TOWN OF WATERBORO ZONING ORDINANCE

Price \$8.00



Enacted March 12, 1977

Amended through March 29, 2018

Enacted March 12, 1977

Amendment Dates

Amended through March 8, 1986

Amended through March 12, 1988

Amended through May 10, 1988

Amended through March 11, 1989

Amended through March 10, 1990

Amended through September 25, 1990

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Amended through May 13, 2016

Amended through June 24, 2016

Amended through December 22, 2016

Entire Ordinance Amended through March 29, 2018

Table of Contents

Article 1 Introduction	1
Section 1.01 Statutory Authority	1
Section 1.02 Purpose.....	1
Section 1.03 Intent	1
Section 1.04 Underlying Assumptions and Premises	1
Section 1.05 Abrogation and Greater Restrictions	2
Section 1.06 Interpretation.....	2
Section 1.07 Severability	2
Section 1.08 Amendment.....	2
Section 1.09 Effective Date	5
Section 1.10 Reserved.....	5
Article 2 General Provisions	7
Section 2.01 Jurisdiction.....	7
Section 2.02 Actions Requiring Compliance.....	7
Section 2.03 Building, Occupancy and Change of Use Permits Required	7
Section 2.04 Duties of Code Enforcement Officer	7
Section 2.05 Site Restrictions	8
Section 2.06 Use Restrictions	9
Section 2.07 Size Reductions or Increases	9
Section 2.08 Applications	10
Section 2.09 Site Plan Review	10
Section 2.10 Site Plan Review Standards	13
Section 2.11 Administration	14
Article 3 Zoning Districts	17
Section 3.01 General.....	17
Section 3.02 Zoning Map.....	17
Section 3.03 Summary of Dimensional Regulations Contained in Article 3	18
Section 3.04 Village District (V)	19
Section 3.05 Residential District (R)	21
Section 3.06 Agriculture and Residential District (AR)	22
Section 3.07 Forest and Agriculture District (FA).....	24
Section 3.08 Conservation District (C).....	25

Section 3.09 Village/Residential District (VR) (Amended 03/11/2000)	25
Section 3.10 General Purpose Zone (GP)	26
Section 3.11 Reserved.....	27
Article 4 Special Use Standards.....	29
Section 4.01 Special Requirements for Extraction Operation Approval	29
Section 4.02 Mobile Classroom Regulations	29
Section 4.03 Mobile Home Park	30
Section 4.04 Campground Developments.....	31
Section 4.05 Home Occupations	32
Section 4.06 Wheelchair Ramp Which Does Not Meet Town Setback Requirements	33
Section 4.07 Wellhead Protection District WHPD	33
Section 4.08 Adult Businesses	47
Section 4.09 Special Requirements for Apartment Conversions	48
Section 4.10 Special Requirements for Office/Office Complex.....	48
Section 4.11 Modifications for Special Structures	50
Section 4.12 Commercial Design Standards.....	50
Section 4.13 Mobile Vending	51
Article 5 Traffic, Parking, Road Access	54
Section 5.01 Traffic Visibility and Screening.....	54
Section 5.02 Loading Area Requirements	54
Section 5.03 Parking Area Requirements	54
Section 5.04 Roadway Access	58
Section 5.05 Reserved.....	58
Article 6 Signs.....	60
Section 6.01 General Requirements.....	60
Section 6.02 Signs Not Requiring a Permit	60
Section 6.03 Signs Requiring a Permit	61
Section 6.04 Reserved.....	62
Article 7 Planned Unit Development and Cluster Development.....	64
Section 7.01 Planned Unit Development	64
Section 7.02 Cluster Development	65
Section 7.03 Reserved.....	66
Article 8 Nonconformance	67
Section 8.01 Existing Nonconforming Uses and Structures	67

Section 8.02 Existing Uses and Structures Which Conform With This Ordinance.....	67
Section 8.03 Replacement and Maintenance	67
Section 8.04 Abolishment and Transfer.....	68
Section 8.05 Existing Nonconforming Lots and Pending Applications for Building Permits	68
Section 8.06 Nuisance.....	68
Section 8.07 Reserved.....	68
Article 9 Zoning Board of Appeals.....	70
Section 9.01 Establishment.....	70
Section 9.02 Membership and Organization.....	70
Section 9.03 Procedure	70
Section 9.04 Duties	71
Section 9.05 Hearing and Parties	72
Section 9.06 Findings.....	73
Section 9.08 Judicial Review.....	73
Section 9.09 Reserved.....	74
Article 10 Planning Board.....	75
Section 10.01 General.....	75
Section 10.02 Hearings	76
Section 10.03 Findings and Decisions	76
Section 10.04 Review	76
Section 10.05 Reserved.....	76
Article 11 Violations, Enforcement	78
Section 11.01 Violations, Fines	78
Section 11.02 Board of Selectmen Orders, Enforcement	78
Section 11.03 Performance Guarantee: Value, Requirements and Conditions	78
Section 11.04 Release of obligation required by performance guarantee.	79
Section 11.05 Extension of performance guarantee period.	79
Section 11.06 Record Management and Performance Guarantee Facilitation.	80
Section 11.07 Reserved.....	80
ARTICLE 12 Definitions.....	81
Section 12.01 General.....	81
Section 12.02 Words and Terms Defined	81
Section 12.03 Reserved.....	92

Article 1 Introduction

Section 1.01 Statutory Authority

This ordinance is enacted pursuant to the authority granted in 30-A M.R.S.A. §4352 and the Home Rule powers granted in Article VIII-A of the Maine Constitution implemented by legislation contained in 30-A, M.R.S.A. §4352. Therefore, the citizens of Waterboro do enact and ordain as follows: (Amended 05/16/2016)

Section 1.02 Purpose

The purpose of this ordinance is to promote the health, safety, prosperity, aesthetics, and general welfare of the Town of Waterboro. This ordinance does not pertain to any other codes adopted by the Town. See the Town's list of all codes administered by the Town.

Section 1.03 Intent

It is the intent of this ordinance to regulate and restrict the use of all lands, waters, and structures; regulate and restrict lot coverage, population distribution and density, and the size and locations of all structures so as to: lessen congestion on and promote the safety and efficiency of streets and highways; secure safety from fire, flooding, and other dangers; provide adequate light, air, water supply, sanitation, drainage, and access to roads and waterbodies; avoid undue population concentrations; facilitate the adequate provision at reasonable costs of public facilities and utilities; stabilize and protect existing public and private property and the value inherent therein; insure the appropriate use of land and the conservation of natural resources; preserve and promote the historic character and beauty of the town. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

Section 1.04 Underlying Assumptions and Premises

Existing natural phenomena within the Town of Waterboro, the geographic size of Waterboro, the present and foreseeable population of Waterboro, and the actions of governmental agencies outside of Waterboro give rise to a series of conditions, assumptions, and premises upon which this ordinance is predicated. They include: existing major roads and highways, which are largely funded and maintained by state highway departments, major extensions, resurfacing, or widening; public sewage collection and storm water drainage systems, which do not now exist, but may in the future. Higher density residential and mixed use districts must have proximity to essential public facilities and both public and private services (schools, roads, police and fire protection, utilities, shops); districts which permit only lower density development either lack this necessary proximity or have other physical limitations involving soils, slope, drainage, suitability for subsurface waste water disposal etc.

Section 1.05 Abrogation and Greater Restrictions

It is not the intent of this ordinance to abrogate, repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions or agreements; or with state statutes, rules, regulations, or permits; or with other local ordinances or regulations. However, in all of the above situations where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 1.06 Interpretation

- a. Interpretations of words, phrases, or specific provisions of this ordinance leading to the granting or denial of a necessary permit, the approval or disapproval of any proposal, or any other action or refusal to act by the Code Enforcement Officer or the Planning Board may be appealed to the Zoning Board of Appeals within thirty (30) days of the decision by an applicant or aggrieved party, or by any of the elected or appointed municipal officials or employees listed above.
- b. In judicial proceedings arising out of this ordinance and its application by the Town of Waterboro, it is the intent of the Town that the provisions of this ordinance be regarded as minimum requirements and that they be liberally construed in favor of the town so that the purposes and intentions (see Sections 1.06 and 1.07) of the ordinance may be achieved.
- c. All persons interpreting words, phrases, or provisions of this ordinance shall be bound by the definitions set out in Article 12. Those words or terms that are not defined in Article 12 shall be defined by the normal and usual meanings of words and phrases in everyday speech and by the meaning to be drawn from the context in which a particular word, phrase, or provision is set. All interpretations must be in harmony with and seek to achieve the overall purpose and intent of the ordinance.

Section 1.07 Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 1.08 Amendment

- a. Pursuant to the same authority by which this ordinance is enacted (see section 1.01) the regulations, restrictions, and boundaries established by this ordinance may be changed, supplemented, or repealed. A proposal for such action shall be referred to as a proposed amendment. A proposed amendment under this subsection may be offered by any person who owns land in Waterboro, any resident of the town, the Code Enforcement Officer, the Planning Board, or the Selectmen.
 1. All proposed amendments shall be presented initially to the Selectmen who shall forward them to the Planning Board which shall within thirty (30) days hold a public hearing meeting pursuant to the statutory requirements of notification. Once that has been completed, the Planning Board will review the proposal and forward a

recommendation and the Planning Board's reasoning respecting the proposed amendment to the Selectmen. The Selectmen shall within thirty (30) days of initial receipt of a proposed amendment schedule a public hearing thereon giving at least seven (7) days general notice by publication of the date, time and place of such hearing and the complete text of the proposed amendment.

2. At hearings held on a proposed amendment to this Ordinance, all persons present must be given a full opportunity to be heard. The authors of the proposed amendment should explain and present the rationale of their proposal at the outset. The review, recommendation, and comments of the Planning Board, the Town Attorney, and the Selectmen should then be presented. A question and answer period, if necessary, should follow. The comments of any other members of the public should then be received.
 3. After a public hearing the Board of Selectmen shall vote on the proposed amendment. The decision to make any amendment to the Zoning Ordinance, including conditional or contract rezoning, shall be wholly within the discretion of the Selectmen who may, at their option, decline, amend or adopt said proposal. Any amendment approved hereunder shall become effective as set forth in the Town Charter.
- b. Pursuant to 30-A, M.R.S.A. § 4352(8), conditional or contract zoning is hereby authorized for development where, for reasons such as the unusual nature or unique location of the development proposed, the Board of Selectmen finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned; it should not be used to circumvent enforcement decisions of the Code Enforcement Officer or decisions of the Zoning Board of Appeals. All contract or conditional zoning under this section shall establish rezoned areas which are compatible with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan. A conditional or contract rezoning may be requested by the owner of the property for which the rezoning is sought or by someone who has a legal interest in the property.

All conditions and restrictions imposed shall relate only to the physical development and/or operation of the property and may include, by way of example:

- a. Limitations on the number and types of uses permitted.
- b. Restrictions on the scale and density of the development.
- c. Specifications for the design and layout of the buildings, structures, and other improvements.
- d. Schedules for commencement and completion of construction, including anticipated schedules (i.e. beginning and completion dates) for all construction phases.
- e. Performance guarantees securing completion and/or maintenance of public and private improvements, and guarantees against defects.

- f. Preservation and enhancement of open spaces and buffers, and protection of natural areas and historic sites, including establishment of park land and conservation easements.
- g. Contributions toward the provisions of municipal services required by the development.
- h. Construction or enhancement of certain public capital improvements impacted by the development.
- i. Provisions for enforcement and remedies for breach of any condition or restriction.
- j. Provisions regulating the assignability of said contract, including fees relating to the same.

A person wishing to propose contract zoning under this Section shall, prior to filing an application, submit a conceptual sketch plan and contract proposal to the Board of Selectmen. The sketch plan review fee is non-refundable.

Any proposal to amend the Official Zoning Map of the Town through the establishment of a conditional or contract rezoning shall be reviewed by the Board of Selectmen and passed on to the Planning Board for a thorough review and public hearing and comment back to the Board of Selectmen with recommendations on the application should proceed. Such contract shall include, at a minimum, the proposed conditions of the rezoning, enforcement provisions and a map of the area for which the rezoning is requested shall be considered.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the conditional or contract rezoning application, the following fees and deposit in such amount(s) and for such purpose(s) as the Board of Selectmen shall establish by way of Planning Board recommendation includes:

- (a) Publishing and public notice fee.
- (b) Review fee.
- (c) Independent consulting and peer review escrow account.
- (d) Reimbursement of fees for professional services incurred by the Town for advice and negotiations relating to said conditional or contract rezoning.

The Planning Board shall conduct a public hearing prior to any property being rezoned under this Section. Notice of this hearing shall be posted in the Town Clerk's office at least thirteen (13) days prior to each public hearing and shall be published in a newspaper of general circulation within the Town at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.

Notice shall also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

At the end of the public hearing, the Planning Board shall vote whether to recommend the conditional or contract rezoning application to the Board of Selectmen. The vote of the

Planning Board shall be forwarded to the Board of Selectmen for consideration with the application for conditional or contract rezoning.

No conditional or contract rezoning shall exempt the applicant from subsequent Site Plan review and/or Subdivision review by the Planning Board of the proposed development. (Amended 04/21/2007)

Section 1.09 Effective Date

This ordinance shall be in full force and have legal effect in the Town of Waterboro as of March 13, 1977. Amendments shall be in full force and have legal effect in the town as by the Board of Selectmen in accordance with the provisions of the Town Charter.

Section 1.10 Reserved

Article 2 General Provisions

Section 2.01 Jurisdiction

The jurisdiction of this ordinance shall include all lands and water within the corporate limits of the Town of Waterboro as shown on the official zoning map (see Section 3.02 of this ordinance) which is on file in the Town Clerk's office.

Section 2.02 Actions Requiring Compliance

The use of land, water, or structures and the location, erection, movement, reconstruction, extension, enlargement, conversion, or structural alteration of structures or parts thereof shall hereafter be in conformance with the provisions of this ordinance.

Section 2.03 Building, Occupancy and Change of Use Permits Required

(Amended 06/4/1994)

A building permit, designed to insure compliance with state law, this ordinance, other local land use ordinances or regulations, and conditions (if any) attached to an approved project, must be obtained from the Code Enforcement Officer prior to constructing, locating, erecting, moving, reconstructing, extending, enlarging, converting, or structurally altering any permanent or temporary structure or use. A building permit shall be granted or denied by the Code Enforcement Officer as promptly as possible, but no more than 10 working days from the time the application is found complete. A building permit shall expire one (1) year from the date of its issue unless substantial work (actual construction) has commenced. Work commenced must be completed within two (2) years. A building permit shall not be valid for a longer period of time but may be renewed for an additional two (2) years if the nature of the project has been continuous. (Amended 03/7/2006 by board of selectmen vote)

An occupancy/use permit must be obtained from the Code Enforcement Officer prior to actually using or occupying a permanent or temporary structure upon which work contemplated in a building permit has been completed. An occupancy permit shall be granted or denied as promptly as possible after a physical inspection of the structure and project site by the Code Enforcement Officer but no more than 3 days after the final satisfactory inspection has been completed.

The Code Enforcement Officer shall be notified of any change in use of building or premises, and a permit shall be secured for such change. (Amended 06/24/1994)

Permits may also be subject to other codes or ordinances adopted by the Town. The fee table is available at the Code Enforcement Administrative off and online.

Section 2.04 Duties of Code Enforcement Officer

The Code Enforcement Officer shall receive and process all applications for building and occupancy permits. When and if necessary, the Code Enforcement Officer shall refer the applicant to the Zoning Board of Appeals, the Planning Board or the Selectmen of the Town of Waterboro for such review, approval, and action by these bodies as state statute and this ordinance require.

Applications for required permits shall be deemed complete only after required reviews, approvals and actions by the above bodies are completed.

When the provisions of state law, this ordinance, other local land use ordinances and regulations, and conditions (if any) attached to an approved project are met, the Code Enforcement Officer shall issue the required permits within the time deadlines specified (see Section 2.03) When such provisions are not met, he/she shall deny issuance of the required permits. A denial of either a building or occupancy permit must include a statement of reasons for the denial. A building or occupancy permit issued in conflict with the provisions of state law, this ordinance, other local land use ordinance or regulations, or conditions (if any) attached to an approved project is null and void.

Decisions of the Code Enforcement Officer with respect to the granting or denial of a building permit or occupancy permit may be appealed to the Zoning Board of Appeals of the Town of Waterboro within thirty (30) days of the decision by the applicant or by an aggrieved party, as set forth in Section 9.08(Amended 03/8/1986, 04/26/2003)

The Code Enforcement Officer may, on his/her own, and shall upon complaint, investigate to insure that state law, this ordinance, other local land use ordinances or regulations, or conditions (if any) attached to an approved project are not being violated. Upon finding a violation of any statute, ordinance, regulation, or condition outlined above, the Code Enforcement Officer shall notify the violator of such fact and simultaneously issue a code enforcement order to the violator requiring immediate compliance with the particular provisions of law involved. The failure to comply with a code enforcement order will subject the violator to penalties, further orders, and possible legal action as outlined in Sections 11.02 and 11.03.

The Code Enforcement Officer may seek entrance to any property or structure within the Town of Waterboro to inspect and carry out the provisions of this ordinance. His/her testimony and records shall be available to the Town Attorney to facilitate law enforcement and the prosecution of individuals who violate a code enforcement order.

Section 2.05 Site Restrictions

All lots shall abut upon an existing or proposed road which meets all municipal and other applicable governmental regulations and standards or, if landlocked, shall have a legally recorded access right-of-way, of no less than fifty (50) feet in width, to a public or private road. All lots, with the exception of landlocked lots, shall have a minimum road and/or water frontage of one hundred (100) feet in the Village zone, one hundred (100) feet in the Village/Residential zone except on cul-de-sacs where fifty (50) feet will be required, one hundred fifty (150) feet in the Residential and the Agriculture/Residential and General Purpose zones and two hundred (200) feet in the Forest/Agriculture and Conservation zones. Situations involving or utilizing cul-de-sacs, curvilinear streets, cluster design or planned unit design permitted by the Subdivision Regulations or this Ordinance (see Sections 7.01 and 7.02) when the Planning Board determines that these frontage requirements are not practical, – may allow the Planning Board to approve frontage reductions of up to fifty (50) percent. (Amended 03/11/1989, 3/11/00 and 04/26/2003)

With the exception of multi-unit housing, clustered or planned unit developments, an individual lot shall have only one principal structure and accompanying accessory structures upon it.

Section 2.06 Use Restrictions

In each zoning district, the only uses permitted are those specified as primary uses or conditional uses and relevant accessory uses and structures, the non-commercial keeping of animals, and similar undertakings incidental to a primary or conditional use. In addition, all conditional uses in any zoning district and their accessory uses and structures are subject to Planning Board review and approval (See Article 2 section 2.09).

Temporary uses may be permitted in any zoning district for brief periods of time not to exceed thirty (30) days with the approval of the Code Enforcement Officer. The approval of a temporary use may be appropriately conditioned to avoid harm to adjacent property owners and the public. A temporary use may not be extended for more than two (2) additional thirty (30) day periods and then only if the applicant for such use can show need and that undue hardship will result if the temporary use is not extended.

Section 2.07 Size Reductions or Increases

(Amended 03/12/1988, 03/11/1989, 09/25/1990, 11/12/1996, 03/11/2000, 05/13/2016)

If an existing lot of record does not comply with the minimum lot size requirements of the zone in which it is located the following shall apply to all setbacks:

1. Yard Setbacks
 - a. Rear: There shall be behind every building a rear setback having a minimum depth established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot, whichever is less.
 - b. Side: There shall be a minimum side yard setback established by the zone in which the property is located between any building and the side property line or the side yard setback shall be ten feet and increased one foot for every five feet or part thereof increase in the street frontage over 50 feet to a maximum side yard setback as found in Section 3.03 for the zone in which the property is located.
 - c. Front: There shall be in front of every building a minimum front setback established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot whichever is less.
2. Land Takings -- Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback, or lot that is reduced below the minimum dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.
3. Non-Conforming Residential Structure Expansions – A legal non-conforming residential building may not be enlarged beyond the size permitted by dimensional regulations for buildings in said district except that an existing non-conforming building line parallel to the

property line may be extended, but in no case shall the yard setback requirement for said addition be reduced to less than five feet.

4. Non-Conforming Non-Residential Structures – An existing lawfully non-conforming, non-residential building or structure may be extended or enlarged, provided that it satisfies the following criteria:
 - a. Any enlargement shall only be used to accommodate the needs of the existing use or different conforming use proposed to occupy the entire structure as outlined by the applicant.
 - b. An enlargement which purpose is to provide for additional floor space as a result of the addition of a new business under separate ownership shall not be allowed.

Section 2.08 Applications

To facilitate the expeditious carrying out of any and all of the responsibilities outlined in this ordinance, the Code Enforcement Officer, the Planning Board, and the Zoning Board of Appeals are respectively authorized to prepare and publish such application forms and procedures as necessary. Application forms should elicit as much or all of the information which the officer or board will require from the applicant. If an application form is not completely filled out or if the circumstances of a particular case require it, the officer or board may request such additional information as is necessary to allow full review and evaluation of the pending issue. Applications for Code Enforcement Officer or board action shall not be deemed complete until all information which has been validly requested has been furnished. All completed application forms and supporting materials are public records which shall be kept on file in the Code Enforcement /Planning Office and which may be inspected by any member of the public at reasonable times. (Amended 3/11/2000)

Applications for Code Enforcement Officer or board action may not be made by any party other than the owner of record or the lessee of the land which will be directly affected by the requested action or by an option or contract to purchase such land. The land owner/applicant may through written permission assign a representative to speak on their behalf.

Section 2.09 Site Plan Review

Site Plan Review and Approval by the Planning Board shall be required before issuance of a building permit for any

- new non-residential building or structure
- expansion of a non-residential building or structure with a cumulative lifetime expansion over 2500 square feet
- any Conditional Use
- mobile home park or
- multi-family residences with more than two dwelling units as provided in the Town of Waterboro Site Plan Review Ordinance Adopted June 28, 1988. (Amended 04/26/2003)

Site Plan Review and Approval shall not be required:

1. To change a use permitted by the zoning ordinance to another permitted use, in an existing structure, provided;
 - a. The change does not increase the requirements for off-street parking, as provided by the Zoning Ordinance for the Town of Waterboro; and
 - b. No structural changes are proposed for the existing building when they are less than 2500 square feet as a cumulative lifetime expansion and
 - c. No changes are proposed for the site on which the existing building is located.
 2. For single family dwellings and accessory structure.
 3. For multi-family dwellings of no more than two dwelling units and their accessory facilities.
 4. Any development reviewed by Planning Board as a residential subdivision.
(Amended 04/27/2002)
- A. Site plan review shall operate in conjunction with the applicable provisions of this Ordinance, Land Subdivision Regulations (where applicable) and Road Standards of the Town of Waterboro. Compliance with all applicable zoning requirements shall be a prerequisite to obtaining site plan approval.
- B. All applications for Site Plan Review shall be filed concurrently with the Town Planner and Code Enforcement Officer. The application shall also include twelve (12) copies of a 24 x 36 plans drawn to a scale of not greater than 1" to 100' showing the following features, both existing and proposed:
1. Boundaries of the site and abutting streets with widths indicated.
 2. Footprints of all buildings - showing the number of stories, access and use.
 3. Layout and location of off-street parking; loading; and access drives; and vehicular maneuver-areas to conform with the standards set forth in Article 5 of this Ordinance.
 4. Location and size of all signs, gasoline pumps, and other freestanding structures.
 5. Location, direction, and type of outdoor lighting.
 6. Location and type of screening and/or buffers and other landscaping.
 7. Location of all utilities.
 8. Topography of a contour interval not greater than two feet showing the effects of drainage from the site upon adjacent property. A greater contour interval may be used if the Planning Board determines that the plan is adequate to evaluate site conditions.
 9. The applicant shall, in addition, submit for any project utilizing an on-site septic disposal system if the septic system has a design system flow in excess of 800 gallons/day or if predominantly made up of non-typical septic waste, a hydrogeological impact study prepared by a State of Maine licensed Geologist or a State of Maine licensed

Professional Engineer with experience in hydrogeology. This study shall contain, at a minimum, the following components:

- a. A map showing the soil types using the Unified Soil Classification System (USCS).
 - b. Groundwater levels and flow rates through the site, and the aquifer type.
 - c. An analysis of surface drainage conditions and their relationship to off-site conditions.
 - d. Data on existing groundwater quality and quantity for the site. Collection of this data can either be provided by test wells on the proposed site or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site. If public water is to be used, the applicant shall submit a written statement from the Waterboro Water District that it can provide adequate water service to the proposed development
 - e. A calculation of average nitrate nitrogen levels on-site after development and a calculation of nitrate nitrogen levels at the down-gradient property line(s). These calculations should be done under simulated conditions of both normal rainfall and drought.
 - f. A map showing the recommended sites for the subsurface wastewater disposal system(s) and well(s) on the site.
- C. There shall be a Site Plan Advisory Committee consisting of the Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief. This committee shall review the application and evaluate its compliance with the Zoning Ordinance, and shall within seven (7) business days of receipt of a complete application:
- Forward a memo to the Planning Board for its consideration during the Board's review and deliberation on the pending application. This information is only advisory to the Board.
- D. The Administrative Assistant shall within five (5) business days after receiving a Site Plan Review packet from the Town Planner and Code Enforcement Officer, identify the next available Planning Board meeting, schedule the application for Planning Board review; and notify the applicant, the Board of Selectmen, the Chief of the Fire Department, the Public Works Director and the Chairs of the Economic Development and Road Review Committees.
- E. Owners of abutting property and property located within 500 feet of the subject parcel shall be notified by the applicant at the applicant's expense, by certified mail of the date, time and purpose of that initial meeting. The applicant shall provide a list of all persons to whom notice has been sent, together with their current mailing addresses based upon the Town's assessing records, to the Administrative Assistant prior to the meeting with the Planning Board.

Section 2.10 Site Plan Review Standards

A. In reviewing a site plan application, the Planning Board shall require the applicant to provide written evidence that the following standards have been met unless they are found to be not applicable to a particular project:

1. The proposed development meets the definitions and/or requirements set forth in the Zoning Ordinance;
2. The proposed development will not create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles; or adequate fire suppression systems;
3. The proposed exterior lighting will not create hazards to motorists traveling on adjacent public streets; be inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;
4. The provisions for buffers and on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development;
5. The proposed development will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause;
6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety or will not impose significant burdens on public facilities which could be avoided by reasonable modification of the plan;
7. The bulk, location, height or design of proposed buildings, structures or paved areas, or the proposed uses thereof, will not have a significant detrimental effect on private development on adjacent properties, or on the value of adjacent properties which could be avoided by reasonable modifications of the plan;
8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;
9. Adequate provisions have been made for the disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;
10. Adequate provisions have been made to control erosion or sedimentation;
11. Adequate provisions have been made to handle storm water run-off or other drainage problems on the site and any proposed stormwater detention ponds are adequate to serve stormwater on or from the site;
12. The proposed water supply will meet the demands of the proposed use and is adequate for fire protection purposes;

13. Adequate provisions have been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law and the Hazardous Waste Ordinance;
 14. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;
 15. The project will not increase nitrate nitrogen concentrations in surface or groundwater at the property line of the site in excess of State of Maine Drinking Water Standards. If groundwater contains contaminants in excess of the primary drinking water standards and the project is to be served by on site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated to meet applicable standards.
- B. Statement of Findings: All findings by the Planning Board under this section shall be accompanied by written statements that set forth with particularity the precise reasons why the findings were made. The Statement of Findings shall be provided to applicant within ten (10) business days after vote and adjournment.

Section 2.11 Administration

- A. Where the Board determines that, due to conditions existent in a proposed development, the provision of certain improvements otherwise required by this ordinance is not necessary to the public interest, or is inappropriate because of inadequacy or lack of prerequisite facilities in proximity to the proposed site, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified, and of this ordinance in general. The Planning Board shall require a public hearing upon initial review of the application and at any point thereafter, with applicant bearing all responsibility for the cost of the hearing notice and the responsibility to notify abutters within 7 days prior to the hearing by certified mail. The applicant shall provide proof of the certified notices to the town. The remaining balance due, if any, shall be paid prior to final plan approval.
- B. If the Planning Board requires professional services to evaluate a proposal's or design's compliance with this ordinance, the expense of that review shall be borne by the applicant. The town's planning staff is considered to provide professional services to the community. The town staff shall provide the first five (5) hours of time on any project being reviewed by the Planning Board at no cost to the applicant. The estimated cost of the consultant's review fees shall be paid by the applicant to the Planning Board at the time the design subject to review is submitted. The remaining balance due, if any, shall be paid prior to final plan approval.
- C. Applicant shall provide a certified as built plan at the completion of the project to insure the construction was built according to the approved plans.
- D. The Planning Board shall require as a condition of approval that the applicant employ a clerk of the works to certify that the project is being built according to the approved plans except where

the board finds that extraordinary hardship will result from strict compliance with this requirement and votes to grant a waiver.

- E. The Planning Board shall, based on the standards in section 2.10 above, approve; approve with conditions; or deny the application and forward its action in writing to the Code Enforcement Officer, the applicant, and all parties entitled to notice under Section 2.09.E. The decision shall include written findings of fact and conclusions in support of the Board's decision.
- F. Appeals involving an action of the Planning Board under this ordinance shall be to Zoning Board of Appeals.
- G. Failure to comply with any conditions of the Site Plan Review subsequent to the receipt of a building permit or certificate of occupancy shall be construed to be a violation of this ordinance and may result in a stop work order from the Code Enforcement Officer.
- H. Each applicant shall pay a filing fee in the amount determined by the current Site Plan Application Fee Structure at the time the application is submitted and consultant fees as required by Article 2 Section 2.11.B. See current Site Plan Application Fee Structure for any additional site plan fees. The applicant shall also pay costs associated with advertising and mailing. In addition, prior to receiving approval of any application, the applicant shall pay to the Town all of its reasonable costs associated with legal advertisements and other out of pocket expenses applicable to the application. Out of pocket expenses are all expenses or costs for legal advice and technical consultation or advice that the Planning Board deems necessary to process the application. Technical Consultation shall include the use of any town staff that are contracted to work for the town of Waterboro. The town staff shall provide the first five (5) hours of time on any project being reviewed by the Planning Board at no cost to the applicant.
- I. Violations of this Ordinance shall be subject to enforcement under the provisions of 30-A, M.R.S.A. Sec 4452.
- J. A temporary Certificate of Occupancy may be issued until all improvements shown on site plan are installed or a sufficient Performance Guarantee has been posted for improvements not yet completed (including but not limited to grading, drainage, paving, planting, and landscaping).
- K. The approval of the Planning Board shall expire if work on the development is not commenced within two (2) years, or completed within two (2) years of the issuance of the building permit. The Board may by formal action grant an extension of the completion deadline for an additional period not to exceed one (1) one year extension.

Section 2.12 Reserved

Article 3 Zoning Districts

Section 3.01 General

For the purpose of this ordinance the Town of Waterboro is divided into the following zoning districts; a Village district (V); a Village/Residential district (VR); an Agriculture/Residential district (AR); a Forest/Agriculture district (FA); a Conservation district (C), and a General Purpose (GP) district. In addition to these districts, the Town of Waterboro also has two (2) overlay districts; the Shoreland Overlay Districts divided into five (5) sub-districts: Resource protection, Limited Residential, Limited Commercial, Stream Protection and General Development District; and the Wellhead Protection Districts divided into three (3) sub-districts: District #1, District #2 and District #3 described in Section 4.07. (Amended 06/3/1995, 03/11/2000, 06/24/2000, 04/27/2002, 04/26/2003)

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A., § 2442.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs, as either a principal use or an accessory use, are expressly prohibited in Waterboro.

No person or organization shall develop or operate a business that engages in retail sales of marijuana or any retail marijuana product, both as defined by 7 M.R.S.A., § 2442.

This prohibition does not include rules or regulations pertaining to the growing or distribution of Medical Marijuana which is defined in Article 12 Definitions of this ordinance.

Section 3.02 Zoning Map

The boundaries of these zones are established by the enactment or later amendment of this Ordinance and are as shown on the Official Zoning Map of the Town of Waterboro, dated February 7, 1977; the Town of Waterboro Wellhead Protection Zone Map; and on the 1970 Town Tax Maps. The Official Zoning Maps are integral parts of this certified copy of the zoning ordinance (maps and text) and shall be available to the public at all times in the Town Clerk's Office. The February 7, 1977 zoning map, and as further amended from time to time, was drafted so that the zoning district boundaries followed property lines as depicted on the 1970 tax maps. It should be interpreted accordingly. (Amended 03/11/1989, 03/11/2000, 04/26/2003)

Section 3.03 Summary of Dimensional Regulations Contained in Article 3

ZONING DISTRICT	MINIMUM LOT SIZE	MINIMUM ROAD & SHORELAND FRONTAGE	MINIMUM FRONT YARD SETBACK	MINIMUM SIDE & REAR* SETBACK	MINIMUM SHORELAND SETBACK	MAXIMUM BUILDING HEIGHT
Village	20,000	100'	25'	20'	100'	35'
	40,000	100'	50'	20'	100'	35'
Village & Residential	20,000	100' except on 50' a cul-de-sac	40'	20'	100'	35'
Residential	40,000	150'	50'	35'	100'	35'
Agriculture / Residential	80,000	150'	75'	35'	100'	35'
Forest / Agriculture	5 acres	200'	100'	50'	100'	35'
Conservation	10 acres	200'	100'	50'	100'	35'
General Purpose	40,000	150'	50'	35'	100'	35'
	80,000	150'	50'	35'	100'	35'

(Amended 03/11/2000 and 04/27/2002).

***NOTE:** In any case where structures are in existence at the time of the enactment of this ordinance, additions may be made to within ten (10) feet of the side or rear lot line but in no case should the buildings on one lot be closer than twenty (20) feet to a building on an abutting lot.

Lots divided by district boundaries: When a lot is divided by a land use district boundary, other than the boundary to an overlay zone, the following rules shall apply:

- A. On lots two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion.
- B. On lots larger than two acres, the applicable district regulations shall be followed in the portion of the lot located in that district. (Amended 04/26/2003).

"Wheelchair ramps are exempt from the side, rear, and front yard setbacks, but not from the shoreland setback, providing they meet the performance standards in Article 7 and Article 4 as determined by the Planning Board" (Amended 03/09/1991).

One (1) standard size entry deck (4' x 4') and steps are exempt from the sideline and front yard setback in all districts. (Amended 03/11/2000).

Accessory structures 100 square feet or less in size are not required to meet setback requirements. No more than two sheds which do not meet setback requirements may be constructed on any lot.

The following highways are defined as State-Aid roadways:

Route 202 (4), Route 5, Townhouse Road, Old Alfred Road, West Road, Goodwins Mills Rd, Federal Street, Chadbourne Ridge Road(From Route 5 to Intersection of Brick House Road).

Applicability of front yard setback requirements to private rights-of-way:

Easements: If a private right-of-way is an easement, all existing and future structures on the land subject to that easement must be located a sufficient distance from the sideline of the right-of-way to comply with the front yard setback requirements imposed by this Article.

Deeded Rights-of-way: If a private right-of-way is created by deeded ownership of land, all existing and future structures on the parcel of land of which the right-of-way was originally part must be located a sufficient distance from the sideline of the right-of-way to comply with the front yard setback requirements imposed by this Article.

Exemption: Land adjacent to the private right-of-way is exempt from the front yard setback requirements imposed by this Article, provided all of the following requirements are satisfied:

- a) The adjacent land is not owned by the owner or the owner of the fee interest in the right-of-way; and
- b) At least one lot boundary abuts another public or private right-of-way and front yard setback requirements are satisfied on that lot boundary; and
- c) All applicable side and rear setbacks are satisfied for all non-front yard boundaries.

Section 3.04 Village District (V)

The Village District includes land which at present is the most highly developed in the town. The range of development activities is broad and includes commercial, industrial, and residential land uses as well as supporting municipal services. This heterogeneous mix is not unattractive, however, probably due to the relatively low (for urbanized areas) density of development. This ordinance makes no effort to change the existing character of village life, mixed uses continue--indeed they are preserved and fostered. No areas in the town have greater proximity to schools and essential services or are better served by utilities and all-weather roads. At the same time the soil, slope, and topographic characteristics of land in this district are excellent enabling sub-surface wastewater disposal systems to operate efficiently and simultaneously providing adequate fresh water supplies. In these circumstances care is taken to prevent over-development within the Village District.

The minimum lot size in the Village District is 20,000 sq. ft. or 40,000 sq. ft. depending on the land use. No principal or accessory structure may be placed within twenty (20) feet of any side or rear lot line. Such structures must be set back twenty-five (25) feet from the front lot line of a 20,000 sq. ft. lot, fifty (50) feet from the front lot line of a 40,000 sq. ft. lot and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, and similar facilities may be placed on the shore subject to the provisions in the Shoreland Zoning Ordinance. No principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.05 for minimum lot width and frontage requirements.

Subsection 3.04.01 Primary Uses and Structures

A. Permitted Lot Size 20,000 sq. ft.

1. Retail shops and service stores (repair shops, barbers, beauticians, cleaners, etc.) with less than one thousand (1000) sq. ft. of store area, except shops or stores requiring a daily water consumption in excess of one thousand (1000) gallons.
2. Restaurants, lounges, cafes with less than one thousand (1000) sq. ft. of customer service area, except those requiring a daily water consumption in excess of one thousand (1000) gallons.
3. Bank, insurance, real estate, stock brokerage, general business offices with less than one thousand (1000) sq. ft. of customer service area.
4. Newspaper, radio, or television offices, studios, facilities.
5. Signs not requiring a permit and signs requiring a permit (See Article 6).

B. Required Lot Size 40,000 sq. ft.

1. Single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
2. Home occupations and professional home offices in accordance with the performance standards of section 4.05. (Amended 04/27/2002)
3. Police and fire protection facilities.
4. Outdoor recreation facilities including ball fields, parks, picnic areas, tennis courts, but not golf courses or driving ranges.
5. Churches, public and private schools, and other public buildings or facilities.
6. Professional offices outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.)
7. Retail and service stores (repair shops, barbers, beauticians, cleaners, etc.) with more than one thousand (1000) sq. ft. of store area or that require more than one thousand (1000) gallons of water daily, including all drive-in facilities.
8. Wholesale, warehouse and bulk storage facilities.
9. Clubs, lodges, meeting halls.
10. Funeral homes.
11. Hospitals, nursing homes, sanitariums, etc.
12. Hotels, motels, inns providing overnight year-round, or seasonal accommodations, bar and food service.
13. Gas stations, machinery and vehicle sales, service, washing, repair facilities.
14. Restaurants, lounges, cafes with more than one thousand (1000) sq. ft. of customer service area or that require more than one thousand (1000) gallons of water daily.
15. Indoor recreation facilities including bowling alleys, skating rinks, swimming pools, etc.
16. Bank, insurance, real estate, stock brokerage, general business offices with more than one thousand (1000) sq. ft. of customer service and office area.
17. Antique Shops (Amended 06/24/2000)
18. Contractor Business (Amended 04/26/2003)

Subsection 3.04.02 Conditional Uses and Structures

A. Required Lot Size 40,000 sq. ft.

1. Clustered single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft in the total parcel being developed.
2. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002)
3. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, and commercial activities or combinations of the above including bar and food service. Residential PUD's may not exceed one family unit for each 40,000 sq. ft. in the total parcel being developed.
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002)
5. Cemeteries.
6. Processing facilities related to orchard and agricultural products, including poultry but excluding livestock.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of work area.
11. Bulk fuel oil, cement mixing, general construction tanks, trucks, equipment, and facilities in accordance with all local, state and federal regulations on parcels not less than five (5) acres in size. (Amended 04/27/2002).
12. Mobile classrooms in conformance with Section 4.02. (Amended 03/11/2000)

Section 3.05 Residential District (R)

The Residential District includes land which is generally well suited for and capable of sustaining higher densities of development than presently exist because of its proximity to schools and other municipal services. It is also well served by public utilities and all-weather roads. The soils, slope and topographic characteristics of land in this district are almost uniformly good enabling subsurface wastewater disposal systems to operate efficiently and simultaneously providing adequate fresh water supplies. The process of transition from relatively low impact farm and forest uses to more intensive residential and commercial land use activities is clearly evident. Much of the recent subdividing activity within the town has taken place on land which is in the Residential District. This trend will almost certainly continue.

Subsection 3.05.01 Primary Uses and Structures

1. Single family residences
2. Multi-family housing units
3. Mobile home parks

4. Outdoor recreation facilities including ball fields, parks, picnic areas, beach areas, tennis courts, golf courses, driving ranges, etc.
5. Home occupations
6. Professional offices
7. Municipal Facilities
8. Signs not requiring a permit and signs requiring a permit
9. Antique Shops

Subsection 3.05.02 Conditional Uses and Structures

1. Clustered housing developments.
2. Day Care Facility and Home Day Care providers.
3. PUD's limited to residential.
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002)
5. Cemeteries.
6. Churches.
7. Public and private schools.
8. Buildings or facilities used for public and private gatherings.
9. Storage and selling of local farm, orchard, or forest products on parcels with direct access to a state aid highway.
10. Horticultural activities, including nurseries, greenhouses, and commercial sale of such products on parcels with direct access to a state aid highway.
11. Bed and Breakfasts.
12. The keeping of farm animals at a density as listed in the Definitions section of the ordinance.

Section 3.06 Agriculture and Residential District (AR)

Much of the land in this district is being used and in the foreseeable future will continue to be used as forest and farm land even though it is generally suitable for higher densities of development than presently exist. Land in this district has reasonable proximity to schools and other municipal services and is reasonably well served by utilities and all-weather roads. Though there is some variability, the soils, slope and topographic characteristics of land in this district are above average and are usually capable of sustaining subsurface wastewater disposal systems and simultaneously providing adequate fresh water supplies.

Subsection 3.06.01 Primary Uses and Structures

1. Single through four family residences
2. Farming, grazing, poultry and livestock raising including farm animals not to exceed a density as listed in the Definitions section of the ordinance.
3. Orchards.
4. Hatchery facilities.
5. Outdoor recreation facilities including park or picnic areas, beach areas, tennis courts, golf courses, driving ranges, etc.
6. Harvesting of wild crops, grasses, etc.

7. Horticultural activities including nurseries, greenhouses, and commercial sale of such products.
8. Storage and selling of local farm, orchard or forest products.
9. Commercial stables.
10. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
11. Municipal facilities.
12. Churches, public and private schools and other public buildings or facilities.
13. Veterinary offices and facilities.
14. Antique shops.
15. Professional office.
16. Clubs, lodges, meeting halls.
17. Funeral homes.
18. Home Occupations.
19. Contractor Business (Amended 04/26/2003)

Subsection 3.06.02 Conditional Uses and Structures

1. Clustered and single through four family residences at no greater density than one family unit for each 80,000 sq. ft. in the total parcel being developed.
2. Day Care Facility and Home Day Care providers.
3. Commercial campgrounds.
4. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Extraction of rock, sand and gravel.
6. Cemeteries.
7. Marinas.
8. Processing facilities related to orchard and agricultural products, including poultry and livestock.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Junkyards, dumps, and solid waste disposal areas but not within five hundred (500) feet of any residence, camp, or waterbody, and only if appropriately screened.
11. Nursing homes, etc. on parcels with direct access to a state aid highway. (Amended 04/27/2002)
12. Bed and Breakfasts
13. Machinery, vehicle and farm equipment sales, service, repair facilities with a total building area not to exceed five thousand (5,000) sq. ft. with direct access to a state aid highway. (Amended 04/27/2002).
14. Restaurants, lounges, cafes on parcels with direct access to a state aid highway.
15. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of building area on parcels with direct access to a state aid highway. (Amended 04/27/2002).
16. Daycare Facility and Home Day Care providers.
17. Private airplane runway strips. (Amended 06/5/1993 and ratified 04/27/2002).
18. Mobile classrooms in conformance with Section 4.02. (Amended 3/11/00).
19. Medical Marijuana Grow-Only Facility. (Amended 02/22/2011 by Selectmen vote)

Section 3.07 Forest and Agriculture District (FA)

The Forest and Agriculture District includes land which is not presently well suited for high density development because of lack of proximity to schools and other municipal services and the inadequacy of utilities and roads within and connecting these lands to other more developed portions of the town. Much of the land in this district has historically and is today being used for agriculture and timber production purposes. Existing holdings are large, many in excess of one hundred (100) acres. There is little evidence of transition to more intensive land use activities. The soils, slope and topographic characteristics of land in this district are mixed. Some areas will not readily support subsurface wastewater disposal systems. Other areas, if the aforementioned impediments to development were removed, could sustain higher density development than this ordinance now permits.

Subsection 3.07.01 Primary Uses and Structures

1. Single family residences.
2. Farming, grazing, poultry and livestock raising including farm residences.
3. Orchards.
4. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses, driving ranges, etc.
5. Horticultural activities including nurseries, greenhouses, tree farms & commercial sale of such products.
6. Storage and selling of local farm, orchard or forest products.
7. Commercial stables.
8. Churches.
9. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.

Subsection 3.07.02 Conditional Uses and Structures

1. Clustered single family residences.
2. Duplex residences and clustered duplex residences at no greater density than one dwelling unit for each 5 acres being developed
3. Day Care Facility and Home Day Care providers.
4. Commercial campgrounds
5. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
6. Mining operations
7. Cemeteries.
8. Municipal facilities
9. Marinas
10. Processing facilities related to orchard and agricultural products, including poultry and livestock.
11. Wood products processing facilities (sawmills, lumberyards, etc.)
12. Veterinary offices and facilities.

Section 3.08 Conservation District (C)

The Conservation District includes land which is least suited for and least able to sustain high density development because of its topography, elevation and soil types, or marshy character, its lack of proximity to schools and other municipal services, the present inadequacy of utilities and roads within and connecting these lands to other more developed portions of the town, and its relatively natural unspoiled character, often in proximity to lake and other water bodies or steep rocky slopes.

Subsection 3.08.01 Primary Uses and Structures

1. Single family residences.
2. Forestry.
3. Orchards.
4. Wildlife preserves.
5. Storage of local farm, orchard, or forest products.

Subsection 3.08.02 Conditional Uses and Structures

1. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
2. Commercial campgrounds
3. Selling of local farm, orchard or forest products.
4. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Cemeteries.
6. Municipal facilities
7. Commercial stables.
8. Farming, grazing, poultry and livestock raising including farm residences.
9. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses driving ranges, etc.

Section 3.09 Village/Residential District (VR) (Amended 03/11/2000)

The Village Residential District includes those lots existing within the Town of Waterboro on the date of passage of this section which are subject to dues and fees of the Lake Arrowhead Community and connected to the Lake Arrowhead Public Water System, as more particularly described in Chapter 37 of the 1995 Maine Private and Special Laws.

Section 3.09.01 Primary Uses and Structures (Amended 03/11/2000, 06/24/2000)

1. Single-family residences
2. Home Occupations Manufactured Homes
3. Yard and Garage Sales
4. Office, maintenance, and recreational buildings (**Note: text added because these uses exist today**)

Section 3.10 General Purpose Zone (GP)

The General Purpose (GP) District includes land which at present is generally suited for the development of broad uses including residential, commercial, and industrial. This area is widely served by a public water system and would support commercial development. This area has access to a state road.

Subsection 3.10.01 Primary Uses and Structures

1. Retail shops and service
2. Restaurants, lounges, cafes.
3. Bank, insurance, real estate, stock brokerage, general business offices.
4. Newspaper, radio, or television offices, studios, facilities.
5. Single family homes
6. Multi family homes
7. Home occupations
8. Municipal facilities.
9. Outdoor recreation facilities including ballfields, parks, picnic areas, tennis courts, golf courses and driving ranges.
10. Churches
11. Public and private schools
12. Public buildings or facilities.
13. Professional offices (doctor, dentist, lawyer, engineer, accountant, etc.).
14. Wholesale, warehouse and bulk storage facilities with (one hundred thousand 100,000 square feet of area or less.
15. Fabricating, manufacturing, light industrial activities and facilities with (one hundred thousand) 100,000 square feet of area or less.
16. Clubs, lodges, meeting halls.
17. Funeral homes.
18. Hospitals, nursing homes, assisted living facilities, etc.
19. Single-family camps.
20. Farming, grazing, poultry and livestock raising including farm residences.
21. Forestry.
22. Orchards.
23. Wildlife preserves
24. Commercial stables.
25. Commercial breeding, raising, and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
26. Veterinary offices and facilities.
27. Antique shops.
28. Contractor Business (Amended 04/26/2003)

Subsection 3.10.02 Conditional Uses and Structures

1. Retail shops and service stores with store area of more than 5,000 square feet.
2. Clustered single through multi-family residences
3. Day Care Facility and Home Day Care providers.
4. Mobile home parks.

5. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, or combinations of the above including bar and food service.
6. Communications poles, towers, lines, unmanned substations, etc.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.).
10. Fabricating, manufacturing, light industrial activities and facilities with more than (one hundred thousand) 100,000 square feet of area.
11. Wholesale, warehouse and bulk storage facilities with more than (one hundred thousand) 100,000 square feet of area.
12. Bulk fuel oil, gasoline storage, cement mixing, general construction tanks, trucks, equipment, and facilities on parcels not less than five (5) acres in size.
13. Commercial campgrounds.
14. Marinas.
15. PUD's limited to industrial and/or commercial with frontage on a state or federal aid highway. PUD's providing resort and recreational facilities including overnight, year-round, or seasonal accommodations, bar and food service.
16. Machinery vehicle and farm equipment sales, service, repair facilities
17. Mobile classrooms in conformance with Section 4.02. (Amended 03/11/2000)
18. Medical Marijuana Grow-Only Facility. (Amended 2/22/11 by Selectmen vote)

Section 3.11 Reserved

Article 4 Special Use Standards

Section 4.01 Special Requirements for Extraction Operation Approval

An applicant for an extraction operation conditional use permit must obtain and submit a restoration/reclamation plan, erosion/sediment control plan, and Hydrogeological Study for review and approval by the Planning Board before a permit of a new extraction operation can be granted. Extraction operations in existence and actual operation on March 11, 1989 cannot be expanded to encompass more than five (5) acres in area unless Planning Board approval of a suitable restoration/reclamation plan, erosion/sediment control plan and Hydrogeological Study is first obtained.

In preparing the plans for the extraction operation approval, the applicant shall use United States Geological Survey (USGS) datum in establishing existing topography and final topography. Description of the USGS datum, bench marks height as specified by the USGS shall be displayed on the plans.

Owners of abutting property shall be notified by the applicant via certified mail of the date, time and purpose of the appointment a minimum of seven (7) days prior to the appointment for the applicant's extraction operation conditional use permit. Return receipts documenting that notice shall be furnished to the Planning Board.

Applicants who are not required to obtain approval from the State of Maine Department of Environmental Protection under the site location development law must obtain approval of their restoration/reclamation plan, and erosion/sediment control plan, and Hydrogeological study from the York County Soil Conservation Commission and document that approval to the Planning Board. The Planning Board shall not grant approval of an extraction operation unless the applicant documents prior approval by either the Department of Environmental Protection or the York County Soil Conservation Commission.

In addition, the Planning Board reserves the right to:

1. Hold a Public Hearing, pursuant to the provisions of Article 2, Section 2.12, to either gather additional information, resolve conflicting information or to inform the public before deciding an application to commence an extraction operation.
2. Hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application for extraction operation is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for an extraction operation. (Amended 03/10/1990).

Section 4.02 Mobile Classroom Regulations

Mobile classrooms will not be allowed in the municipality which do not provide the following within the classroom:

- A restroom facility;
- Drinking water;
- A temperature controlled environment

All classrooms must be equipped with:

- An emergency fire warning system;
- Fire extinguishers;
- Communication system that operates in conjunction with the main building.

Mobile classrooms become a conditional use permit within any zone where a school is permitted. (Amended 03/11/2000).

Section 4.03 Mobile Home Park

Please Note: 30-A, M.R.S.A. Section 4358, Regulation of Manufactured Housing, includes specific definitions for Manufactured Housing. They can be found on a separate page, *Maine Revised Statutes, Title 30-A, Regulation of Manufactured Housing - Definitions Section.*

A. Authority and Purpose

1. Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving a proposed mobile home park in the Residential Zone shall apply the provisions of this section, as well as the requirements of the Waterboro Land Subdivision Regulations and Waterboro Mobile Home Park & Trailer Park Ordinance. Where the provisions of this Section conflict with specific provisions of the Town of Waterboro Land Subdivision Regulations and/or the Town of Waterboro Mobile Home Park & Trailer Park Ordinance, the provisions of this section shall prevail. (Amended 04/26/2003)

2. The purpose of this section shall be to accommodate the creation and expansion of mobile home parks in a manner that will encourage and provide for the:
 - a. Preservation of open space;
 - b. Creation of recreation areas;
 - c. Preservation of environmentally sensitive areas;
 - d. Preservation of natural features;
 - e. Promotion of a more efficient use of the land through the use of smaller networks of utilities and streets.

3. Notwithstanding any provision in this ordinance, a person developing or expanding a manufactured housing development has the burden of proving that development will not pollute a public water supply or aquifer or violate any state law relating to land development, subdivision, or use.

B. Performance Standards

All Standards found in M.R.S.A 30-A, §4358 shall be followed for the development of any Mobile Home Parks.

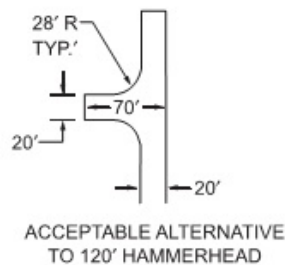
Section 4.04 Campground Developments

(Amended 09/25/1990; 06/24/2016).

All campgrounds shall comply with state licensing procedures and regulations for campgrounds.

Campgrounds shall be open only from May 1st to October 31st each year. From November 1st until April 1st, all services such as water and electricity shall be turned off or disconnected and no person shall occupy any site in the campground.

Campgrounds must maintain an internal all weather road system with all roads being 20 feet in width, well drained, and lighted at an intensity of not less than two (2) foot candles or 21.5 lumens at the ground level of any pole location. Internal roads should not dead-end. However, if a dead end is proposed the design for the turnaround area shall be a hammer-head design meeting the dimensions as shown in the diagram below. Two parking spaces shall be provided for recreational vehicle sites. One parking space is required for each tenting camp site.



Campgrounds must provide a buffer strip at least 25 feet wide, planted with trees and shrubs or retained natural vegetation, between the campground and adjacent lots. All camping sites and facilities shall be screened from the view of any abutting residence within 200 feet. Campgrounds which reserve areas for recreational vehicles shall provide at least one thousand two hundred and fifty (1,250) sq. ft. for each camp site except those camping sites within the Shoreland Zone which shall be 5,000 square feet in size. Tenting sites must provide a minimum site size of 1,000 square feet. All camping spaces shall be at least 25 feet in width. In addition, all campgrounds shall provide permanent all weather service structures, meeting all setbacks, suitably divided to provide men's and women's toilet/privy facilities within a 500 foot radius of each camping space to be served. Campgrounds that serve self-contained recreational vehicles with sewer and water connections at each site shall be exempt from the 500-foot radius requirement for service buildings. Laundry facilities or showers may be centrally located in a campground or contained in several service buildings but all toilets must be installed in separate compartments. Bathroom facilities shall be provided at a rate of one per every four un-sewered camping sites.

Campgrounds must provide a safe and reliable water supply for each recreational vehicle and camping space at a rate of no less than fifty (50) gallons per day for each recreational vehicle and campground space. Campgrounds must provide an internal sewage collection system to which all

suitable equipped recreational vehicles and any other toilet, washing or shower facilities in the park or campground shall be connected. A wastewater treatment and sewage disposal system (dump station) approved by the State of Maine Department of Environmental Protection and Department of Human Services may also be provided. All wastewater collection and disposal, must meet state and town plumbing codes and be installed and maintained by the campground operator.

Campgrounds are required to provide a suitable system for the storage, periodic collection, and ultimate disposal of solid waste and garbage. Containers must be covered, rodent proof, and located on suitable crushed stone or concrete pads. Such facilities must be within five hundred (500) feet of each recreational vehicle or camping space.

Campgrounds are required to provide each recreational vehicle space with electricity of one hundred and ten (110) volts per recreational vehicle. All installations shall meet state and town electrical codes, be capable of functioning in all weather and be maintained by the campground operator. Unless such electrical system is installed underground, sufficient overhead wire clearance, no less than fourteen (14) feet from the ground, shall be maintained at all times.

No rigid enclosed addition may be affixed to any recreational vehicle other than a recreational vehicle accessory enclosure as defined herein.

Section 4.05 Home Occupations

(Amended 09/25/1990 & 03/8/1997).

In addition to the limitations contained in the definition of a home occupation, "home occupations" shall be subject to the following performance standards;

- A. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit and shall be allowed to employ 1 non-family member but shall not alter the residential character of the property from its principal use as a residence.
- B. The Home Occupation or professional activity shall be carried on wholly within the principal and/or accessory structure. No equipment or materials used in a home occupation may be stored or stacked out of doors.
- C. No mechanical, electrical, or other equipment which produces a nuisance, noise, vibrations, smoke, dust odors, magnetic interference or electrical disturbance to the exterior of the building inconsistent with a residential neighborhood may be used.
- D. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.

- E. One sign, no larger than nine (9) square feet including supporting structure, (excluding post) may be erected on the premises. There shall be no illumination of signs after 9:00 p.m.
- F. The applicant shall make application to the Code Enforcement officer for review and approval of the application which shall include a floor plan and parking lot layout along with a written description of the proposed business.

Section 4.06 Wheelchair Ramp Which Does Not Meet Town Setback Requirements

1. The ramp shall be built according to IRC and Life Safety Building Codes.
2. It shall not be wider than 6 feet at any point.
3. It shall be constructed of wood or some other material which may be removed when the need for the ramp no longer exists.
4. The applicant shall present to the Code Enforcement Officer written evidence that someone who has resided in the house has become handicapped and needs the ramp.
5. The applicant shall present written evidence that it cannot be constructed within configuration of the property and location of the structure being accessed.
6. The applicant shall present a written statement as to when the ramp will be removed. If no date can be given, then the statement shall include a statement of events which shall lead to removal. In no case can the property be transferred to a new owner until the ramp has been removed.

Section 4.07 Wellhead Protection District WHPD

(Amended 06/5/1993, Amended by Selectmen vote 08/23/2011)

Subsection 4.07.01 General

The purpose of this district is to establish a protection district for wells intended to serve potable water on a town or regional scale. The creation of the Wellhead Protection District is intended to protect the quality and quantity of the present and future water resources of the communal potable water systemsy regulating activities and land use practices within the well recharge area. This protection is vital to preserving the health, safety, and general welfare of the households serviced by potable water systems and the other residents of the Town.

The Wellhead Protection District shall be an overlay zoning district and therefore compliance with all the requirements of the underlying zoning district(s) which the Wellhead Protection District covers shall be maintained.

The Wellhead Protection District shall consist of all land delineated within that zone on the Town of Waterboro Wellhead Protection Zone Map, as Amended.

Subsection 4.07.02 Permitted Uses and Structures

Any permitted uses and structures allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), are subject to the provisions of Article 4, Section 4.07.

Subsection 4.07.03. Establishment of Zones

The Wellhead Protection District consists of two (2) zones that are shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map. The two zones are defined as:

A. Zone 1: Immediate Recharge Area

Zone 1 includes the area immediately recharging the water supply, as shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map.

B. Zone 2: Primary Recharge Area

Zone 2 includes the primary recharge area shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map.

C. Land Use Table

Any proposed land use listed below is subject to the requirements of this section and applicable performance standards. This section excludes residential activities except in instances that meet applicable performance standard thresholds or where specific reference is made to residential activity. All other uses not listed in this table are not permitted in both Zones 1 and 2.

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Agricultural chemical spreading or spraying	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Agricultural use of residuals	N	PB	Chemical Spreading/Spraying
Agriculture	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Animal husbandry	N	PB	Chemical Storage Wastewater and Solid Waste
Auto parts/supply	N	PB	Chemical Storage
Auto repair/body shop	N	PB	Chemical Use Chemical Storage
Beauty parlor	N	PB	Chemical Use Wastewater and Solid Waste
Boat builders, refinisher, maintenance	N	PB	Chemical Storage Chemical Use

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Bulk Fuel Oil Storage >275 gallons	N	PB	Chemical Storage
Car wash	N	PB	Chemical Use Wastewater and Solid Waste
Commercial vehicular storage or parking; maintenance and refueling of vehicles and equipment ¹	N	PB	Vehicular Use and Storage
Concrete, asphalt, tar, coal company	N	PB	Chemical Storage Chemical Use
Dry cleaner	N	PB	Chemical Storage Chemical Use
Essential operations of the Water District	Y	Y	
Furniture stripper	N	PB	Chemical Storage Chemical use
Golf course	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Graveyard/cemetery	N	PB	Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer application ²	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer dealer	N	PB	Chemical Storage
Hoop houses and greenhouses	N	PB	Chemical Use Chemical Spreading/Spraying
Junk or salvage yard	N	PB	Wastewater and Solid Waste Chemical Storage
Laundromat	N	PB	Chemical Use Wastewater and Solid Waste
Machine shop	N	PB	Chemical Storage Chemical Use
Medical, dental, veterinarian office	N	PB	Wastewater and Solid Waste
Mining (Sand & Gravel, Rock)	N	PB	Mining
Mortuary/funeral parlor	N	PB	Chemical Storage Chemical Use
Multi-unit/family housing	N	PB	Wastewater and Solid Waste

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Municipal wastewater treatment plant	N	PB	Wastewater and Solid Waste
Nursery or garden shop	N	PB	Chemical Use Chemical Spreading/Spraying
Oil pipeline	N	PB	Chemical Use Chemical Spreading /Spraying
Painters, finishers	N	N	Chemical Use
Parking lot	N	PB	Stormwater Road maintenance
Photo processor	N	PB	Chemical storage Chemical use
Printer	N	PB	Chemical storage Chemical use
Railroad yard or line	N	PB	Chemical storage Chemical use
Recycling or processing center (other than beverages)	N	PB	Chemical storage Chemical use Wastewater and Solid Waste Storm water Fill
Research laboratory	N	PB	Chemical storage Chemical use Wastewater and Solid Waste
Rust proofer	N	PB	Chemical storage Chemical use Wastewater and solid waste
Salt pile or sand and salt pile (uncovered)	N	PB	Chemical storage
Septic system New >1,000 gpd New <1,000 gpd Replacement < 1,000 gpd	N N CEO ³	N CEO ³ CEO ³	Wastewater and solid waste
Sewer lines	PB	PB	Wastewater Solid waste
Small engine repair shop	N	PB	Chemical use
Storm water impoundment or run-off area	N	PB	Storm water Road maintenance
Utility Transmission Lines	PB	PB	Chemical Spreading/Spraying
Wastewater treatment plant, discharge	N	PB	Wastewater and solid waste

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Notes	¹ – Short-term overnight parking may be allowed in connection with other activities receiving a CEO or PB permit. For example, short-term overnight parking of construction vehicles on new permitted construction projects. ² – Unless a greater public health concern warrants pesticide application. For example, Browntail Moth control. ³ – With notification made to the appropriate public water supplier(s): the Waterboro Water District and/or the Lake Arrowhead Association Department of Public Works.		

Land use key

Y= permitted

N= not permitted

PB= permitted subject to Planning Board Review and use of Best Management Practices that pertain to the application

CEO= permitted subject to CEO Review and use of Best Management Practices that pertain to the application

Subsection 4.07.04 Conditional Uses

Any conditional uses allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), and not specifically prohibited in Subsection 4.07.03, shall be conditional uses in this district and subject to Planning Board review pursuant to Article 2 of this Ordinance.

Subsection 4.07.05 Conflict

If the provisions of this Article conflict with other requirements in this zoning ordinance, or with requirements found in other ordinances of the Town of Waterboro, the stricter requirements shall govern.

Subsection 4.07.06 Lot Specifications

A. Minimum Lot Size

Zone	Land Area per Dwelling Unit
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1	160,000 sq. ft.
2	80,000 sq. ft.

Areas served by public water have a minimum lot size of 40,000 square feet per dwelling unit.

B. Maximum Lot Coverage

For portions of lots within the Wellhead Protection District, the maximum lot area that can be covered by impervious surfaces including parking areas, shall be as follows:

Zone	Maximum lot Coverage
1	30%
2	50%

Notwithstanding other provisions of the ordinance, lot coverage that exists as of the date of adoption of this ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Protection District. However, the Planning Board shall not authorize expansion of impervious surfaces of existing uses if the total coverage of all lot areas located in the Wellhead Protection District is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

Subsection 4.07.07. Application Requirements

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

A. All Applications

All applications shall follow submission criteria set forth in Section I. D. of the Site Plan Review Ordinance.

B. Independent Review and Advice

1. Professional Services

The Planning Board or CEO may require an attorney or consultant to review and advise on one or more aspects of an application for compliance or non-compliance with this ordinance. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit the Town the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment. The Town shall bill the applicant if the actual cost exceeds the estimated cost. A certificate of occupancy will not be issued until all costs associated with the project have been paid by the applicant.

2. Additional Studies

The Planning Board or CEO may require the applicant to undertake any study they deem reasonable and necessary to determine whether a proposed activity meets the requirements of this ordinance. The costs of such studies shall be borne by the applicant.

C. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Protection District

More than one of the categories listed below may apply to a particular use. Applicants should request assistance from the Town Planner should there be questions as to which categories apply.

1. Non-agricultural chemical use, storage and handling, (including petroleum products)

- a. Type and volume of chemical compounds handled and/or stored.
- b. Site plan showing all storage, handling and use areas for raw materials and wastes.
- c. For outside areas, details to contain spills including:
 1. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site.
 2. provisions to collect chemicals should they enter the drainage system.
 3. provisions to segregate underground systems to insure that there are no cross connections.
 4. provisions to prevent accidental containment breach by collisions.
 5. statement of emergency measures which can be implemented for surface drainage systems.
- d. For inside areas, details to contain spill including the:
 1. design of dikes around rooms.
 2. the location of floor drains and floor drains outlets.
 3. the location of separators, holding tanks and/or drain outlets.
 4. the specific location and design of underground storage structures.
 5. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
- e. A spill prevention and control and countermeasure (SPCC) plan detailing:
 1. materials and equipment to be available.
 2. a training plan and schedule.
 3. a list of contacts (EPA/DEP/local fire officials) with phone numbers.
 4. an inspection schedule.
- f. A report by an industrial engineer or other competent professional detailing:
 1. steps which have been taken to reduce the use of hazardous material.
 2. actions which have been taken to control the amount of wastes generated.
 3. any reports to provide information on the design theory or methodology for the above features.

2. Agricultural chemical use, storage and handling

- a. Type and volume of chemical compounds handled and/or stored.

- b. Intended use.
- c. An Integrated Pest Management Plan.
- d. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
- e. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
- f. Detailed report on type of chemical applied and rate of application.
- g. Site plan showing all storage, handling and use areas for raw materials and wastes.
- h. For outside storage, details to contain spills including:
 - 1. drainage and contour information to prevent the flow of runoff from entering;
 - 2. the storage area and which keep leaks or spills from flowing off site;
 - 3. provisions to collect chemicals should they enter the drainage system;
 - 4. provisions to segregate underground systems to insure that there are no cross connections;
 - 5. provisions to prevent accidental containment breach by collisions;
 - 6. statement of emergency measures which can be implemented for surface drainage systems.
- i. For inside storage, details to contain spill including the:
 - 1. design of dikes around rooms;
 - 2. the location of floor drains and floor drains outlets;
 - 3. the location of separators, holding tanks and/or drain outlets;
 - 4. the specific location and design of underground storage structures;
 - 5. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
- j. A spill prevention and control and countermeasure (SPCC) plan detailing:
 - 1. materials and equipment to be available;
 - 2. a training plan and schedule;
 - 3. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - 4. an inspection schedule.
- k. A report by an industrial engineer or other competent professional detailing:
 - 1. steps which have been taken to reduce the use of hazardous material;
 - 2. actions which have been taken to control the amount of wastes generated;
 - 3. any reports to provide information on the design theory or methodology for the above features.

3. Vehicular use and storage

- a. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.

4. Mining (Sand, Gravel and Rock)

- a. A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control, all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.

- b. A detailed report by a Maine Certified Geologist with experience in hydrogeology attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.

5. Subsurface injection

- a. Subsurface Wastewater Disposal
 - 1. Soil evaluator's report and septic system design.
 - 2. For sites/uses producing >800 gallons of sewage, a hydrogeological analysis of nitrate concentrations at the property line.
- b. Sewage Disposal
 - 1. Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.
- c. Subsurface Injection
 - 1. Provisions and designs for all floor drains, grease traps, and holding tanks.

6. Stormwater Management

- a. Narrative describing site layout, and on-site and off-site watershed hydrology, including all new and existing buildings and facilities, which may be affected by the site runoff. Provide total amount of impervious area created by the project.
- b. Drainage plans showing all topographic features, such as buildings and other facilities, drainage ways, cover types, roads, drainage easements and sub-catchment boundaries for pre-construction and post-construction conditions must be shown on the plan. Show all hydrologic flow lines and hydrologic soil groups boundaries on a plan and identify each sub-catchment, reach and pond consistent with the runoff model. For post construction conditions, show all new stormwater management structures and changes to the hydrologic condition.
- c. Stormwater runoff calculations for measured designed to meet the standards listed in Section 4.07.07(G).
- d. Designs, construction details and technical specifications for each stormwater management measure that will be constructed, installed or managed on the site.

7. Utility Corridors

- a. Type and volume of chemical compounds applied, handled or stored.
- b. Site plan showing all areas of use areas for chemical compounds.
- c. A spill prevention and control and countermeasure (SPCC) plan detailing:
 - 1. materials and equipment to be available.
 - 2. a training plan and schedule.
 - 3. a list of contacts (EPA/DEP/local fire officials) with phone numbers.
 - 4. an inspection schedule.
- d. A report by an industrial engineer or other competent professional detailing:
 - 1. steps which have been taken to reduce the use of hazardous material.
 - 2. actions which have been taken to control the amount of wastes generated.
 - 3. any reports to provide information on the design theory or methodology for the above features.

Subsection 4.07.08 Performance Standards

A. General Provisions

All development located within the Wellhead Protection District shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply.

B. Performance Standards for Chemical Use

1. The use of chemicals or residuals shall not cause or contribute to the cumulative, calculated or actual levels of any contaminants in the groundwater at the Water District's property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water act, as Amended.
2. Only fertilizers containing predominantly slow release nitrogen and manure are allowed. Fertilizers shall be applied at an agronomic rate based on annual soil test results. Permit applications must be on an annual basis. Permit applications shall include application materials and rates.
3. Only land application of pesticides with low leachability by Maine licensed applicators is allowed. Provisions shall be made for control of surface run-off and erosion in areas where pesticides are being applied. Permit applications shall be submitted on an annual basis and shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application. In addition, a comprehensive Integrated Pesticide Management Plan certified by a groundwater hydrologist should conclude the activity will have no unreasonable adverse effects on groundwater. Annual reports detailing the type and amount of substance reports as well as date and specific location of application shall be submitted to the CEO annually.

C. Performance Standards for Chemical Storage

1. New installation of underground storage tanks are prohibited within the Wellhead Protection District.
2. All chemicals must be stored under cover and on an impervious surface, without floor drains.
3. Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.
4. Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.
5. Any above-ground piping must be designed to prevent line breakage due to collision.

6. All containers and piping must be constructed of corrosion resistant materials.
7. All containers must be clearly labeled with the chemical name and date of purchase.
8. A Spill Prevention, Control and Countermeasures Plan (SPCC) must be submitted to the CEO, Fire Department and the Water District.

D. Performance Standards Chemical Spreading/Spraying

1. Pesticide and herbicide application should be the option of last resort. Any activity requiring the use of herbicides or pesticides must develop an Integrated Pest Management Plan that details the conditions under which agricultural chemicals are to be used. All pesticides shall be applied in accordance with label directions and the regulations of the Maine Board of Pesticides Control.
2. Herbicides and pesticides must be applied only by certified applicators, who must be informed regarding the delineated area of wellhead protection.
3. A Nutrient Management Plan must be provided for all agricultural activities within the WHPD.
4. All agricultural fertilizers shall be applied in accordance with label directions, and must be applied in accordance with an approved Nutrient Management Plan
5. Fertilizer applications are to be tailored to the specific needs of the crop, as determined by soil suitability analyses. Use of slow-release fertilizers is preferred.
6. Irrigation schedules shall be coordinated with pesticide and nutrient application to minimize the possibility of leaching. Pesticides and nutrients shall not be applied to frozen ground, or applied immediately before storm events.
7. Notice of intent to apply agricultural chemicals shall be given to the CEO and public water supplier prior to application.
8. Only Class "A" composted residuals may be used within WHPD. These residuals must have an approved Program License from the Maine Department of Environmental Protection, and must be used in strict accordance with all license provisions. Any non-composted residual or a residual not meeting the Class "A" pathogen reduction standard should not be spread within the WHPD.
9. Manures must be composted to Class "A" standards. Manure may be used within the WHPD, and must be applied in accordance with the nutrient management plan.
10. Residuals and manures shall not be applied over very shallow soils (less than 1 foot) or exposed bedrock.
11. Residuals and manure shall not be applied on frozen ground, or immediately before storm events.

E. Performance Standards for Non-Residential Vehicular Use and Storage

1. When draining oils or fluids from vehicles, precautionary measures such as portable drip pans, must be taken to ensure that no spills occur.
2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have permanently installed secondary containment equal to 110% of the liquid volume stored, be covered by a permanent roof and be on a surface with no floor drains.
3. No vehicle washing may occur.
4. Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35 gallons and a tight fitting lid, and at least two absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.
5. Refueling must occur on a concrete pad or other impermeable surface.

F. Performance Standards for Vehicular Parking and/or Storage

Any vehicle (both on- and off-road) with externally mounted fuel tanks in excess of 45 gallons must be parked on an impervious surface with no floor drains.

G. Performance Standards for Mining (Sand, Gravel and Rock)

1. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 500 feet; (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.
2. Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table.
3. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.
4. Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans.
5. All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
6. The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.

7. At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
8. -Unused gravel pits within the Wellhead Protection District shall be reclaimed according to plans submitted to the Municipality.
9. Gravel mining activities in a Wellhead Protection District must have emergency spill response plans.
10. Storage of fuels is prohibited within WHPD.
11. Rock crushers are prohibited within WHPD.
12. There shall be no overnight storage of vehicles within the WHPD unless parked over a secondary containment area.

H. Performance Standards for Wastewater and Solid Waste

1. Municipal wastewater disposal facilities, chemical waste disposal sites of any kind, spreading of biosolids and incinerator ash except Class "A" residuals as described in Subsection 4.07.08 of this Ordinance, solid waste landfills, log storage yards and lumber yards, and other direct discharges shall be prohibited in WHPD.
2. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 800 gallons of sewage, a hydrogeological analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.
3. Sewer pipes shall be gasketed when buried within Zone 1 of the WHPD.

I. Performance Standards for Stormwater Management

1. Stormwater management system must include treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater and mitigate potential temperature impacts. This shall be achieved by using one or more of the methods listed in this section to control runoff from no less than 95% of the impervious area and no less than 80% of the developed area associated with a project that is impervious or landscaped. The Planning Board may, on a case-by-case basis, consider alternate treatment measures to those described in this section. An alternate treatment measure must provide at least as much pollutant removal as the measures

described in this section and, unless otherwise approved by the Planning Board, as much channel protection and temperature control.

- a. *Wetpond with detention above the permanent pool.* A stormwater management system using detention to control runoff must detain, above a wetpond's permanent pool, a runoff volume equal to 1.0 inch times the sub-catchment's impervious area plus 0.4 inch times the sub-catchment's landscaped area. The detained runoff must be discharged solely through an under drained vegetated gravel filter having a single outlet having a diameter no greater than eight inches. A wetpond must have a storage volume below the permanent pool elevation at least equal to 1.5 inches times the sub-catchment's impervious area plus 0.6 inch times the sub-catchment's non-impervious developed area, a mean depth of at least three feet, and a length to width ratio of 2:1 or greater.
- b. *Filter.* A detention structure using filters to control runoff must detain a runoff volume equal to 1.0 inch times the sub-catchment's impervious area plus 0.4 inch times the sub-catchment's developed area that is landscaped and discharge it solely through an underlined vegetated soil filter having a single outlet with a diameter no greater than eight inches, or through a proprietary filter system approved by the Planning Board.
- c. *Infiltration.* A stormwater management system using infiltration to control runoff must retain a runoff volume equal to 1.0 inch times the sub-catchment's impervious area plus 0.4 inch times the sub-catchment's developed area that is landscaped and infiltrate this volume into the ground. Pre-treatment of stormwater must occur prior to discharge to the infiltration area. The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained to assure that its capacity for infiltration and pollutant removal is unimpaired.
- d. *Buffers.* A stormwater management system using buffers to control runoff must meet the design criteria listed in the Maine Department of Environmental Protection Stormwater Rules, 06-96 CMR 500, as Amended.

J. Performance Standards for Road Maintenance

1. Cover all sand, salt or sand/salt piles with a roofed structure capable of preventing both contact with water and leaching of salt into groundwater. Tarps are not an acceptable means to cover a sand, salt or sand/salt pile.
2. Prohibit snow dumps and/ or snow storage in all wellhead protection areas.

K. Performance Standards for Fill

1. Use only inert material (loam, sand, gravel, clay, rocks, bricks or concrete).

2. Use only clean fill (no non-natural odors, no staining, and not originating at a known spill site).
3. Implement erosion and sedimentation control measures.

Subsection 4.07.09. Control of Existing Threats

A. Inspection

The CEO shall follow the guidelines outlined in Article 2 of this ordinance.

B. Monitoring

Whenever the CEO finds that a use existing as of the date of adoption of this amendment (June 11, 2011), is located within a Wellhead Protection District designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the CEO shall inform the appropriate Water District official. The CEO may request the municipal officers to authorize legal measures in conjunction with the appropriate Water District to require the installation of monitoring wells and testing. In cases where testing indicates that the use is found to cause or contribute to reduction of eighty percent 80% or more of the State Primary Drinking Water Standards at the Water District property line, the property owner shall reimburse the town or Water District for all expenses incurred for installations, testing and monitoring.

C. Enforcement

If any contamination is found or reported within the Wellhead Protection District, the CEO shall notify the Water District or Public Works Director along with any and all appropriate State or Federal agency. The CEO will enforce this section in accordance with Article 2 Section 2.05 of this ordinance.

Section 4.08 Adult Businesses

(Amended 06/5/1993).

1. The Planning Board may impose reasonable time, place, and manner restrictions on the operation of so-called "Adult Businesses".
2. Planning Board review under this Ordinance shall be limited to the impacts and effects of the proposed use as determined by applying the site plan review standards. The Planning Board shall not deny approval for the proposed use on the basis of the content of the materials sold, rented, exhibited or displayed and shall not restrict or limit the content of such materials. Notwithstanding anything to the contrary in the Waterboro Zoning Ordinance, Planning Board decisions under this Ordinance shall ~~not~~ be appealed to the Waterboro Board of Appeals.
3. No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the Adult Business is located.

4. No Adult Business shall be located in any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
 - a. occupied by a residence, school, park, playground, church or public building.
 - b. located in a residential zone.
 - c. occupied by another adult business.

Section 4.09 Special Requirements for Apartment Conversions

Apartment Conversions shall be subject to all applicable requirements of Article 2 Expansion of the structure for conversion purposes shall be allowed only if the following criteria are met: 1) the existing square footage of the house, accessory structure, and expansion will not cover in excess of 50% of the entire lot, and 2) the minimum lot size requirement is met. In reviewing the Apartment Conversion, the Applicant must meet the following density requirements of each zoning district:

Density Requirements:

	1 Unit	2 Units	3 Units
Village	40,000 sq. ft.	60,000 sq. ft.	80,000 sq. ft.
Residential	40,000 sq. ft.	60,000 sq. ft.	80,000 sq. ft.
Agricultural & Residential	80,000 sq. ft.	120,000 sq. ft.	160,000 sq. ft.
Forest & Agricultural	5 Acres	7.5 Acres	10 Acres

Section 4.10 Special Requirements for Office/Office Complex

The following performance standards shall be used by the Planning Board in reviewing Office/Office Complexes.

Setbacks:

All applicable setbacks as outlined in each zoning district or Article 2, Section 2.08 must be met.

Building Height:

No structure shall be built or expanded to exceed the 35 ft. height restriction.

Density Requirements:

For the purpose of Office/Office Complex the following densities shall be defined as the "base lot" in each described zoning district:

Village	20,000 sq. ft.
Residential	40,000 sq. ft.
Agriculture/Residential	80,000 sq. ft.

For the purposes of an Office/Office Complex, one or more professional offices will be allowed on a base lot provided that all performance standards outlined in this section are met to the Planning Board's satisfaction.

Hydrogeological Study:

An applicant must provide proof through a Hydrogeological Study that the proposed Office/Office Complex meets the nitrate nitrogen concentration standards of no more than 5 mg/l of nitrate nitrogen at the property line of the proposed Office/Office Complex.

If a proposed project cannot meet these standards the applicant is provided two remedies:

- a. Reduce the project scope to meet the nitrate nitrogen concentration standards; or
- b. Increase the area of the base lot in 10,000 square foot increments until all hydrogeological impacts are within Town of Waterboro guidelines and approved by the Planning Board.

If sufficient proof is provided by the applicant that the project will not produce more than 5mg/l of nitrate nitrogen, the Planning Board may waive the requirement for a hydrogeological study.

The Planning Board reserves the right to hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for the office complex.

Maximum Lot Coverage:

The Applicant's proposed project shall not cover the lot by more than 50%. For the purpose of this section, lot coverage shall be defined as the combination of all improvements contained on the lot including:

- a. Building (principal & accessory) footprint; and
- b. Parking lot area; and
- c. Septic System area.

Landscape Buffer:

The Planning Board may condition the project by allowing for a landscape buffer strip 15 feet in width along the roadway.

The landscaped buffer strip shall be used and maintained only as a suitable planting area for lawns with trees, shrubs or other landscape materials. The septic system and well construction within this area shall be allowed if placed and constructed in conformance with all state regulations.

Section 4.11 Modifications for Special Structures

Provisions of this ordinance are permitted in circumstances which involve nonconformance (see Article 8), planned unit development (see Section 7.01), cluster development (see Section 7.02), otherwise unusable substandard lots (see Sections 2.08 and 8.05), and where the requirements for the issuance of a variance are met (see Section 9.04). (Amended 06/24/2016).

In addition, height modifications which should usually not exceed a fifty (50) percent increase from the otherwise applicable height limitations imposed by this ordinance or 52.5 feet may be allowed by the Planning Board in the construction of either permitted or accessory structures which are by their nature unique or special structures and required to obtain other approvals from the Planning Board at the time the height differential request is made. Requests pursuant to this section of the ordinance to exceed the height limitations in a particular district need not meet the more difficult requirements for the issuances of a variance but must demonstrate that the proposed height is necessary, reasonable, and will not result in harm to adjacent property owners or the public. Whenever possible, the approval of a request to exceed the height limitations in a particular district should be compensated for by increasing the setback requirements from all lot lines by that distance which maintains the original height to setback relationship. As a general rule, the powers conferred by this section should not be used frequently.

Unique or special structures which are covered by this section include but are not limited to:

- architectural projections; spires, belfries, cupolas, domes, flues, chimneys, flagpole, etc.
- public and private utility facilities; water tanks and towers, gas or oil storage tanks, telephone and electric transmission lines and towers, radio or television relay towers, antennas, or aerials, civil defense, police or fire warning systems, etc.
- agriculture structures; barns, silos, windmills, well drilling facilities, etc.
- miscellaneous structures and facilities; rest, picnic or playground facilities, monuments, pollution control equipment, observation towers, experimental or scientific equipment, etc.
- essential public or semi-public buildings; municipal buildings, schools, hospitals, churches, etc.

Nothing in this section shall be interpreted as allowing a special structure to be located in any district other than one where it is a permitted primary or accessory structure.

Section 4.12 Commercial Design Standards

Purpose. To protect, enhance and perpetuate the town's historic, cultural and architectural heritage and to enhance the town's attraction to residents and visitors and to serve as a support and stimulus to business and industry, construction of a new building or structure or addition to an existing structure shall be of such design, form, proportion, mass, configuration, building material, texture and location on a lot as to conform with the following guidelines as deemed practicable by the Planning Board. In areas of the town where structures have little or no historic value (e.g.,

franchise architecture), new construction or renovations shall enhance the area rather than replicate existing structures.

1. Applicability.

These design standards apply to all new commercial buildings, structures in the Town of Waterboro with properties that have frontage or access on Route(s) 202 & 5 and which require Site Plan approval.

2. Standards

1. Proposed buildings, improvements and additions shall not be stylized to the point that the building or improvements are more an advertisement than an architectural form.
2. Long or continuous facades do not provide visual interest. Facades shall be articulated every 50 feet using varied designs, rooflines, materials and heights. The front facade shall be designed to look like more than one building entrance when the façade is proposed to be greater than 50 feet in width
3. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related. A proposed new building or structure shall break up uninteresting box-like forms into smaller, varied masses comparable to a variety of form and massing which are often elements essential to the character of the streetscape. Avoid single, monolithic forms that are not relieved by variations in massing
4. The roof shape of a building shall be visually compatible with that of buildings to which it is visually related. When no clear pattern exists, a roof pitch of 5/12 or steeper shall be used, or the building should be designed so as to appear to have a pitched roof. The design of the roofline or parapet wall shall screen any air conditioning or other utilities placed on the roof on 3 sides most visible to the pub
5. Where mechanical equipment such as HVAC are located at ground level, appropriate vegetative screening shall be used to hide the equipment while spaced to allow for routine maintenance.
6. For trash receptacles located on the property, where possible, natural vegetative screening and or stockade fencing shall be used to screen the containers from public view.

Section 4.13 Mobile Vending

The purpose of mobile vending regulations is to ensure that mobile vendors provide a safe healthy environment for both vendors and the public at large. It is important to further ensure that mobile vendors do not become permanent businesses which would have a competitive advantage on a full time brick and mortar businesses. Mobile vendors shall comply with the State of Maine rules relating to eating and shall comply with the following regulations:

1. Mobile vendors shall not leave equipment, vehicle or trailer on site or displayed, or left in public view in the location of business during nonbusiness hours. Parking on residential lots is not allowed.

2. Permits required from the Code Enforcement Office and are valid for a period not to exceed sixty days. Copy of State of Maine food license required. The applicant shall provide a plan showing the proposed location of the trailer/truck, parking for patrons any seating areas if proposed.
3. Vehicle or trailer shall not hinder vehicle traffic, pedestrian traffic and shall not hinder access to or from the property.
4. The operator/owner shall have written permission from the property owner to locate the vehicle or trailer on said property.
5. The operator/owner shall have available off-street parking for patrons.
6. The operator/owner is responsible for allowing no paper, food or other wastes to accumulate on site. Clean and sanitary trash receptacles are required. No trash shall be left on site overnight.
7. The operator/owner is responsible for; safe source of electric power, potable water, clean and sanitary equipment, clean and safe storage for food.
8. All equipment used for the preparation of food shall be located in the vehicle or trailer.
9. One sign identifying the vehicle or trailer is allowed.
10. Exterior seating is allowed when sufficient off-street parking is provided.
11. A violation will result in suspension of the permit and possible fines for the property owner and/or the permit holder.
12. Hours of operation are limited to; 8 am to 10 pm Sunday through Thursday and 8 am through 11 pm Friday and Saturday. Localized lighting affixed to the vehicle or trailer for the purpose of food preparation and menu illumination is allowed.
13. One mobile vendor is allowed on any single lot at any given time.
14. Mobile vendors shall be a minimum of twenty (20) feet from abutting property.

Section 4.14 Reserved

Article 5 Traffic, Parking, Road Access

Section 5.01 Traffic Visibility and Screening

No fences, structures, trees, shrubbery, material, vehicles or any other construction shall be placed or maintained even temporarily in any manner which impairs the visibility of the driver of any vehicle which in traveling on any roadway in the town, public or private, approaches within fifty (50) feet of the initial point of intersection with another public or private roadway.

With the exceptions noted in the preceding paragraph, all outside parking and loading areas serving more than twenty (20) vehicles shall be screened from view by suitable landscaping materials-- evergreen shrubs or trees, fencing, walls, berms, or any combination thereof. Such vegetative screening shall be at least four (4) feet high at the time of planting or fencing should be at least six (6) feet high.

All parking and loading areas including areas used for maneuvering and interior circulation, shall be set back at least twenty-five (25) feet from the roadway on which they front; and will maintain at least a ten (10) foot greenbelt on the side and rear property lines. (Amended 04/27/2002).

Section 5.02 Loading Area Requirements

On every lot on which commercial, industrial or institutional activities are proposed, extended or enlarged, a loading area with access to a public or private roadway shall be provided to avoid the loading, unloading or maneuvering of vehicles within the right-of-way of any public or private roadway. A loading area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All loading areas must have sufficient overhead clearance to accommodate tractor-trailer size vehicles.

The minimum loading area requirement for commercial activities is one five hundred (500) sq. ft. space for each two thousand five hundred (2500) sq. ft. or part thereof of commercial floor area. The minimum loading area requirement for industrial or institutional activities is one five hundred (500) sq. ft. space for each five thousand (5000) sq. ft. or part thereof of industrial or institutional floor area.

Activities which contemplate the loading, unloading, storage, or repair of buses, trucks, cars, or other vehicles must provide sufficient outside loading and storage space to accommodate the maximum number of vehicles which the facility is capable of handling at any one time.

Section 5.03 Parking Area Requirements

In all districts and in connection with every permanent or temporary use of land or structures permitted, extended or enlarged after the effective date of this ordinance, an adequate parking area with access to a public or private roadway in accordance with the provisions of this ordinance shall be provided on the same lot as the principal use or structure which gives rise to the need for parking space. In no case shall any part of the road right-of-way be used in providing such parking area.

Except in the case of single and two-family dwellings, a single parking space, exclusive of the space needed within a parking area for driveway, turnaround and traffic circulation purposes shall be at

least two hundred (200) sq. ft. A parking area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All parking areas must be graded and surfaced with compacted gravel or paving, so as to be properly drained and dust free. Parking areas serving more than ten (10) vehicles must have the individual spaces and aisles marked.

Parking spaces shall be provided according to the following schedule:

1.	Single family residences	2 spaces
2.	Two family residences	4 spaces
3.	Multi-family residences in excess of two-family units	1 1/2 spaces per unit (minimum 5 spaces)
4.	Hotels, motels, guest houses, dormitories, boarding houses	1 space for each guest room plus 1 space for every 3 employees
5.	Theater, churches, halls, funeral homes	1 space for every 4 seating spaces
6.	Hospitals, rest & nursing homes, sanitarium	1 space for each 3 beds plus 1 space for every 3 employees
7.	Medical, dental, veterinary or other health care offices or clinics	4 spaces for each professional person plus 1 space for every 3 employees
8.	Restaurants, bars, lounges, diners, cafes	1 space for every 3 seats plus 1 space for every 3

		employees
9.	Pre-school, Nursery and primary schools	1 space for every 20 students plus 1 space for every 3 employees
10.	Secondary and post-secondary schools	1 space for every 4 students plus 1 space for every 3 employees
11.	Retail shops and service store, (cleaners, barbers, repair shops)	1 space for every 200 sq. ft. of store area plus 1 space for every 3 employees
12.	Wholesale, warehouse, manufacture, or processing facilities	5 spaces for visitors plus 1 space for every 3 employees
13.	Financial institutions, business, government, or professional offices	1 space for every 200 sq. ft. of non-storage floor area plus 1 space for every 3 employees
14.	Fraternal organizations, clubs and lodges	1 space for every 100 sq. ft. of non-storage floor area
15.	Garages and filling stations	1 space for every 100

		sq. ft. of non-storage work areas plus 1 space for every 3 employees
16.	Fair grounds, amusement parks, ballparks, or recreational facilities	1 space for every 4 seats or 1 space for every 500 sq. ft. of playing area or non- storage area open to the public, whichever requires the greater number of parking spaces
17.	Drive-in facilities	10 spaces for each teller, serving window or counter plus 1 space for every 3 employees
18.	Marinas	1 space for each boat dock or mooring space plus 1 space for every 3 employees
19.	Agriculture or forestry activities (including farmstands)	3 spaces plus 1 space for each piece of vehicular equipment used in the operation and 1 space for

every 3
employees

Uses, activities, or facilities which arguably fit within more than one of the above categories will be considered in that category requiring the least number of parking spaces. Uses, activities or facilities which combine several of the above undertakings must provide an average of the total of the number of spaces which each undertaking on its own would require. Uses, activities, or facilities not specifically listed shall be placed in that category above which the Planning Board determines is most similar in character to the proposed undertaking.

Section 5.04 Roadway Access

No driveway shall be within fifty feet of any intersection of public or private roads. A loading or parking area shall not have more than two (2) access driveways to an abutting roadway. Property owners with driveways serving drive-in commercial enterprises or serving loading or parking areas designed for more than fifty (50) vehicles shall provide appropriate entrance and exit signs, stop signs at all points of egress from the loading or parking area, and may, if the Planning Board determines that the volume of traffic requires it, be required to provide a driveway divider, an adequate frontage road, an approach lane, or a turning lane to insure safe traffic flow on, onto, and off of abutting public or private roadways.

Section 5.05 Reserved

Article 6 Signs

Section 6.01 General Requirements

All signs which are located, erected, moved, reconstructed, extended, enlarged or structurally altered after the effective date of this ordinance must be in compliance with the provisions of this ordinance though some signs are exempted from otherwise applicable permit requirements and accompanying regulations. (see Section 6.02). Signs placed in or on the windows of residences, stores, or other buildings are not regulated by this ordinance except that such signs may not be animated, and they may not utilize flashing lighting.

No sign, (whether regulated or unregulated by this ordinance) may resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. No sign may be positioned so as to prevent or block the free ingress to or egress from any door, window, or fire escape or in a manner which confuses, impedes, or impairs traffic movement or visibility. No sign, except publicly owned signs, may be placed upon, extend into, or over the right-of-way of any public or private road.

The owner of the land upon which a sign is located is responsible for its safe construction, installation, and maintenance. Unsafe damaged or deteriorated signs, signs in danger of falling, or signs not in compliance with the provisions of this ordinance are in violation of this ordinance. The Code Enforcement Officer shall order compliance with this ordinance which may include the repair, or removal of such signs. If compliance with his/her order is not achieved within the time period specified in the order, the Town in addition to the remedies provided in Sections 11.02 and 11.03 may repair or remove the violating sign and assess the costs to the landowner.

Signs lawfully existing on the effective date of this ordinance may be continued though not in conformance with the provisions of this ordinance. However, such signs are nonconforming structures and as such subject to the provisions of Article 9.

For purposes of this ordinance signs having two (2) back-to-back display faces shall count as only one (1) sign and only one (1) face shall be used in determining its size.

Section 6.02 Signs Not Requiring a Permit

Signs which do not require a permit may not exceed twenty (20) sq. ft. in size nor, including their supporting structure, may they exceed fifteen (15) feet in height. They are permitted in all of the zoning districts created by this ordinance. There may not be more than a total of two (2) of any such signs on any one lot or parcel of land. Except for official traffic control signs, they must directly relate to activities or beliefs of, or information about the land itself or the owner or lessee of the land upon which the signs are situated. Again excepting official traffic control signs, they must comply with the general requirements for all signs contained in Section 6.01. Signs not requiring a permit include:

1. Signs containing the house number, house name, street address, or name of the occupants of a house.

2. Real estate signs advertising the sale or lease of the property.
3. Business signs indicating the profession, home occupation, or commercial activity of the land owner or lessee.
4. Bulletin board or informational signs of public, charitable, or religious institutions.
5. Memorial signs or tablets, including historical markers.
6. Official traffic control signs.
7. Temporary signs indicating a sale, activity, or event being undertaken by the land owner or lessee.
8. Political signs.
9. On-site informational signs giving persons coming to the property necessary and useful information as to the location of parking areas, restrooms, pick-up and delivery areas, etc.
10. Warning signs or signs prohibiting trespass or other activities. Such signs may also exceed the above limit to two (2) per lot or parcel of land.

All of the above signs may be lighted indirectly or internally but only by non-flashing white light. They may not be placed on the roof of any building nor may they be painted or affixed directly onto a wall or the side of any structure. They may not be painted or affixed directly onto rocks or other natural objects except that they may be attached or fastened to such objects in a manner that will not injure them.

Section 6.03 Signs Requiring a Permit

All signs except those specifically exempted by the provisions of Sections 6.01 and 6.02 require a permit including those signs enumerated in Section 6.02 which are either larger in size than or exceed the number permitted by that section. A sign permit for purposes of this ordinance shall be deemed a type or subcategory of building permit--as such it will be issued by the Code Enforcement Officer subject to and in accordance with all of the provisions outlined in Sections 2.03 and 2.05. In addition the following regulations apply to signs requiring a permit:

1. All of the general requirements for signs contained in Section 6.01.
2. No sign requiring a permit may be located in either the (FA) or (C) district.
3. No sign may exceed three hundred (300) sq. ft. in size nor may a sign including its supporting structure exceed twenty-five (25) feet in height.

4. Animated signs and signs involving neon, white, colored, or flashing lighting must be positioned in a manner which avoids confusion with, intrusion upon, or harm to persons or activities situated on adjacent land.
5. An individual lot or parcel of land may not under the combined provisions of Sections 6.02 and 6.03 contain more than 4 signs, with the exception as to number noted in 6.02 (10), or a total of three hundred forty (340) sq. ft. of sign space.
6. Notwithstanding any other provisions of this ordinance, in (V) (R) and (AR) districts signs which exceed one hundred (100) sq. ft. in size and which are located along or so as to be viewed from any public or private roadway must be at least five hundred (500) feet apart as measured along the roadway.
7. No sign requiring a permit may be positioned along or so as to be viewed from any waterway as a business attraction to boaters.
8. All signs requiring a permit pursuant to provisions of this ordinance must evidence compliance with all state sign and billboard control statutes or regulations and must have received any required state permits.

Section 6.04 Reserved

Article 7 Planned Unit Development and Cluster Development

Section 7.01 Planned Unit Development

Subsection 7.01.01 General

Planned unit developments involving residential, commercial, or industrial activities or combinations of the above activities are permitted by this ordinance. All PUD's are Subdivisions and require Site Plan review -- as such they are subject to all of the requirements and approval procedures of Article 2 except that the time provisions of Section 2.09 are extended to sixty (60) days. The type and location of a PUD is established by Sections 3.04-3.08 of this ordinance. A PUD may not be undertaken on any parcel of land smaller than ten (10) acres in size and it must be owned or under the control of a single developer or entity. A PUD may not increase the overall density of development permitted in the particular district in which it is located and at a minimum it must comply with the substantive provisions of Articles 4, 5 and 6. However, all layout and dimensional, area requirements imposed by Article 3 or the town's regulations may not be altered.

Subsection 7.01.02 Purpose and Intent of PUD's - PUD's are intended:

- to promote flexibility in design and to allow the combination and coordination of land uses, architectural styles, and building types in a harmonious and integrated fashion;
- to preserve to the greatest extent possible the existing landscape features and natural amenity of an area;
- to promote the efficient use of land, a reduction in the size of road and utility systems and thus of development costs;
- to provide for more usable land, suitably located recreation facilities and other public and common facilities than would otherwise be provided under conventional development procedures;
- to promote experimentation and diversity in development processes.

Subsection 7.01.03 Control of Common Space, Open Area, and Common Facilities

Common space, common facilities and open areas whether owned by the public through dedication and acceptance or retained in private ownership (or both) are essential and major elements of a PUD which are related to effect the long-term value of the individual units in the development. The Planning Board in reviewing a PUD may not accept proposed dedications of common space or open area but shall refer such proposals for public ownership along with its recommendations to the Selectmen. Though formal acceptance of land proposed to be dedicated may be deferred until all project approvals have been obtained, the Board of Selectmen, within thirty (30) days of such a referral, must indicate by a binding vote its intent to accept land proposed to be dedicated or its refusal to accept such land.

Common space and open areas and any common facilities located on such which are retained in private ownership must be held in a manner that legally binds the developer or an owner's association to continuously and permanently have responsibility for operating, maintaining, conserving, improving, and generally caring for these common spaces, open areas, and facilities. A legally enforceable technique for financing these responsibilities must also be created and imposed

on the developer and/or subsequent owners or lessees of property within a PUD. The rights and duties of all parties (including the Town of Waterboro) to enforce any and all agreements touching upon these matters shall be established by covenants which if a PUD is approved shall be recorded prior to the sale of lease of any property within a PUD.

A separate covenant enforceable by both the Town of Waterboro and subsequent owners or lessees of property within a PUD, which permanently precludes the subsequent development of any and all land which is denoted in a proposed PUD as common space or open area, shall also be recorded prior to the sale or lease of any property within a PUD except that common facilities designed to be located on such lands and contemplated in the original PUD proposal shall be permitted.

Subsection 7.01.04 Review and Approval

The Planning Board in the context of reviewing PUD proposals and in the interests of efficiency shall simultaneously conduct the subdivision review required by 30-A, M.R.S.A. §§4401-4408, locally adopted subdivision regulations and site plan review.

The Planning Board shall approve a proposed PUD if it finds that all of the requirements for a Subdivision and Site Plan Review are met, if all of the substantive requirements set forth in this section are met, if the outlined purposes for which PUD's are created are substantially met, and if the provisions for dealing with common space, common facilities, and open areas are completely adequate, protecting both present and future interests of the town and subsequent owners or lessees of property within a PUD.

The Planning Board is specifically encouraged to utilize the bonding provisions authorized in Section 11.04 of this ordinance to ensure compliance with plans, specifications, and conditions upon which a PUD approval was sought and obtained.

Section 7.02 Cluster Development

The clustering of residential housing units is permitted by this ordinance. Clustered housing developments are a conditional use in all zoning districts as such they are subject to all of the requirements and approval procedures of Article 2 Section 2.10 and Subdivision review except that the time provisions are extended to sixty (60) days. The clustering of housing units may be undertaken on any size parcel of land which is owned or under the control of a single developer or entity. The overall density of housing permitted in a particular district and at a minimum cluster developments must comply with the substantive provisions of Articles 5 6, and 7 and the height limitations imposed in each district. However, all layout and dimensional requirements imposed by this ordinance or the town's subdivision regulations may not be altered unless the design meets the overall density requirements of the zone in which the development is located.

Cluster developments are usually more limited in scale and scope than PUD's (see Subsection 7.01.02) All of the provisions for the control of common space, open space, and common facilities in PUD's outlined in Subsection 7.01.03 shall apply to common space, open areas, and common facilities created by clustering development. For purposes of this section, wherever the phrase PUD appears in Subsection 7.01.03 the phrase "cluster development" shall be used instead. Finally, the

review and approval procedures and standards designed for PUD's and set forth in Subsection 7.01.04 shall also apply to cluster developments. For purposes of this section, wherever the phrase PUD appears in Subsection 7.01.04 the phrase "cluster development" shall be used instead.

Section 7.03 Reserved

Article 8 Nonconformance

Section 8.01 Existing Nonconforming Uses and Structures

This ordinance reflects the best judgment of the Town of Waterboro with respect to land use and is designed to both guide and bind all development activities, uses of land, and the construction, enlargement or renovation of all structures. However, those uses and structures, including accessory uses and structures, which do not conform to the provisions of this ordinance but which are in actual existence at the time of enactment of this ordinance, may be continued. But because nonconformance is inconsistent with the intent and objective, the creation or expansion of nonconforming activities is not encouraged.

A nonconforming use or activity which extends to only a portion of land in common ownership shall not be extended to the whole parcel if the redesign or realignment of lots is possible and will enable the activity to be undertaken in a conforming manner consistent with the provisions of this ordinance.

An existing nonconforming use or structure may not be physically moved to an alternative location where it will still be nonconforming. Relocations must be undertaken in a manner that conform to the provisions of this ordinance. An existing nonconforming use or structure at a particular site may not give way to an alternative activity which will also be nonconforming. Changes in the use of land or structures must be in conformance with the provisions of this ordinance.

Section 8.02 Existing Uses and Structures Which Conform With This Ordinance

Uses of land or structures, which on the date of enactment of this ordinance are in compliance with the provisions of this ordinance, may not subsequently be converted to uses which are not permitted by the provisions of this ordinance subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses. Uses of land or structures, which on the date of enactment of this ordinance conform with the provisions of this ordinance, may not be subsequently expanded in a manner which gives rise to nonconformance unless such nonconformity is minor and meets all of the requirements for Section 2.08 and Article 8. (Amended 06/24/2016).

Section 8.03 Replacement and Maintenance

A nonconforming use or structure which is damaged by fire, explosion, flood, or other natural disaster or act of God may be rebuilt or repaired provided the restoration is completed within one (1) year and does not entail an expansion of the nonconforming use or structure.

Nothing in this ordinance precludes the normal upkeep and maintenance of nonconforming uses and structures such as repairs, renovations, or modernizations which do not involve expansion of the nonconforming use or structure; and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

Section 8.04 Abolishment and Transfer

A nonconforming use of land or structure permitted pursuant to the provisions of Section 8.01 may not be resumed if such use is abandoned or discontinued in actual fact for a period of twelve (12) months. In either circumstance the renewed use of such land or structure must be in conformance with the provisions of this ordinance. When and if a nonconforming use of land or structures is converted by the landowner or lessee to a permitted or conforming use of the land or structures, the former nonconforming activities may not thereafter be resumed.

The owner of property which is nonconforming by virtue of the enactment and provisions of this ordinance may nonetheless sell, lease, or otherwise grant the property including the nonconforming use rights created in Section 8.01 to any person subject only to the conveying laws of the State of Maine and, of course the limitations on nonconformance imposed by this ordinance.

Section 8.05 Existing Nonconforming Lots and Pending Applications for Building Permits

Two or more contiguous lots of record in common ownership at the time or since adoption or amendment of this ordinance shall be combined and treated as a single lot or parcel of land. If the dimensional or area requirements of the district in which the combined parcel is situated are not met, development shall be in conformance with the provisions of this ordinance. (Amended 04/26/2003).

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for required building permits, or an application for required state permits and approvals. Such rights arise only when actual construction has begun. Such construction must be legal at the time it is commenced and must be in possession of and in compliance with all validly issued permits, both state and local.

Section 8.06 Nuisance

State law provides in 30-A, M.R.S.A. §4302 that “Any property or use existing in violation of any municipal land use ordinance or regulation is a nuisance.” (Amended 05/13/2016). Nonconforming uses and activities which violate the provisions of this ordinance particularly Article 8, may pose unique problems and threaten both public and private interests. Accordingly, the Town of Waterboro in addition to the enforcement mechanisms available to it pursuant to Sections 11.02 and 11.03 of this ordinance may utilize any statutory provisions facilitating the abatement of nuisances or in the alternative the town may acquire such nuisances for purposes of demolition by either purchase or condemnation.

Section 8.07 Reserved

Article 9 Zoning Board of Appeals

Section 9.01 Establishment

Pursuant to the provisions of 30-A, M.R.S.A. §§2691 and 4353, a Zoning Board of Appeals is established for the Town of Waterboro to receive, hear, and decide appeals from interpretations of this ordinance and decisions of the code enforcement officer (see Sections 1.06 and 2.05), the Planning Board (see Sections 1.06 and 10.04), and all requests for variances within the limitations established by 30-A, M.R.S.A. §4353(4). (Amended 05/13/2016; 06/24/2016)

Section 9.02 Membership and Organization

The Board shall consist of (5) five members appointed by the Board of Selectmen of the Town of Waterboro to serve staggered five (5) year terms. Neither a Selectmen nor his/her spouse may be a member of the Board. A member of the Board may be dismissed for cause by the Board of Selectmen before the expiration of his/her term. The Board shall elect annually a chairman and a secretary from its membership. Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, not including the member who is being challenged. (see 30-A, M.R.S.A. §2691). (Amended 05/13/2016).

Section 9.03 Procedure

The chairman shall call meetings of the Board to deal with Board business and pending appeals or requests for variances as necessary. The chairman shall also call meetings of the Board when requested to do so by a majority of the Board of Selectmen. A quorum of the Board necessary to conduct an official meeting shall consist of at least three (3) members. Official action may be taken by a majority of those members present and voting on any issue but no motion receiving fewer than two (2) votes shall be deemed passed. The chairman shall preside at all meetings of the Board and be the official spokesman of the Board. The Code Enforcement Officer shall be present at all meetings and hearings of the Board to provide such information and technical assistance as the Board may require.

The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary shall be responsible for maintaining those records which are required as part of the proceedings which are brought before the Board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the Municipal Clerk's Office and may be inspected at reasonable times.

The Board may provide by rule, which shall be recorded by the secretary for any matter relating to the conduct of any hearing, provided that any rule may be waived by the chairman upon good cause shown.

The Board shall conduct a de novo review of the matter under appeal and may receive any oral and/or documentary evidence pertaining to a matter before it; but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral and/or documentary evidence, to submit rebuttal

evidence and to conduct such cross-examination as may be required for a full and true disclosure of facts.

The Appellant or their Agent shall be present at their hearings pertaining to their Administrative Appeal or Variance Request. Failing to be present can be a reason for denial of Administrative Appeal or Variance Request. (Amended 03/12/1988).

The transcript of testimony, if any, and exhibits, together with all papers and requests filed in any appeal or variance proceeding shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore. The absence, abstention, or vote of each Board member shall be appended to the record of all appeal proceedings and variance requests. (See 30-A, M.R.S.A. §2691). (Amended 05/13/2016).

Section 9.04 Duties

The Board shall receive, hear, and decide all requests for variances (see Section 2.03). A variance shall be granted or denied within sixty (60) days of receipt of a completed request. A variance may be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant's property would cause undue hardship as defined by state law, 30-A M.R.S.A., §4353 (Amended 05/13/2016)

9.04.01 Variances for Undue Hardship. Except as provided in Section 9.04.2, a variance shall be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant's property would cause undue hardship as defined by state law 30-A, M.R.S.A. §4353 (4) (Amended 05/13/2016) pursuant to the following:

1. The land in question cannot yield a reasonable return unless a variance is granted; and
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and
3. The granting of a variance will not alter the essential character of the locality; and
4. The hardship is not the result of action taken by the applicant or prior owner.

9.04.02 Variances from Dimensional Requirements. The Board may grant a variance from the dimensional requirements imposed by this ordinance when strict application of the ordinance to the applicant and the applicant's property would cause a practical difficulty and when the following conditions exist:

1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; and
2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; and
3. The practical difficulty is not the result of action taken by the applicant or a prior owner; and
4. No other feasible alternative to a variance is available to the applicant; and
5. The granting of a variance will not unreasonably adversely affect the natural environment; and

6. The property is not located in whole or in part within the shoreland area as described in 38 M.R.S.A. §435.

As used in this subsection 9.04.2, “dimensional standards” means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection 9.04.2, “practical difficulty” means that the strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the applicant.

9.04.03 Additional Variance Standards.

1. Before a variance may be issued, the Board must determine, in addition to its finding of undue hardship or practical difficulty, that the granting of a variance would not negatively impact the best interest of the community. (Amended 03/10/1990).
2. Undue hardship shall not be construed to include: self-imposed hardships; an inability to realize as great an economic gain as would be possible if the variance were granted; or a hardship that is not unique to the applicant’s land.
3. A variance, if granted, should necessitate only a slight departure from the stated requirements of an ordinance, usually not exceeding a fifteen (15) percent increase or decrease from the stated requirements.
4. A variance, if granted, must not subvert the intent of the Town’s Comprehensive Plan, this ordinance or local subdivision regulations as manifested in the language of the Plan or the particular provisions from which the variance is sought.
5. A variance, if granted, must not have a harmful effect on the use of nearby land and structures insofar as that land is being used in conformity with state and local land use ordinances and regulations. The Board in granting a variance may attach appropriate conditions which will avoid harm to adjacent property owners and the public.

Section 9.05 Hearing and Parties

All Board meetings at which appeals or requests for variances are heard, considered and decided are public hearing (see Section 9.03). Notice of a public hearing shall be given at least seven (7) days prior to the hearing date by general advertisement to the public. At least ten (10) days prior to the date set for the Zoning Board of Appeals hearing on an appeal or a variance application, the Zoning Board of Appeals shall cause written notice, by certified mail, of that hearing to (a) all property owners of record whose land abuts the property and the property directly across private way, State, or Town Roads for which the variance is requested; (b) the person making the appeal; (c) the Planning Board; (d) the Code Enforcement Officer and (e) any other parties of record to the proceedings. The owners of property shall be considered to be those shown on the property tax lists of the Town. Failure of any abutting property owner to receive notice shall not necessitate another hearing or invalidate the action of the Board. The mailed and published notices shall include the following information: (1) The name of the applicant; (2) A brief description of the property involved; (3) A brief statement of the nature and extent of the variance requested; (5) The time and place of the Board’s hearing on the variance. (Amended 03/12/1988).

All of the general meeting and voting rules outlined in Sections 10.02 and 10.03 shall apply to Zoning Board of Appeals meetings (public hearings) conducted pursuant to this section of the ordinance.

Section 9.06 Findings

The denial of an appeal or of a variance request must include the reasons therefor--the failure to meet the requirements of this ordinance or state statutory requirements (see 30-A, M.R.S.A. §4353 (Amended 05/13/2016)) or such other reasons as the Board may set forth in its statement of findings and conclusions (see Section 10.03). The sustaining of an appeal or the granting of a variance must also include a statement of findings and conclusions which must specifically indicate all of the requirements of this ordinance as well as state statutory requirements have been met. When conditions are attached to the granting of a variance the need for and the underlying rationale of the attached conditions must be set forth.

Section 9.07 Decisions

A copy of Board decisions on all appeals and variance requests shall be mailed or hand delivered to the appellant, the applicant, the Planning Board, the Code Enforcement Officer, and the Board of Selectmen within seven (7) days. A copy which will provide notice to the public, shall also be placed on file and available for inspection in the Town Clerk's office.

A variance which has been granted shall expire six (6) months from the granting date unless substantial work (actual construction) in reliance upon it has commenced. Work commenced must normally be completed within two (2) years. A variance shall not be valid for a longer period of time but may be reissued for an additional two (2) year period if the nature of the project requires additional time and if work on the project has been continuous.

Section 9.08 Judicial Review

A request and hearing for reconsideration may be made to the Zoning Board of Appeals by an aggrieved party in accordance with 30-A, M.R.S.A. §2691. Such request must be made in writing and filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony on the reconsideration.

An appeal may be taken, within forty five (45) days after a Zoning Board of Appeals decision is rendered, by an aggrieved party to Superior Court from any final order, relief or denial in accordance with 30-A, M.R.S.A. §2691 and with Maine Rules of Civil Procedure, Rule 80B, except that an appeal from a reconsideration shall be made within fifteen (15) days after the decision on reconsideration, or as otherwise established by 30-A, M.R.S.A. § 2691. (Amended 04/27/2002; 05/13/2016).

Section 9.09 Reserved

Article 10 Planning Board

Section 10.01 General

In addition to the duties conferred to the Planning Board by the Town of Waterboro acting pursuant to 30-A, M.R.S.A. §4351 or the Home Rule Powers (see Section 1.01), the provisions of this ordinance impose responsibilities on the Board which are essential to the effective implementation and carrying out of the intent and purpose of the ordinance. These include:

1. Reviewing and deciding with the Board of Selectmen whether to permit or not allow uses presently not permitted by this ordinance but which are similar in character to uses which are permitted. See Section 2.07.
2. Reviewing and deciding whether to permit or not allow a temporary use and if allowed the extent, scope, and conditions (if any) of the temporary use. See Section 2.07.
3. Reviewing and ultimately approving or disapproving applications to permit a conditional use.
4. Reviewing and ultimately approving or disapproving proposed departures from the height requirements of this ordinance necessitated by the unique or special characteristics of the structure. See Section 4.11.
5. Reviewing and ultimately approving or disapproving applications to undertake a planned unit development or cluster development. See Sections 7.02 and 7.01;
6. Reviewing and forwarding a recommendation to the Board of Selectmen as to whether common space and open area which a developer contemplates dedicating to the town as part of a PUD or cluster development proposal should be accepted. See Subsection 7.02.03 and Section 7.03.
7. Conducting a PUD or cluster development and subdivision review. See Subsection 7.02 and Section 7.01.
8. Reviewing and ultimately deciding whether particular developers will be required to post performance bonds to insure compliance with the provisions of this ordinance and the plans, specifications, or conditions upon which required approvals and permits were sought and obtained. See Section 11.04
9. Reviewing and ultimately approving or disapproving applications for site plan review. See the Town of Waterboro Site Plan Review Ordinance. (Amended 04/27/2002).
10. Reviewing and ultimately approving or disapproving applications for subdivision review as set forth in the Town of Waterboro Land Subdivision Regulations and 30-A, M.R.S.A. §§ 4401-4408.

Finally the Planning Board shall be required no less frequently than every three (3) years to review this ordinance in light of new data and changing conditions within and outside of the town and to propose those amendments or refinements pursuant to the provisions of Section 1.08 which will enable this ordinance to continue to be an effective device for carrying out the Town's Comprehensive Plan and the stated intent and purpose of the ordinance (see Sec. 1.02 & 1.03).

Section 10.02 Hearings

The Planning Board may hold a hearing, in addition to those specifically required by provisions of this ordinance and State statute, to facilitate carrying out any of its responsibilities as outlined in Section 10.01. The Board shall follow the procedures set forth in Section 10.01.

Section 10.03 Findings and Decisions

All decisions of the Planning Board must be predicated on testimony received by the Board at hearings, planning data which it has gathered and which is available to the public, other facts, data, or information which are a matter of public record and information obtained from the applicant. When taking any final action the Board must issue a statement of its findings and conclusions which sets forth the reasons for and the rationale underlying the particular Board action. Board actions which are generally favorable to an applicant must specifically indicate that all of the requirements of state statute and this ordinance have been met. Board actions which are unfavorable to an applicant must specifically indicate how and in what way the applicant failed to comply with the requirements of state statute or this ordinance. When conditions are attached to any Board approval the factors establishing the need for and justifying the condition as framed must be indicated. A copy of all final board actions (decisions) shall be mailed, e-mailed or made available in the town hall to the party who requested the Board actions, the Code Enforcement Officer, and the Board of Selectmen within ten (10) working days. A copy which will provide notice to the public shall also be placed on file and be available for inspection in the Town Clerk's office.

Section 10.04 Review

Before judicial review may be sought pursuant to the provisions of Section 1.06, any decision, final action or failure to act of the Planning Board, must be appealed within thirty (30) days to the Zoning Board of Appeals of the Town of Waterboro by the applicant or an aggrieved party. The Zoning Board of Appeals may affirm the Planning Board, remand the issue with instructions which it had taken, or the Zoning Board of Appeals may modify Planning Board actions for reasons which must be set forth. (Amended 04/26/2003).

Section 10.05 Reserved

Article 11 Violations, Enforcement

Section 11.01 Violations, Fines

Persons who have not adhered to the provisions of State law, this ordinance, other local land use ordinances or regulations, or the plans, specifications, or conditions upon which required permits and approvals were sought and obtained are in violation of this ordinance. Violations shall be noted initially by the Code Enforcement Officer's issuance of a code enforcement order (see Section 2.05). Such orders are to be complied with immediately. Violators are subject to fines which shall not exceed \$50.00 for each day of violation.

A violation which consists of the commencement of development activity or the use of land, water, or structures without applying for or before obtaining all of the permits and approvals which this ordinance requires will also subject the violator to the payment of fees double in amount to those established in the fee portion of the town's regulations. Violators who have not applied for required permits and approvals must do so.

Section 11.02 Board of Selectmen Orders, Enforcement

The Board of Selectmen, acting upon the recommendation of the Code Enforcement Officer, Planning Board, or the Zoning Board of Appeals, may protect the public interest and the reasonable expectations of private landowners by ordering violators to cease and/ to remove any violating activity, use or structure and; if necessary, it may order the restoration of conditions in existence prior to the violation.

If fees or double fees are not paid or if a Code Enforcement Order, or an order of the Board of Selectmen is not complied with, the town may bring whatever legal, equitable, or injunctive action is necessary to compel the payment of established fees and to seek the imposition of appropriate fines as well as compliance with its orders, as well as all remedies provided for by 30-A, M.R.S.A. § 4452. The costs of such proceedings shall also be imposed on the violator.

Section 11.03 Performance Guarantee: Value, Requirements and Conditions

- a. A subdivider or applicant for site plan or other review requiring Planning Board approval shall file with the Planning Board at the time of approval of the final plan, a draft performance guarantee in the amount of one hundred and twenty-five percent (125%) of the estimated value of the required subdivision or site plan improvements. No work shall be undertaken, and no building permits shall be issued, until the final performance guarantee is provided to the Town.
- b. The performance guarantee shall be tendered in the form of a faithful performance bond, a letter of credit or a certified check running to the Town and issued by a bank or surety company acceptable to the Town of Waterboro.
- c. The conditions and amount of such a performance guarantee shall be determined by the Planning Board, with the recommendation of the Town Planner, Public Works Director and consulting engineer as needed.
- d. The amount shall be equal to 125% of the total cost of furnishing, installing, connecting and completing all of the street grading, storm drainage, site improvements and public water infrastructure (as required). Additionally, if a cistern(s) is installed a mutually-agreed upon

maintenance bond or other acceptable financial guarantee will be mandated as a condition of final approval.

- e. Performance guarantees shall be in effect for the duration of the secured project and until such time as the subject improvements have been proven complete and effective, as determined by the Planning Board.
- f. The maximum time period for the performance guarantee will be for a period of three (3) years beginning on the date of final approval by the Board. The Planning Board may approve a performance guarantee of a shorter duration upon evidence provided by the applicant that the shorter guarantee is appropriate.
- g. When the Planning Board has approved a performance guarantee in the form of a certified check, the Town Treasurer shall deposit the same in a segregated account.
- h. The proceeds of the performance guarantee shall be used to finish the improvements indicated on the approved plan if the subdivider fails to complete those improvements within the specified time frame.
- i. A performance guarantee may be reduced after review and approval by the Planning Board, subject to the following:
 - 1. A reduction may be allowed by the Planning Board, provided that substantial improvements have been completed and inspected.
 - 2. The reduction in performance bonding shall be requested in writing by the applicant. Such a request shall be accompanied by a listing of subdivision/infrastructure improvements still to be completed and quoted estimates of the cost(s) for their completion.
 - 3. The Town consulting engineer shall provide an opinion of the remaining work and estimated costs to determine the amount of the reduction. (Amended 01/17/2012)

Section 11.04 Release of obligation required by performance guarantee.

- a. Before the release of a performance guarantee, the developer shall request, in writing, that the Planning Board release the performance bond. This request shall include evidence that all the required improvements have been completed. The evidence shall include “as built” plans of the project.
- b. The Planning Board shall request certification from the peer review engineer that all required or proposed improvements have been satisfactorily completed and the “as built” plans are submitted. (Amended 01/17/2012)

Section 11.05 Extension of performance guarantee period.

- a. The Planning Board may grant an extension of up to 12 months to the performance guarantee when the developer can demonstrate to the satisfaction of the Planning Board good cause for such extension. Any extension shall require a new cost analysis for remaining site improvements and may require that the amount of the guarantee be increased if the Planning Board determines that the cost of the improvements has increased beyond the amount of the existing guarantee. (Amended 01/17/2012)

Section 11.06 Record Management and Performance Guarantee Facilitation.

- a. The Town shall maintain a record management system relating to subdivisions and site plan review projects that have performance guarantees. A logging system of project/owners names, location, start and expiration dates of performance/surety bonds and amounts of bonds shall be maintained. Quarterly reports on the status of pending bonds shall be sent to the Town Administrator, Planning Board, Code Enforcement Officer, Board of Selectmen, and Town Treasurer. In the case of cistern maintenance guarantees, the Fire Chief shall receive copies of all communications concerning the maintenance guarantee. (Amended 01/17/2012)

Section 11.07 Reserved

ARTICLE 12 Definitions

Section 12.01 General

- The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual or any legal entity.
- The word “shall” is mandatory, and the word “may” is permissive.
- The word “lot” includes the words “plot” and “parcel”.

Section 12.02 Words and Terms Defined

Abutter:—The owner of any property within 500 feet of the property line.

Accessory use or structure: A use or structure necessary, customary, incidental, and subordinate to a permitted use or structure and located on the same lot or parcel as the permitted use or structure, accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Adult Business: Any business, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities. Thirty percent of the active display area is considered significant or substantial.

Adult day care center: a program of care and activities licenses by the State of Maine, carried out on a regular basis in a private dwelling or other facility, for a fee, for any part of the day, for three or more adults, nineteen years of age or older, who are not blood relatives. Type 1 facility accommodates five or fewer clients. Type 2 facility accommodates more than five clients.

Agent: anyone having written authorization signed by the property owner to act on behalf of that property owner.

Aggrieved Person:—An owner of land whose property is directly affected by the granting or denial of a permit or variance: a person whose land abuts land for which a permit or variance has been granted; or any person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculturally related business use: a business that provides goods and /or services, a substantial portion of the market for which is agricultural or other natural resources businesses including uses such as farm equipment dealers, feed and grain stores and similar uses.

Agriculture: the production, keeping or maintenance for sale or lease, of plants, including, but not limited to: forages and sod crops, grains and seed crops, fruits and vegetables, and ornamental products, and unless expressly prohibited, the keeping of livestock, including dairy animals and dairy products, poultry and poultry products, cattle and cattle products or horses. Agriculture does not include forest management and timber harvesting activities or medical marijuana.

Alteration: Any change, addition, demolition, extension, or renovation of a structure. In the

case of land it involves the clearing, filling, grading, replanting, and/or recontouring of the natural landscape.

Altered Structure: a change in either the intensity of use, such as the addition of bathrooms, kitchens, bedrooms, or other habitable spaces, or a conversion from seasonal to year round use.

Alternative tower structure: a non-tower mounting structure such as a clock tower, bell steeple, light pole, water tower, or other structure upon which an antenna may be mounted, and which camouflages or conceals the presence of the antenna.

Animal husbandry: the growing and/or raising of livestock and/or poultry for commercial purposes.

Antenna: any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Apartment conversions: The conversion of an existing dwelling and/or accessory building to the dwelling into a total of no more than three units per lot for lots existing prior to the adoption of this subsection (6/4/94). For the purposes of the section, the conversion of a structure shall mean the division of the existing structure into individual dwelling units.

Appeal: In the context of this ordinance, it is a procedure whereby an aggrieved person may have the benefit of having the actions of the Code Enforcement Officer or Planning Board reviewed to determine their validity by the Zoning Board of Appeals. Actions of the latter body may then be reviewed by the Superior Court.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. (Amended 06/04/1994)

Aquifer: A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation. (Amended 08/23/2011 by Selectmen vote)

Automobile dealer: an establishment engaged primarily in the retail sale of automobiles and/or trucks and may include repair, service and the sale of parts, but does not include body repair or body painting.

Automobile graveyard: a yard, field, or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles. This also includes an area used for automobile dismantling, salvage and recycling operations as further defined in 30-A, M.R.S.A. § 3752.

Average depth of lot: If an existing lot of record does not comply with the minimum lot size requirements of the zone which it is located, average depth of lot shall be determined by the requirements in Section 2.07.

Bar: a business, not meeting the definition of restaurant, where alcoholic drinks are sold for consumption on the premises; including meeting halls of nonprofit organizations if they are licensed to serve alcoholic beverages.

Bed-and-Breakfast: any residential structure in which rooms are offered and rented to the public for periods of time typically less than thirty (30) days, but not more than thirty (30) days, and in which one meal per day is available only to the people renting the rooms. The building must also be occupied by the resident manager or property owner.

Best management practices: Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Departments of Agriculture, Environmental Protection, Forestry, Transportation and Development pursuant to 38 M.R.S.A., § 420-C. (Amended 08/23/2011)

Boarding kennels: any place, building, tract of land, abode wherein or whereon privately owned dogs or other pets, or both, are kept for their owners in return for a fee. Included shall be the temporary keeping of animals for grooming purposes in return for a fee.

Building: Any structure having a roof, partial roof, or canopy supported by poles, columns, or walls used or intended to be used for the shelter or enclosure of persons, animals, or things regardless of the material of which it is constructed.

Building height: the vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Building Permit An official document or certificate issued by the Code Enforcement Office that authorizes performance of a specified activity. Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the use of a building or structure shall first make application to the Building Official and obtain the required permit(s).

Bulk Oil, Gasoline Storage, Cement Mixing, & General Construction Facilities: Bulk Fuel Oil, Gasoline Storage, Cement Mixing General Construction Tanks, Trucks, equipment and facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on parcels not less than five (5) acres in size.(Amended 06/05/1993)

Business services: a commercial activity which renders an actual service such as cleaning, repairing or consulting and which involves no retail sales upon the premises.

Camp: A structure equipped and used for seasonal and/or recreational living quarters and being complete with adequate sanitary facilities conforming to the State Plumbing Code.

Camping, wilderness/primitive: camping in a forest with no developed facilities and leaving the site with little or no evidence of human visitation. Lands designated for primitive camping are usually in areas with difficult access. No facilities are provided. Primitive camping is a remote camping experience in a forested setting, with evidence of human activity ranging from recreational trails, to past logging activity, to remnants of the land's past use.

Campground: A public or private enterprise which for a fee provides overnight camping facilities in cottages or shelters or space for tents or recreational vehicles. It also provides restroom, washroom and shower facilities; and usually provides recreational areas and activities;

camping supplies; outdoor campfire and cooking facilities; etc.

Change of use: A switch to a different kind, type, or class of activity in the use of land or structures (for example, a retail store changing to a wholesale outlet--agricultural land put to use for residential structures) as opposed to a mere change in the size or intensity of given use or a change within a given type or class of activity (for example, a small store becoming a large store--a dairy farm which is now used for general farming or crop production).

Clearcutting: The felling of all trees in a continuous area at one time.

Clearing: The removal of naturally occurring objects, materials, trees or other vegetation.

Cluster development: A development controlled by a single developer on any size parcel of land which contemplates an imaginative more compact grouping of residential housing units. Cluster developments are usually undertaken in a manner that treats the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land including the creation of common open space, a reduction in the size of road and utility systems, and the retention of the natural characteristics of the land. Cluster development may not be used, however, to increase the overall density of development

Code Enforcement Officer: A person acting on the direction of the Town Administrator and pursuant to the provisions of this ordinance charged with issuing building and occupancy permits and enforcing the provisions of this ordinance and State law by the issuance of code enforcement orders to any person violating the ordinance. The term Code Enforcement Officer shall include Building Inspector, Building Official, Plumbing Inspector and Health officer.

Commercial animal husbandry: The keeping of more than 5 animals for re-sale of products.

Commercial breeding: Breeding, raising, and care of dogs, cats, mink, rabbits, and other domesticated or fur bearing animals for commercial purposes.(Amended 06/05/1993)

Commercial use: The use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental or residential buildings and/or dwelling units. (Amended 05/13/2004)

Common space: An area within a planned unit development or cluster development intended for the use and enjoyment of subsequent owners of property within the development. It is created by the grouping of structures in one portion of the total area to be retained in its natural state or developed for wood lot, gardening, or outdoor recreational uses.

Conditional use: A permitted use, but one which by its nature in a particular zoning district requires case by case determination by the Planning Board under Site plan Review to assure compliance with the provisions of this ordinance and avoidance of harm to public or private interests.

Conforming use or structure: A use or structure which is in existence at the time a zoning ordinance is enacted or which is built or undertaken after enactment, which complies in all

respects with the provisions of the enacted zoning ordinance.

Contractor business: A business that provides building construction or similar services on a contract basis at a client's site and in which all material or equipment storage at the place of business is contained within a building or other screened area.

Cul-de-sac: A type of non-through street; one that does not connect with other segments of a public and/or private road network but ends in a connected circle.

Day care facility: A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 or more children under 13 years of age. The term "Day Care Facility" does not include any facility operated as a nursery school, a home day care provider, a summer camp established solely for recreational and educational purposes, or a formal public or private school. (Amended 04/27/2002)

De novo hearing: It affords an appellant the opportunity to offer additional evidence during the appeal even if it is information that was not presented to the Planning Board. This becomes essential in cases where the administrative record of the local proceedings is sparse.

Developed area: "Disturbed area" (see definition below) excluding areas that are returned to a condition with the same drainage patterns and vegetative cover type that existed prior to the disturbance. An area is not considered developed if planting to restore the previous cover type and restoration of any altered drainage patterns occur within one calendar year of the disturbance. (Amended 08/23/2011)

Developer: Any person, including a governmental body undertaking to use or develop any land or water area.

Development: The carrying out of any building or mineral extractive activity or the making of any material change in the use or appearance of any structure or land and the subdividing of land, including: The reconstruction, alteration of the size, or any other material change in the external appearance of a structure or land; a change in the intensity of use of land such as an increase in the number of dwellings units, offices, or businesses in a structure or on land; alteration of a shore, bank, or the bottom of any waterbody; commencement of drilling, mining, or excavation of materials; demolition of a structure; clearing of land in the context of site preparation; deposit of refuse, or fill material on a parcel of land.

Disturbed area: All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for or construction of a project. Disturbed area does not include routine maintenance, but does include re-development and new impervious area. (Amended 08/23/2011)

Drive-in facility: A store, eating establishment, or business institution which by design and physical arrangement primarily serves its patrons in parked automobiles or through an order/pickup window.

Dwelling: One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation. (2009 NFPA 101/3.3.61)

Family: One or more persons occupying a dwelling and living as a single housekeeping unit. Such unit shall not exceed five persons not related by blood, adoption, or marriage.

Farming: A tract of land used for growing or cultivation of produce or crops, the propagation or raising of livestock or poultry, tree farms similar to Christmas trees. Farming does not include timber harvesting, growing and/or processing and/or selling marijuana.

Farm, animal: A parcel of land that contains at least the following land area used for the keeping of horses, mules, cows, goats, sheep, hogs and similar sized animals for the domestic use of the residents of the parcel, provided that adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger.

- (1) Cattle: one bovine animal unit per acre of cleared hay-pasture.
- (2) Horse: 2 animal units per acre of cleared hay-pasture land.
- (3) Sheep: three animal units per acre of cleared hay-pasture land.
- (4) Swine: two animal units per acre of cleared land.
- (5) Animal farms not mentioned here will be determined by the municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

Farmers market: The outdoor display and sale of locally grown farm products which may involve one or more vendors displaying and selling products.

Farm stand: The seasonal, incidental sale of fresh fruits, vegetable, nursery plants and farm products which were produced on the premises or other land in the same control as the farm stand.

Footprint: The entire area of ground covered by the structure(s) on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Flea market: A shop or open market customarily involving table or space rented to vendors selling antiques, used and new household goods, curios, and the like. For the purpose of this ordinance, any Yard/Garage Sales conducted for more than 3 days during a week's time period shall be defined as a Flea Market. "Flea Markets" as distinguished from Yard & Garage Sales, must require a Conditional Use Permit in all districts.(Amended 06/05/1993)

Frontage: That portion of a lot or parcel of land abutting a public or private right-of-way or a waterbody.

Front yard setback: The minimum horizontal distance from the edge of a public or private right-of-way to the nearest part of a structure. (Amended 06/04/1994)

Gas station, service station: Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in a motor vehicle.

Great pond: Any inland body of water which in a natural state has a surface area in excess of

ten acres.

Greenbelt: For the purpose of these regulations, a “greenbelt” is defined as a strip of land vegetated with grass or other plant life maintained as open green space. Removal of dead trees, mowing of grass and pruning of other vegetation, to the extent appropriate for routine maintenance, are the only cutting permitted within a greenbelt area. The only construction permitted within a greenbelt is that necessarily related to the exercise or use of a utility easement and/or that necessarily related to a driveway. If another means of access to the property other than through the greenbelt is available, construction related to utility easements shall be the only permissible construction within the greenbelt boundaries. (Amended 4/27/02)

Hammerhead turn-out: A gravel area built entirely outside of the right of way a minimum of 75’ sq. for the purpose of vehicular maneuvering. The area of the right of way adjacent to the hammerhead turn must consist of a 75’ x 50’ gravel area. The right of way must extend 75’ beyond the hammerhead turn with a graveled area of 75’ x 35’. The right- of- way with a hammerhead turn shall be built in compliance with the sketch to be provided by the Code Enforcement Office. (Amended 03/11/2000)

Hazardous material: Any gaseous, liquid or solid materials or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection. (Amended 08/23/2011)

Hazardous waste: A waste substance or material, in any physical state, designated hazardous by the Maine Board of Environmental Protection pursuant to Title 38, M.R.S.A. Chapter 13. It does not include waste resulting from normal household activities.

Home day care provider: A person who receives some type of payment to provide child care in his or her own home on a regular basis, for 3 to 12 children under 13 years old, who are not the provider’s own children. (Amended 04/27/2002)

Home occupation: A home occupation must conform to the standards set forth in Section 4.05 of this ordinance. (Amended 3/8/97) An occupation or profession, carried on for monetary gain, which is carried on in a dwelling unit or structure accessory to a dwelling unit, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, does not employ more than three persons who are not related, by blood or marriage to the business owner, or who does not reside on the premises. Home occupation shall not include motor vehicle related sales and service operations. No more than twenty five percent of the floor space in any residential building may be given over to a home occupation or office.

Horticultural activities: Activities including but not limited to Nurseries, Greenhouses, and Commercial Sale of such products. (Amended 06/05/1993)

Impervious area: The total area of a parcel that consist of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce permeability. (Amended 08/23/2011)

Indoor recreation: Recreational Facilities including Bowling Alleys, Skating Rinks, Swimming Pools, etc. (Amended 06/05/1993)

Industrial The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. (Amended 05/13/2004)

Intensive uses: Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle race tracks or ranges. (Amended 08/23/2011)

Junkyards: A lot or parcel of land and/or a structure or a part of either, used for the purchase, collection, storage, recycling, or sale of wastewater, rags, scrap metal, or other discarded goods, materials, machinery, or vehicles. Said areas must not be located within five hundred (500) ft. of any residence, camp, or water body and must be appropriately screened. (Amended 06/05/1993)

Kennels: Any place, building, tract of land, abode, enclosure, or vehicle which, for compensation, provides food and shelter for dogs for purposes not primarily related to medical care, or engages in the breeding of more than two female dogs for the sale of their offspring.

Loading area: An obstructed area no part of which is located in or on any public or private right-of-way and the principal use of which is for the standing, loading, unloading, and maneuvering of vehicles.

Lot: A tract of land having frontage on a public or private right-of-way occupied or intended to be occupied by a permitted use or structure and accessory uses and structures together with such open spaces, yards, parking areas, etc. as are required and recorded in the York County Registry of Deeds.

Marina: A facility on or adjacent to the water which is available for mooring or berthing of five or more vessels and with provisions for the following: boat storage, boat launching, mooring, and the sale of fuel, supplies and services for watercraft and their equipment and accessories.

Marsh: A periodically wet or continually flooded land area with the surface not deeply submerged, covered predominantly with sedges, cattails, rushes or other hydrophilic plants.

Manufactured housing unit: Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein. (Amended 09/25/1990)

Medical marijuana grow only facility: A facility that engages only in the growing and processing of medical marijuana in accordance with State law, but does not dispense marijuana. Processing of medical marijuana may include, but is not limited to, the preparation of tinctures, ointments, and food products containing medical marijuana. Medical Marijuana Grow-Only facilities shall require a conditional use application as set forth in Article 2 and must be located on Route 5 or Route 202 in the Agriculture and Residential (AR) Zone. (Amended 02/22/2011 by Selectmen vote)

Mining or mineral extraction: The removal of geologic materials such as soil, topsoil,

loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site. (Amended 08/23/2011)

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units. (Amended 09/25/1990)

Mobile home: see Title 30-A, M.R.S.A. § 4358.

Mobile Vendor: a motorized vehicle or pull behind trailer used for selling prepared foods, farm vegetables, flowers or other similar grown products, crafts.

Modular home: see Title 30-A, M.R.S.A. §4358.

M.U.B.E.C. Maine Uniform Building and Energy Code.

Multi-family dwelling unit: A dwelling designed for occupancy by two or more families.

Legal nonconforming structure or use : A legal structure or use including accessory uses or structures already in existence or begun before the date of enactment of a zoning ordinance or amendment, which structure or use does not comply with the existing provisions of the zoning ordinance or amendment.

Nuisance: Any property or use existing in violation of any zoning ordinance that creates unreasonable interference with the right, common to the general public or unreasonable interference with a particular person's use and enjoyment of his or her land. Collection of trash, garbage, plastics, metals, un-registered boats and/or un-registered recreational vehicles, fences that are constructed with material that is not of typical or standard design or that are not maintained in good repair or appearance.

Occupancy permit: A certificate to be secured from the Code Enforcement Officer prior to commencing actual use of a land area or structure evidencing that permitted activities specified in a building permit have been completed in accordance with the provisions of this ordinance.

Office/office complex: A building (new or existing) wherein services are performed involving predominantly administrative professional or clerical operations. Complex may consist of one or more professional offices. Examples of professional office include but are not limited to Banks, Insurance Brokers, Real Estate Brokers, Lawyers, Accountants, Doctors, and Dentists. (Amended 06/04/1994)

Parking area: An unobstructed area consisting of one or more 200 sq. ft. parking spaces no part of which is located in or on any public or private right-of-way and the principal use of which is the temporary storing and maneuvering of vehicles.

Pesticide, herbicide, petroleum bulk storage: Storage of herbicides and/or pesticides and/or petroleum intended for sale or distribution.

“PUD”, Planned Unit Development: In the context of this ordinance a development controlled by a single developer on a tract ten (10) acres or larger in size.

Primary uses and structures: Permitted uses and structures which in each zoning district are recognized as most highly compatible with existing development, the capacity of the land area to support further development, and the objectives of the comprehensive plan and this ordinance. (Note: some primary uses may also require site plan and/or subdivision review).

Principal Structure: Any building or structure in which the main use of the premises takes place.

Professional Office: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this ordinance.

Process Facilities Related to Farming II: Processing Facilities related to Orchard and Agricultural Products, including Poultry and Livestock.

Public facility: A building owned, operated or funded in whole or in part by the Town of Waterboro which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations. (Amended 06/05/1993)

Public utility: Utility or Communications poles, towers, lines, and unmanned substations, etc. (Amended 06/05/1993)

Recreational vehicle or camper: A vehicle, or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer and motor home, RV. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be legally registered with the State Division of Motor Vehicles.

Resource extraction: Extraction of rock, sand and gravel.

Restaurant, Lounge & Cafes: A place, the primary use of which is to prepare and serve food and beverages to the public for compensation, in a form ready for consumption within the premises.

Restaurants, Lounges & Cafes I: Restaurants, Lounges, Cafes with less than one thousand (1,000) sq. ft. of customer service area.

Restaurants, Lounges & Cafes II: Restaurants, Lounges, Cafes with more than one thousand (1,000) sq. ft. of customer service area.

Retail shop: A store or shop engaged in the sale of commodities or goods or a service to individual customers for personal use. Marijuana sales and/or distribution and/or production and/or use is not included in this definition.

Retail & Service Stores I: All types of Retail Shops and Stores with less than one thousand (1,000) sq. ft. of Store area.

Retail & Service Stores II: All types of retail and service stores (Repair Shops Barbers,

Beauticians, Cleaners, etc.) with more than one thousand (1,000) sq. ft. of Store area.

Road or roadway: A public or private right-of-way intended to be used for the passage of persons and vehicles.

Seasonal Use: A use which is undertaken and naturally associated with a given time of the year as opposed to a use capable of being and usually undertaken on a year-round basis.

Setback: The minimum horizontal distance from a lot line, or the side of a right-of-way easement or deeded right-of-way (see Section 3.03) to the nearest point of a structure. (Amended 03/11/2000)

Signs: Any words, letters, figures, numerals, phrases, sentences, emblems, designs, names, trade names or marks, affixed to, painted, or carved directly or indirectly upon a building, structure, or other material for purposes of informing or attracting the attention of the public.

Solid waste: Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse. (Amended 08/23/2011)

Special or unique structure: A structure (such as an electric transmission line tower) or part of a structure (such as a church spire) which is allowed to exceed the otherwise applicable height limitations of this ordinance in situations where the added height is necessary, reasonable, and will not harm the public. Increased structure height should be offset by requiring additional setback from all lot lines.

Structure: A man-made construction or assemblage of materials having a temporary or permanent location on ground or water such as, but not limited to, buildings, towers, masts, poles, booms, signs, sheds, carports, tents, equipment and machinery (including mobile homes and recreational vehicles when stationary). Tents intended for sleeping should not be considered a structure and therefore do not have to meet setback requirements. (Amended 06/16/1998)

Substantial work: (actual construction) The point at which the planning and site preparation phase of a project gives way to actual construction.

Temporary use or structure: A use or structure not permitted by this ordinance but allowed to be undertaken for brief periods of time.

Timber harvesting: The cutting, trimming, stacking and removal of trees from their growing site including the operation of cutting and skidding equipment.

Utilities: Include gas, electricity and water supply systems; radio, television, telephone and other communications systems; bus, truck and fuel distribution systems; solid and waste water disposal systems. Such systems include but not limited to lines, cables, poles, towers, pipes, drains, sewers, treatment plants, hydrants, signals, antennas, distribution facilities, substations, offices, buildings, vehicles, etc.

Utility Corridor: Right-of-way, easement, or other corridor for transmission wires, pipes or

other facilities, for conveying energy.

Variance: A departure from the literal or strict application of the dimensional requirements of this ordinance which may be granted in circumstances where undue hardship would otherwise result, but only if the requirements of 30-A, M.R.S.A. § 4353.

Wellhead: The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well. (Amended 08/23/2011)

Wellhead Protection District: A zone, consisting of 2 districts, delineated according to Article 3 Section 3.01 and 3.02 of this ordinance. (Amended 08/23/2011)

Yard and Garage Sale: The occasional selling, offering for sale, trading, swapping, or otherwise bartering used or second-hand household goods from any residential premises. There shall be no limit as to the number of Yard and Garage Sales a person has during the year. Yard and Garage sales can be conducted on a residential premise for no more than 3 days during a week time period. At no time shall the proposed Yard and Garage Sale inhibit the flow of traffic. Persons holding a sale must provide sufficient parking so that all vehicles attracted to the sale are not parked within the right-of-way. (Amended 06/05/1993)

Section 12.03 Reserved

WATERBORO FEE TABLE

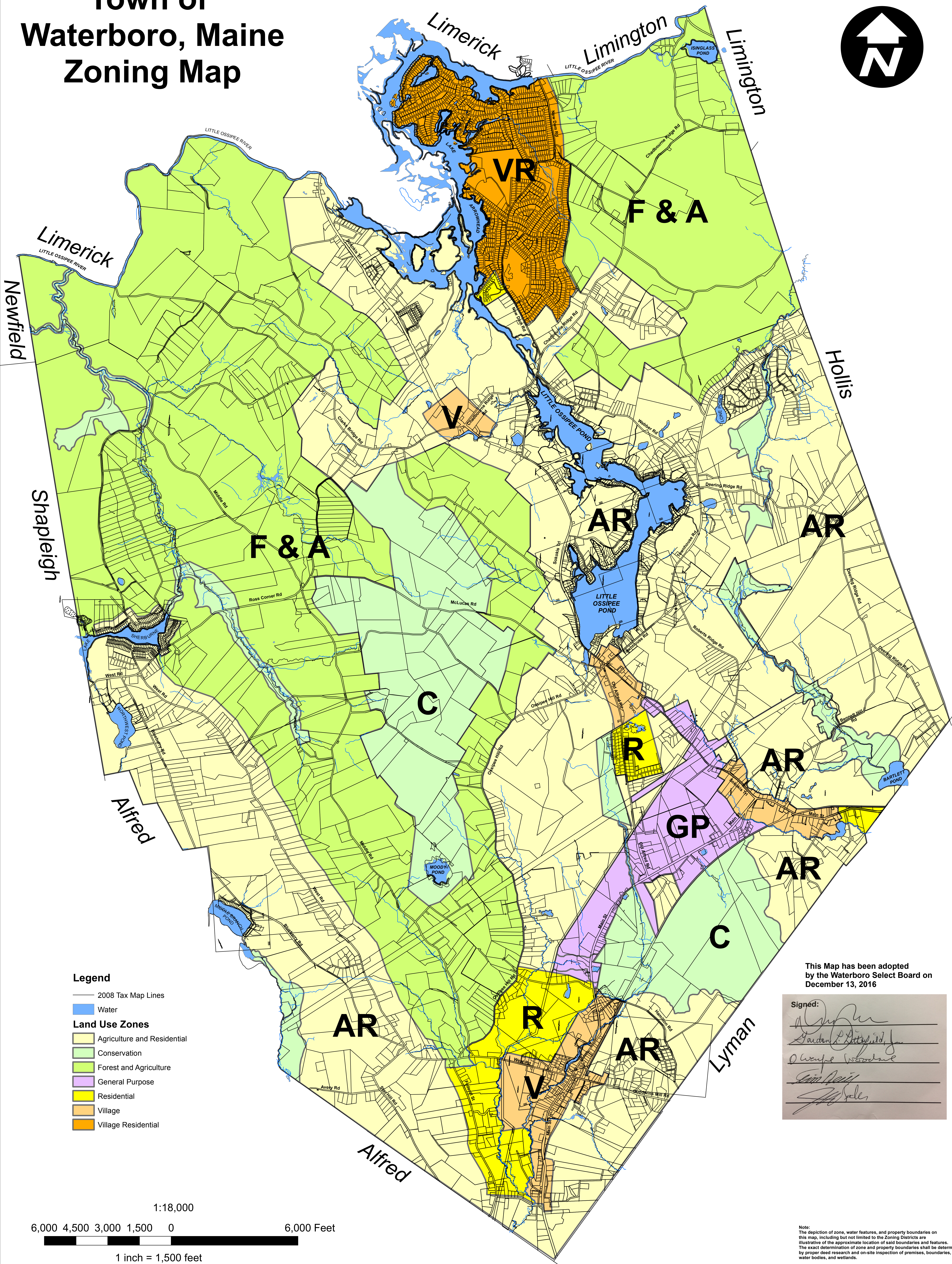
Adopted: March 29, 2018

First edition

CODE ENFORCEMENT OFFICE	Description of fees
Residential construction	\$ 5.00 per thousand dollars of construction value
Permits not required for :	--One story accessory structures less than 200 sq.ft.
	--Fences not over seven feet tall
	--Swimming pools less than 24 inches deep
	--Playground equipment
	--Decks not exceeding 200 sq. ft. and are less than 30" above grade and not attached to house.
Minimum residential construction permit fee	\$ 50.00
Growth permit	Temporarily suspended
Commercial construction	\$ 7.00 per thousand dollars of construction value
Minimum commercial permit fee	\$ 150.00
Re-inspection	\$ 60.00 doubled for second re -inspection
Temporary use	\$ 50.00
Driveway entrance	\$ 50.00
Demolition	\$ 50.00
Plumbing	\$10.00 per fixture / \$ 40.00 minimum
Subsurface Waste Disposal System	Set by the State of Maine, plus a DEP fee
	Additional fee up to \$100.00 for larger systems associated with commercial development
Residential Electrical permit	Permit, fee and inspections not required
Sign	\$ 60.00
PLANNING BOARD	
Placement on agenda for general information	No Charge (no decision made by PB)
Conditional Use review	\$100.00
Cluster sub-division	\$ 100.00 application fee plus \$ 50.00 per home
Planned Unit Development (PUD)	\$ 100.00 application fee plus \$ 50.00 per home
Sub-division review	\$1,000.00 plus \$250.00 per house home and .75 per lineal feet of interior road
Site Plan review	Less than 1,999 sq. ft. of development: \$ 300
	2,000 sq. ft. to 9,999 sq. ft. of development: \$ 600
	10,000 sq. ft. or more: \$ 2,000.00
Request to amend Ordinance	\$ 300.00
Zoning Change Request	\$1,000.00
ZONING BOARD OF APPEALS	
All Municipal Board reviews:	\$ 330.00 for each and any appeal
	Applicant pays for fees associated with postage and notification to abutters.

IT'S THE AUTHORITY OF THE BOARD OF SELECTMEN TO REVIEW AND APPROVE THE FEES ANNUALLY OR AS NEEDED.

Town of Waterboro, Maine Zoning Map



- Legend**
- 2008 Tax Map Lines
 - Water
 - Land Use Zones**
 - Agriculture and Residential
 - Conservation
 - Forest and Agriculture
 - General Purpose
 - Residential
 - Village
 - Village Residential

1:18,000

6,000 4,500 3,000 1,500 0 6,000 Feet

1 inch = 1,500 feet

This Map has been adopted
by the Waterboro Select Board on
December 13, 2016

Signed:

[Signature]
Gordon D. Dinglefield, Jr.
Chairman

[Signature]
Dwayne J. Worsfold
Vice Chairman

[Signature]
Tom Davis
Member

[Signature]
John Wells
Member

Note:
The depiction of zone, water features, and property boundaries on
this map, including but not limited to the Zoning Districts and features
illustrative of the approximate location of said boundaries and features.
The exact determination of zone and property boundaries shall be determined
by proper deed research and on-site inspection of premises, boundaries,
water bodies, and wetlands.

TOWN OF WATERBORO



SHORELAND ZONING ORDINANCE

December 23, 2016

TABLE OF CONTENTS

	Page
1. Purposes.....	1
2. Authority	1
3. Applicability	1
4. Effective Date	2
5. Availability	2
6. Severability	2
7. Conflicts with Other Ordinances	2
8. Amendments	2
9. Districts and Zoning Map	2
A. Official Shoreland Zoning Map	2
B. Scale of Map	3
C. Certification of Official Shoreland Zoning Map	3
D. Changes to the Official Shoreland Zoning Map	3
10. Interpretation of District Boundaries	3
11. Land Use Requirements.....	4
12. Non-conformance	4
A. Purpose.....	4
B. General	5
C. Non-conforming Structures	
(2) foundations.....	6
(3) relocation.....	6
(4) reconstruction or replacement.....	7
D. Non-conforming Uses	8
E. Non-conforming Lots	8
13. Establishment of Districts	9
A. Resource Protection District.....	9
B. Limited Residential District	10
C. General Development I District.....	10
14. Table of Land Uses	12
15. Land Use Standards	13
A. Minimum Lot Standards.....	14
B. Principal and Accessory Structures	15
C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water body or Within a Wetland.....	16
D. Campgrounds	17
E. Individual Private Campsites.....	17
F. Parking Areas	19
G. Roads and Driveways	19
H. Signs.....	21
I. Storm Water Runoff.....	22
K. Septic Waste Disposal	22
L. Essential Services.....	22

M. Mineral Exploration and Extraction.....	22
N. Agriculture	23
Relating to Timber Harvesting Standards.....	24
O-1 Timber Harvesting – Statewide Standards	24
P. Clearing or Removal of Vegetation for Activities Other than Timber Harvesting.....	32
Q Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal	35
R Exemptions to Clearing and Vegetation Removal Requirements	36
S Revegetation Requirements.....	37
T. Erosion and Sedimentation Control.....	39
U. Soils.....	40
V. Water Quality.....	40
W. Archaeological Site	40
16. Administration	40
A. Administering Bodies and Agents.....	40
B. Permits Required.....	40
C. Permit Application	41
D. Procedure for Administering Permits	41
E. Special Exceptions	42
F. Expiration of Permit.....	43
G. Installation of Public Utility Service	43
H. Appeals.....	43
I. Enforcement	46
17. Definitions	47

Shoreland Zoning Ordinance for the Municipality of WATERBORO

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river
 - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending over or located below the normal high-water line of a water body or within a wetland.

4. **Effective Date of Ordinance; March 12, 1977 , Effective date of amendments; December 23, 2016**
5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-

five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

9. Districts and Zoning Map

A. Official Shoreland Zoning Map. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- (1) Resource Protection
- (2) Limited Residential
- (3) General Development I
- (4) Limited Commercial
- (5) Stream Protection

B. Scale of Map. The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map. The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

D. Changes to the Official Shoreland Zoning Map. If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

10. Interpretation of District Boundaries. Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. Land Use Requirements. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted

12. Non-conformance

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to

become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a building permit, the normal upkeep and maintenance of non-conforming uses and structures. Repairing, replacing, or altering structural building components requires a building permit. The property owner is responsible for confirming with the code enforcement office as to whether a permit is required for proposed work prior to undertaking such work.

C. Non-conforming Structures

- (1) **Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority 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 (a) and (b) below.
 - (a) Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
 - (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
 - (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
 - (c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.
 - (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total

footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure shall not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
 - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
 - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the new foundation may not be elevated more than three feet higher than the foundation being replaced, and the structure and new foundation must be 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 Section 12(C)(3) Relocation, below.
- (3) **Relocation.** 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 or its designee, 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

structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 12 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee 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. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

- (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another non-conforming use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. This determination of no greater impact shall be made according to criteria in Section 12(C)(5).

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

- (2) **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 the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, need not be included within the Resource Protection District.

- (1) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs

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- B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.
- C. General Development District.** The General Development I District includes the following; areas of two or more contiguous acres devoted to residential use or recreational activities or a mix of such activities.
- D. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.
- E. Limited Commercial District.** The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and light commercial uses. Industrial uses are prohibited.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (permit may be required and the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection GD General Development

LR - Limited Residential SP -Stream Protection

LC- Limited Commercial

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u>Land Uses</u>	<u>Districts</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	yes	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	ceo	ceo ¹	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²	yes	no
10. Mineral extraction including sand and gravel extraction	no	PB	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB ⁴	PB ⁹	ceo	ceo	ceo
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no	no	no	PB	PB
D. Industrial	no	no	no	no	no
E. Governmental and institutional	no	no	PB	PB	PB
F. Small non-residential facilities for educational, scientific, or nature Interpretation purposes	PB ⁴	PB	ceo	ceo	ceo
16. Structure accessory to allowed uses	PB ⁴	PB	ceo	ceo	ceo
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland	<u>Not subject to regulation</u> <u>by the Town of Waterboro</u>				
18. Conversions of seasonal residence to year round residence	LPI	LPI	LPI	LPI	LPI
19. Home occupations	ceo	ceo	ceo	ceo	ceo
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services					
A. Roadside distribution lines (34.5kV and lower)	ceo ⁶	ceo ⁶	ceo	ceo	ceo
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	ceo	ceo	ceo
C. Non-roadside or cross-country distribution lines involving eleven or More poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB	PB
22. Service drops, as defined, to allowed uses	ceo	ceo	ceo	ceo	ceo
23. Public and private recreational areas involving mining and structural development	PB	PB	PB	PB	ceo
24. Individual or private campsites	ceo	ceo	ceo	ceo	ceo
25. Campgrounds	no	no ⁷	PB	PB	PB
26. Road Construction	PB	no ⁸	PB	PB	PB
27. Land management roads	PB	PB	yes	yes	yes
28. Parking facilities	no	no ⁷	PB	PB	PB
29. Marinas	PB	no	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	ceo	ceo	ceo	ceo	ceo

TABLE 1. LAND USES IN THE SHORELAND ZONE (con't)

<u>Land Uses</u>	<u>District</u>				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>GD I</u>

31. Filling and earth moving of >10 cubic yards	PB	PB	ceo	ceo	ceo
32. Signs	ceo	ceo	ceo	ceo	ceo
33. Uses similar to allowed uses	ceo	ceo	ceo	ceo	ceo
34. Uses similar to uses requiring a CEO permit	ceo	ceo	ceo	ceo	ceo
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

¹ In RP not allowed within 75 feet horizontal distance, of the normal high water line or great ponds, except to remove safety hazards.

² Requires permit from Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³ In RP not allowed in areas so designated because of wildlife value.

⁴ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵ Functionally water-dependent uses are uses accessory to such water dependent uses only (See note on previous page).

⁶ See further restrictions in Section 15(L)(2).

⁷ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸ Except as provided in Section 15(H)(4).

⁹ Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E). Special Exceptions. Two-family residential structures are prohibited.

¹⁰ Except for commercial uses otherwise listed in this table, such as marinas and campgrounds, that are allowed in the respective district.

Note: A person performing any of the following activities shall require a permit from the Department of Environmental Protection pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater, coastal wetland, great pond, river, stream or rook, and operates in such a manner that material or soil may be washed into them;

- A. Dredging, bulldozing, removing soil or displacing soil, sand, vegetation or other soils
- B. Draining or otherwise de-watering
- C. Filling including adding sand or other material to a sand dune
- D. any construction or alteration of any permanent structure.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage
(1)		
(a) Residential dwelling unit		
(ii) Within the Shoreland Zone		
Adjacent to Non-Tidal Areas	40,000	200
(a) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone		
Adjacent to Non-tidal Areas	60,000	300

(b) Public and Private Recreational Facilities

- | | | |
|---|--------|-----|
| (i) Within the Shoreland Zone Adjacent to Tidal and non-tidal areas | 40,000 | 200 |
|---|--------|-----|
- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
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- (6) Clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.
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B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
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In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water- dependent uses.
 - (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty- five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
 - (c) The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed 20 percent of the lot, including land area previously developed or built upon.
 - (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area. Cupolas and similar structures, with no floor area, are exempt from this limit.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the most current version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
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For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage .

- (4) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection.

- (5) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the *Natural resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, docks, wharves, bridges and other structures and uses extending over or below the

Normal high water line of a water body or within a wetland, and shoreline stabilization.

Waterboro does not regulate, enforce or issue building permits for ; piers, docks, wharfs, bridges extending over or below the normal high-water line or within a wetland.

NOTE: a structure constructed on a float or floats is prohibited unless it is designed to function as, as is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

Vegetation may be removed in excess of the standards in Section 15 (P) of this ordinance in order to conduct shoreland stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

When necessary, the removal of trees and other vegetation to allow for equipment via land must be limited to 12 feet in width, such equipment access way must be restored in accordance with Section 15(S).

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage and or sales of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Junk yards, recycling yards, lumber processing or sales.
- (6) Commercial painting, wood preserving, and furniture stripping
- (7) Dry cleaning establishments
- (8) Electronic circuit assembly
- (9) Laundromats, unless connected to a sanitary sewer
- (10) Metal plating, finishing, or polishing
- (11) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (12) Photographic processing
- (13) Printing
- (14) Vehicle sales, repair or body repair or painting.

G. Parking Areas This section entirely DEP text

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone except:
 - (a) To provide access to structures or facilities within the zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set

back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (4) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland. At no time may the Planning Board reduce the set back to less than 50 feet.
- (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an un-scarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an un-scarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto un-scarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing white lights. No sign(s) may be animated

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The *Stormwater Management Law* (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre

impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
 - (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within (100) feet horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within (75) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
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- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) 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 generated on-site may be buried or covered on-site.

NOTE: The *State of Maine Solid Waste Laws*, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

RELATING TO TIMBER HARVESTING STANDARDS:

Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the *Mandatory Shoreland Zoning Act*, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Forest Bureau pursuant to Title 12, section 8867-B.

O. Timber Harvesting – Statewide Standards

- (1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental

amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

- (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
- (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) **Option 1 (40% volume removal)**, as follows:
 - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
 - (b) **Option 2 (60 square foot basal area retention)**, as follows:
 - (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii)) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

- (c) **Option 3 (Outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) **Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

- (c) **Setbacks**

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) **Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in

Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (f) **Road closeout and discontinuance.** Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (g) **Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
 - (h) **Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - (i) **Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) **Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

- (b) **Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
 - (c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
 - (f) **Water crossing standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
 - (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,-
 - (v) water flow is not unreasonably impeded.
-

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the river, stream, or tributary stream channel.
- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
 - 1. use of temporary skidder bridges;
 - 2. removing culverts prior to the onset of frozen ground conditions;
 - 3. using water bars in conjunction with culverts;
 - 4. using road dips in conjunction with culverts.
- (iii) Culverts utilized in river, stream and tributary stream crossings must:
 - 1. be installed at or below river, stream or tributary stream bed elevation;
 - 2. be seated on firm ground;
 - 3. have soil compacted at least halfway up the side of the culvert;
 - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be

designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

- (v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) **Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed Mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- (8) **Definitions.** Unless otherwise provided herein, this Section O-1 incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, “Forest Regeneration and Clearcutting Standards”, and Chapter 21, “Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas”.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q..

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary

stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points ($36 - 24 = 12$) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
 - (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
 - (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
-

- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related

equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area, but shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If

new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

R. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to **38 M.R.S.A section 465-A**.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

- (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:
http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

S. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
 - (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;

- (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of storm water;
 - (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of storm water; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

T. Erosion and Sedimentation Control, certification required per 38 M.R.S.A. Sec. 489-B

- (1) All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.

- (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 - (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

U. Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

V. Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

W. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to

the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application. listing and location of Historic Places in their community.

16. Administration

A. Administering Bodies and Agents

- (1) **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert when:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is no longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.

- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
 - (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
 - (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
 - (5) When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.
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D. Procedure for Administering Permits. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides,

based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - (a) **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

- (b) **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) **Variance Appeals.** Variances may be granted only under the following conditions:

- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall 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 and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for

access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

- (1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she 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 or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- (3) **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 directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, 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 municipal 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.
- (4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (**30-A M.R.S.A. Section 4452**)

17. Definitions

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 a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat / vessel / watercraft— used or capable of being used as a means of transportation on the water, including seaplanes, amphibious vehicles, and any other variable use craft when navigating or moored on the water, with the exception of human powered vessels under eight feet in length. The terms boat, vessel, watercraft may be used interchangeably.

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Boat house- a non-habitable structure designed for the purpose of storing boats and boating equipment.

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Dock, pier, mooring, wharf- a structure, on or above the water that serves as securing a boat.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

Family - one or more persons occupying premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floating accessory objects- such as, but not limited to, anchored swim/diving platform, inflatable raft or other object used for play on the water, boat lifts.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not

conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to, waterfront dock, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Habitable – a space in a building for living, sleeping, cooking and eating

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes

further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of

nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland.

Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Moorings – equipment such as anchors, chains and lines, for holding fast a vessel, aircraft, or buoy. The portion above the water line of moorings or buoy's shall be white with a horizontal blue stripe on the upper part of the white portion. Each mooring/bouy shall have fixed upon it, the owners physical Waterboro address. Moorings/bouy's shall be maintained in a safe condition at all times.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Planning Board designee- the CEO may be the planning board designee if so assigned by the P.B.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

(1) in the case of electric service

(a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

(b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

(a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

- (b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Slip – each side of a dock to which a single vessel is secured.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting- the cutting and removal of timber for the purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to **Section 15 (P), *Clearing or Removal of Vegetation for activities other than timber harvesting.***

Timber harvesting and related activities-the construction and maintenance of roads use primarily for timber harvesting and other activities related to timber harvesting.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such

vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Town of Waterboro, Maine Shoreland Zoning Map

Effective Date of Map: December 22, 2016

This is to certify that this Shoreland Zoning Map
supersedes and replaces the previously adopted
map for the Town of Waterboro, Maine.

Attested to by Town Clerk

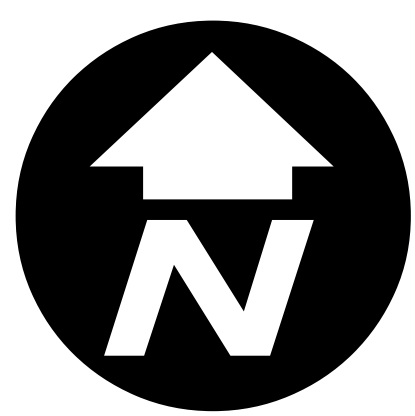
Note:
The depiction of zone and property boundaries on this map,
including but not limited to the Zoning Districts, Shoreland Zones,
Resource Protection Zones, and Stream Protection Districts are
illustrative of the approximate location of said boundaries. The
exact determination of zone and property boundaries shall be
determined by on-site inspection of premises, water bodies, and
wetlands. When needed, this shall be accomplished by an
appropriate professional.

Legend Shoreland Zones

- Saco River Corridor Commission District
- General Development District
- Resource Protection District
- Limited Residential District
- Stream Protection District

Waterbodies

- Non-Forested Wetlands
- Open Water



1:18,000

0 1,500 3,000 6,000 9,000 12,000
Feet

1 inch = 1,500 feet

Sources:
Reference is made to the previous Shoreland Zoning Map of Waterboro, Maine
dated and approved on 3/5/1984. The Shoreland Zoning Map presented on this sheet
was created by Sebago Technics for the Town of Waterboro from various mapping datasets
available from the State of Maine including but not limited to: orthoimagery, National Wetland
Inventory mapping, Hydric Soils mapping, USGS contour mapping, and FEMA Flood
Hazard Mapping. The non-forested wetlands and open water mapping is derived
from available high resolution orthoimagery. With regard to all data presented on this map, existing
conditions on the ground should be field verified before any reliance is made upon this map for
development, regulatory, or other purposes.

MAP PREPARED BY:
SEBAGO
www.sebagotechnics.com
19 John Roberts Rd., Suite 10
Rocky Hill, ME 04866
Tel: 207-553-5555

Price \$5.00

TOWN OF WATERBORO

Land Subdivision Regulations of the Planning Board

Amended to January 17, 2012

ARTICLE I AUTHORITY

Under statutory power and authority granted to Planning Boards in accordance with 30 M.R.S.A., Chapter 454, Section 4956, the Waterboro Planning Board, hereinafter called the Board, in an official meeting convened on August 9, 1972, adopted Land Subdivision Regulations of the Planning Board of the Town of Waterboro, Maine.

ARTICLE II ENFORCEMENT

No person, firm, corporation or other legal entity may sell, lease, or convey for consideration, offer or agree to sell, lease or convey for consideration any land in a subdivision which has not been approved by the Planning Board or other reviewing authority of Waterboro and recorded by the Register of Deeds of York County in Alfred. No subdivision plan or plat shall be recorded by the said Register which is not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install service to any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation or other legal entity who sells, leases, or conveys for consideration, offers or agrees to sell, lease or convey for consideration any land in a subdivision which has not been approved as required by this regulation shall be punished by a fine of not more than \$1,000. for each such sale, lease or conveyance for consideration, offering or agreement. The Attorney General, the Town or the Board of Selectmen may institute proceedings to enjoin the violation of this regulation.

ARTICLE III PURPOSE AND GUIDELINES

To exert a beneficial influence upon the use of land areas, water and other natural resources of Waterboro in such a manner as to safeguard the health, comfort and privacy of its residents, and to encourage a healthy and orderly development of homes, commercial and industrial establishments and agricultural enterprises for which community services, when required, can be most economically installed and efficiently utilized, thereby presenting the image of a town which has a forward-looking government responsive to expansion, but only consistent with the above ideals and realistic and reasonable concern for the environment.

To this end, when reviewing and approving subdivisions in the Town of Waterboro, Maine, the Board will consider the following criteria and, before granting approval, will determine that the proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination it will at least consider: The elevation of the land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect upon effluents; and the applicable State and local health and water resource regulations.
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision.
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed.
- F. Will provide for adequate solid and sewerage waste disposal.
- G. Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste and sewage, if municipal services are to be used.
- H. Will not have an undue adverse effect upon the scenic or natural beauty of the area, aesthetics, historical sites or rare and irreplaceable natural areas.
- I. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
- J. The subdivider has adequate financial and technical capacity to meet the Town, County and State regulations and standards.
- K. Whenever situated, in whole or in part, within 250 ft. of any pond, lake or river, it will not adversely affect the water quality or undesirably affect the shoreline of such body of water.
- L. Will not result in an unreasonable burden upon school facilities.
- M. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

ARTICLE IV DEFINITIONS

- A. **Abutter:** One whose property is contiguous to the perimeter of the tract developed or proposed for development.
- B. **Comprehensive Plan:** Any part or element of the overall plan for the development of the Town as defined in Title 30 M.R.S.A., Chapter 239, Section 4961.
- C. **Construction Drawings:** Drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts or cables, pavement, street cross sections, miscellaneous structures, etc.
- D. **Easement:** The recorded authorization of a property owner for the use, by another, for a specified purpose, of any designated part of his property.
- E. **Final Subdivision Plan:** The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Town Clerk and the County Register of Deeds.
- F. **Groundwater:** The water beneath the surface of the ground: the source of water in springs and wells.
- G. **Legislative Body:** Town Meeting.
- H. **Municipality:** Town of Waterboro, Maine.
- I. **Official Map:** The map adopted by the Town showing the location of public property, ways used in common by more than 2 owners of abutting property, and approved subdivision; and any amendments thereto adopted by the Town, or additions thereto resulting from the approval of subdivision plans by the Planning Board and the subsequent filing for record of such approved plans.
- J. **Official Submittal Date:** The date of submission of a Reapplication Plan or Sketch Plan, a Preliminary Subdivision Plan or a Final Subdivision Plan shall be the date of the meeting at which it is submitted. Upon receipt of a plan or any application, the municipal reviewing authority shall issue to the applicant a dated receipt. Within thirty (30) days from the receipt of an application, the municipal reviewing authority shall notify the applicant in writing either that the application is a complete application or, if the application is not complete, the specific additional material needed to make a complete application. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

- K. **Person:** Any firm, individual, association, organization, partnership, trust, company or corporation.
- L. **Planning Board:** The Planning Board of the Town of Waterboro, Maine, created under Title 30, M.R.S.A., Chapter 239, Section 4952; or Chapter 201-A, Section 1917.
- M. **Preliminary Sub-division Plan:** The preliminary formal drawings of the subdivision to be submitted to the Planning Board for its review and consideration.
- N. **Re-subdivision:** The subdivision of any lot in a previously approved subdivision, the relocation of any approved boundaries, streets, or drainage ditches, of the use of originally specified community land for other purposes.
- O. **Sketch Plan:** An informal plat of the proposed subdivision indicating approximate lot boundaries, street location, community wells and sewage disposal areas (if any) and entrances to existing roads.
- P. **Street:** Includes such ways as alleys, avenues, boulevards, highways, roads, streets and any other pedestrian or vehicular right-of-ways.
- Q. **Subdivision:** A Subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5 year period. (For complete subdivision definitions see section 4401 in the Planning & Land Use Laws).
- R. **Tract or Parcel:** A tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the Owner of land on both sides thereof.

ARTICLE V

PREAPPLICATION

5.1 PROCEDURE

In order that the Planning Board may be fully informed about the site and in a knowledgeable position to prescribe the contour interval to be used on the topographical map and grading plans for the subdivision, the subdivision shall:

5.1.1 An applicant shall schedule an appointment with the Secretary of the Planning Board or its authorized representative to submit a sketch plan. Sketch Plan applications shall be submitted at least 14 days prior to the applicants' meeting the Board will not take action on the plan at that meeting. The applicant will have to then schedule another appointment.

5.1.2 At the time of the pre-application inspection the subdivider shall submit for informal discussion a Sketch Plan and other data, relative to the proposed subdivision, which may be of assistance to the Board in making its determination. The Board may require proof of ownership or of an option to purchase, or, authorization from the owner to develop the parcel. The Sketch Plan shall be drawn to a scale of not over 200 ft. to the inch showing the proposed layout of the lots, streets, drainage ditches, reserved land for community or public use, ledge outcropping, historical preserves, trees of unusual size or interest, etc., including acreage range of lots, anticipated price range of structures with land complete with well and sewage (if any). The Sketch Plan shall be accompanied by a fee of \$250 per lot or a minimum of \$1,000.

At the Sketch plan stage it will be determined and mutually agreed upon between the applicant and the board whether the overall plan for the entire lot is a conventional subdivision or a cluster development. All cluster development designs are subject to the performance standards set forth in Section 8 of the Waterboro Zoning Ordinance.

5.1.3 Arrange for a joint inspection of the site with the Board's authorized representative.

ARTICLE VII

PRELIMINARY PLAN

6.1 PROCEDURE

NOTE: The Planning Board will not accept a Preliminary Plan for review until the Pre-application procedure has been completed.

6.1.1 Within a time frame set by the Board, the subdivider shall submit his Preliminary Plan for consideration and recommendations. Failure to do so shall require resubmission of the Sketch Plan. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board and agreed to by the developer, at the time of the discussion of the Sketch Plan.

6.1.2 The subdivider or his/her duly authorized representative shall at least 14 days prior to his/her scheduled meeting before the Board, submit a complete Preliminary Plan Application. The subdivider or duly authorized representative shall attend his/her scheduled meeting of the Board to discuss the Preliminary Plan. If the Preliminary Plan Application is not submitted 14 days prior to the applicant's meeting the Board will not take action on the plan at that meeting. The applicant will have to schedule another appointment.

6.1.3 The recorded time of the submission of the Plan shall be as defined in Article IV, "Definitions".

6.1.4 Within sixty (60) days after formal submission of a completed Preliminary Plan Application, the Board shall take action to give preliminary approval, with or without modification required, or the grounds for disapproval shall be stated in the minutes of the Board and conveyed to the applicant in writing. Prior to approval of the Preliminary Plan, the Board may hold a Public Hearing.

6.1.5 When granting preliminary approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the Final Plan;
2. The character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the intent and purposes of this regulation;
3. The amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Plan. The decision of the Board plus any conditions imposed shall be noted on three (3) copies of the Preliminary Plan, one retained by the Board, one sent to the Selectmen and one returned to the subdivider.

6.1.6 Approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather, it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.

6.1.7 Within seven (7) days after submitting the Preliminary Plan, the developer shall notify, by certified proof of mailing, all property owners within two hundred (200) feet of the perimeter of the proposed development that they have seven (7) days from the mailing date in which to register, by mail, with the Waterboro Planning Board, their adverse reaction and comment relative to the proposed subdivision. The developer shall, at the same time, send a copy of the notice and list of those notified to the Board.

6.1.8 When professional services are required to evaluate a proposal, design or assessment, the expense of these reviews shall be borne by the subdivider. The cost shall be paid to the Planning Board's consultant prior to Final Plan approval. Amended (6/23/88)

6.2 PRELIMINARY PLAN

6.2.1 The Preliminary Plan shall be submitted in four (4) copies of one or more maps or drawings which may be printed or reproduced on size 24 inch by 36 inch paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than sixty (60) feet, and showing or accompanied by the following information:

1. The proposed subdivision name or identifying title, the name of the town and state, the date, the graphic scale, and the true North arrow displayed in a conspicuous place.
2. Name and address of the record owner, subdivider, soil scientist, designer and/or engineer and land surveyor.
3. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
4. The names of all subdivisions immediately adjacent and the names of owners of record of other adjacent parcels, not subdivided, including those subdivisions and parcels directly across abutting streets, streams and right-of-ways.
5. The provisions of the Zoning Ordinance applicable to the area to be subdivided and any Zoning district boundaries affecting the proposed subdivision.
6. The location and size of any proposed or existing sewers, water mains, culverts or drains, and existing swampy areas, brooks, perpetual springs of significant size and natural drainage ditches.
7. Locations, names and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.
8. The width and location of any streets or other public ways or places shown upon the Official Map and the Comprehensive Plan, if any, within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the subdivider.

9. Contour lines at such intervals as the Board may require. (May be required on a separate transparency)
10. A Log of On-Site Soil Investigations by a Registered Soil Scientist, made in accordance with the requirements of the State Plumbing Code, for two (2) test pits per lot separated by a minimum of 50 feet, the location of which to be clearly delineated on both the Preliminary and Final Plans; also the sewage disposal system recommended for each lot.
11. Deed description of and plan of perimeter survey of tract to be developed, made and certified by a Registered Land Surveyor and tied to established permanent reference points: reference to lot number or numbers as shown on the Town Tax Maps, also book and page in and on which the deed for the tract is recorded.
12. Connection with existing public or private community water supply.
13. Connection with existing public or private community sanitary sewerage system.
14. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
15. Preliminary designs of any bridges and size of which are proposed, showing their location.
16. Proposed lot lines with approximate dimensions, lot numbers or names, approximate lot acreage and suggested location of buildings.
17. Location of temporary bound markers conspicuous enough to enable the Board to readily locate and envision, while in the field, the basic layout.
18. All parcels of land proposed to be dedicated to public or community use and with a statement of the conditions of such dedication.
19. Proposed use of any part of the original tract which is not to be included in the subdivision.
20. The location of all natural features or site elements to be preserved.
21. A soil erosion and sediment control plan containing the endorsement of the York County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission.

22. A statement relative to the schedule of construction.
23. A statement relative the amenities or services and future responsibilities therefore.
24. Provisions for centralized mail delivery. Applicant must contact the State of Maine E911 coordinator and provide to the board evidence that newly created lots will receive a new E911 address from the state.
25. A location map showing the geographical location of the subdivision in the Town.
26. A report prepared by a geologist registered in the State of Maine and qualified, by training and experience, to evaluate the impact which the proposed development, alone or in conjunction with existing activities, will have on the quality of groundwater. The report shall include an analysis of the groundwater impact predicted for the construction which is proposed; of the water supplies serving the development; and of any other aspects of the proposed development which may, either alone or in conjunction with existing activities; adversely affect the quality or quantity of groundwater in the area.

A hydrogeologic impact study prepared by a State of Maine Certified Geologist or a Registered Professional Engineer with experience in hydrogeology shall be provided for all subdivisions utilizing on-site septic disposal systems. This study shall contain, at a minimum, the following components:

- A. 1. A high intensity soil survey in accordance with the current standards set by the Maine Association of Professional Soil Scientists. The map shall include documentation of the different drainage classifications. (Amended 3/11/89)
2. Groundwater levels and flow rates through the site and the aquifer, if one is determined to exist, should be determined
 - a. monitoring wells should be installed, using an acknowledged procedure, to insure proper data collection.
 - b. the number of monitoring wells could vary, depending upon size and geology, but a minimum of three, laid out in a plan triangle would be needed to provide the necessary data to triangulate the levels and flows.

c. ground water levels shall be surveyed to a common datum on site.

d. groundwater flow rates should be calculated by using groundwater gradients and soil permeability.

e. monitoring wells should remain in place and in a useable condition for continued use into the future. The developer should provide means to insure the protection of these wells. Amended (3/11/89)

3. An analysis of surface drainage conditions and their relationship to off site conditions.

4. Data on existing groundwater quality for the site should be provided. Collection of this data can either be provided by monitoring wells within the proposed subdivision or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site to be used for drinking water. Amended (3/11/89)

5. A calculation of average nitrate nitrogen levels on-site after development and calculation of nitrate nitrogen levels at the down gradient property line(s). These calculations should be done under normal rainfall and draught conditions.

6. The sites recommended for the individual subsurface waste water disposal systems and the drinking water wells in the subdivision should be placed on the subdivision plan. Amended (3/11/89)

B. No development shall increase nitrate nitrogen concentrations at the property line of the development in excess of (5mg/l).

On site drinking water wells shall be located in areas where it has been determined that the nitrate nitrogen concentrations are at or below (5mg/l). Added (3/11/89)

C. If groundwater contains contaminants in excess of the primary drinking water standards, and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated and the developer shall make a note on the plan and deed that the situation exists. Amended (3/11/89)

- D. Subsurface waste water disposal systems and drinking water wells shall be constructed in the locations shown on the map submitted with the assessment. If construction standards for drinking water wells and subsurface waste water disposal systems are recommended in the assessment those standards shall be included as a note on the final plan, and as restrictions in the deeds for the effected lots. Amended (3/11/89)
- E. The developer shall bear all of the cost for the Planning Board's consultant to review the hydrogeologic impact study. The Planning Board's consultant fee shall be paid within thirty (30) days of its transmission to the developer.
This amendment is intended to be retroactive, and shall apply to all hydrogeologic impact studies submitted after March 12, 1988. Amended (6/23/88)

6.2.2 Land covered by proposed subdivision shall be so marked in the field that the Planning Board may readily observe locations of proposed roads and lot corners while making its on-site inspection.

ARTICLE VII

FINAL PLAN

7.1 PROCEDURE

7.1.1 The subdivider shall, within ninety (90) days after the approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. (See Appendix IV) If the Final Plan is not submitted to the Board within this time the Board may, without prejudice, refuse to act upon it for an additional ninety days. The subdivider shall at least 14 days prior to his/her scheduled meeting before the Board submit a completed Final Plan. If the Final Plan application is not submitted in 14 days prior to the applicants meeting the Board shall not take action on the plan at that meeting. The applicant will have to schedule another appointment. All Final Plans submitted for approval shall be accompanied by a fee of \$.75 per lineal foot of road, plus \$.50 per lineal foot of pipe, payable to the Town of Waterboro, Maine.

7.1.2 The time of submission of the Plan shall be as defined in Article III, "Definitions".

7.1.3 The subdivider shall give evidence that the proposed method of water supply meets the requirements of the State of Maine Department of Health and Human Services, Health Engineering, if applicable, the Department of Environmental Protection.

7.1.4 A Public Hearing on the Plan may be held by the Planning Board, if requested or if the Board deems it desirable. Such a hearing will get the normal posting and advertisement.

7.1.5 The subdivider shall comply with the performance and maintenance guarantee requirements set forth in Sections 12.04 – 12.07 of the Zoning Ordinance. (Amended 1/17/2012)

7.1.6 The Planning Board shall, within sixty (60) days of the submission of the Final Plan, or within thirty (30) days after a public hearing, except as stated in 7.1.1, approve, modify and approve or disapprove it. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board and transmitted to the developer in writing.

7.2 SUBMISSIONS

7.2.1 The Final Plan shall be drawn on one 24” x 36” Mylar for recording and shall be submitted along with seven (7) regular copies of it. Space shall be provided thereon for endorsement by all appropriate agencies. It shall show:

1. All of the information presented on the Preliminary Plan and location Map and any amendments thereto suggested, required or agreed to by the Board.
2. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant and soil scientist involved in its conception.
3. Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public or community use.
4. Sufficient data acceptable to the Planning Board to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.
5. The length of all straight lines, the deflection angles of all curves, tangent distances and tangent bearings for each street.
6. By proper designation, all public and/or community open space for which offers of cessionaire made by the subdivider and those spaces to which title is reserved by him.
7. Lots and blocks within the subdivision numbered in accordance with local practice.

8. Permanent reference monuments shown thus:
"X". They shall be constructed in accordance with specifications prescribed herein and their location noted and referenced upon the Final Plan.

9. The subdivider shall receive written approval from the E911 coordinator of any proposed road names prior to final plan approval and show the road names on the final plan. The applicant shall mark on the plan, lines or dots in the center of the streets at every fifty (50) foot interval so as to aid in the assignment of numbers to structures subsequently constructed and all other requirements set forth in conformance with the E911 ordinance adopted June 3, 1995.

10. Wherever any residence or other structure is developed, it shall be the duty of the lot owner to procure the assigned number from the E911 coordinator. This shall be done at the time of issuance of the building permit.

7.3 FINAL APPROVAL AND FILING

7.3.1 Upon completion of the requirements in Articles VI and VII, above, a notation to that effect upon the plan and the affixing of the signatures of a majority of the Board members the Final Plan shall be deemed to have final approval. One of the seven submitted prints shall be transmitted to the Board of Selectmen for the Town records and the others retained by the Planning Board. The original inked drawing shall be returned to the subdivider who shall, within sixty (60) days and not having been notified by the Selectmen of any objections, file it in the Registry of Deeds at Alfred.

Failure to file within the specified sixty (60) days from the date of approval shall void the approval unless the subdivider can demonstrate, to the satisfaction of the Board, that the delay was due to causes beyond his control, in which case the Board may grant extension or extensions of time not to exceed, in total, one-hundred-twenty (120) days.

7.3.2 At the time the Planning Board grants Final Plan approval, may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to endure the orderly development of the Plan. The applicant may file a section of the approved Plan with the Selectmen and the Register of Deeds if said section constitutes at least 10 percent of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for a period of time mutually agreed to by the Selectmen, the Planning Board and the Subdivider.

7.3.3 Final approval of a subdivision will be withheld until all consultant fees have been paid in full as stated in Article VI, Section 26. E and Article VI, Section 6.1.9.

7.4 PLAN REVISIONS AFTER APPROVAL

7.4.1 No changes, erasures, modifications, or revisions shall be made in any Final Plan after Planning Board approval has been endorsed upon the Plan. If a subdivider wishes to alter the approved plan he shall submit a revised plan consisting of the entire subdivision, or, if the plan consists of more than one sheet, that entire sheet on which the alterations is proposed. If any lots have been sold or are under sales contract, written evidence shall be submitted that interested parties have consented to the proposed changes. In either case, the new submission shall show it is a "Revision of the Plan Approved on (date)" and shall provide space for the usual Planning Board approval. The procedure for Final Plan approval, excluding the fee, will then be followed. If a subdivider records a revised Final Plan or any part thereof not so approved, the Board shall declare it null and void and shall institute proceedings to have it stricken from the records at the Registry. Further, if any construction viewed by the Board as deliberate and defeating in the objectives of the original approval is initiated, the Board will institute proceedings to halt all construction and require a complete resubmission including application fee.

7.5 MUNICIPAL ACCEPTANCE OF STREETS AND OTHER LAND AREAS

7.5.1 The approval by the Planning Board of the subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, park, playground, recreation area or other open space area shown on such plan and the Final Plan shall bear a statement to this effect.

7.5.2 Referring to the above mentioned land areas, excluding streets, the Planning Board or the Selectmen may require the filing of a written agreement between the subdivider and the Selectmen covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

ARTICLE VIII GENERAL REQUIREMENTS

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof of satisfactory performance shall be upon the Subdivider.

8.1 PROVISION FOR PROPOSED PUBLIC SITES AND OPEN SPACES

8.1.1 Depending upon the size and location of the subdivision, the Board may require the developer to provide up to ten (10) percent or not less than 10,000 sq. ft. of his total area for recreation. Such area shall be in one parcel and reasonably accessible from all lots within the subdivision.

8.1.2 Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. Any area to be used or active recreation purposes such as a playground or athletic field should be acceptably level and dry, have not outcropping of ledge or boulders, have a total frontage on one or more streets of at least 200 ft., and have no major dimension of less than 200 ft. Areas reserved for passive recreational uses shall have such access as the Board may deem suitable. The area, configuration and orientation of the site may be determined by the Board based upon its natural and scenic aspects and topographical characteristics.

8.1.3 If the proposed subdivision abuts any kind of a water body for 200 feet or more the Board may require that a reasonable area with shore frontage be reserved as Open Space.

8.1.4 The Board may require that the developer provide space for future municipal use, in accordance with a Comprehensive Plan or Policy statement, on a reimbursable basis with five (5) year option after which the space may be sold for other development.

8.2 NON BUILDABLE LAND

8.2.1 The Board shall not approve for building sites such portions of any proposed subdivision that:

1. Are commonly recognized as "wet lands", which must be filled or drained, or land created by diverting recognized brooks, streams or rivers.
2. Is obtained by filling or draining any portion of any body of water.

8.2.2 Wherever located, in whole or in part, within one hundred (100) feet of the normal high water line of any brook, stream, river, pond or lake, no dwellings, no part of any sewage disposal system, and no roads except for crossings and property access shall be installed or constructed within one hundred (100) feet of said normal high water line.

8.3 LOTS

8.3.1 Minimum lot sizes shall conform to whatever Municipal, County, State or Federal ordinance or statute is applicable, the most restrictive taking precedence.

8.4 DRAINAGE EASEMENTS

8.4.1 Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or water course and such further width or construction, or both, as will assure that no flooding occurs and all storm-water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

8.5 UTILITIES

8.5.1 The size, type and location of such public utilities as street lights, electric, telephone and gas lines, fire hydrants etc. shall be approved by the Board and installed in accordance with applicable codes and specifications.

8.6 REQUIRED IMPROVEMENTS AND INSPECTION

8.6.1 The following, where applicable, shall be required improvements: monuments, street signs, streets, sidewalks, water supply lines, sewage lines, storm drainage culverts, except where the Board may waive or provisions of these regulations.

8.6.2 At least ten (10) days prior to the start of construction of required improvements the subdivider shall notify the Selectmen in writing of the time when he proposes to commence construction of such improvements so that the Selectmen can cause inspection to be made to ensure that all municipal specifications and requirements will be met during the construction of required improvements, and to ensure the satisfactory completion of improvements required by the Planning Board or other Municipal Officers.

8.6.3 If the municipally authorized inspector shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, or that conditions imposed by the Planning Board have not been met, he shall so report to the Selectmen, Building Inspector and Planning Board. The Selectmen shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No plan by the subdivider shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

8.6.4 If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Authorized Inspector that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, he may, upon approval of the Planning Board, authorize modifications provided they are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

8.6.5 The applicant subdivider shall be required to maintain all streets, culverts and drainage ditches and provide for snow removal and sanding on streets until acceptance of said improvements by the legislative body.

8.7 FIRE PROTECTION

The Board shall require one of the following forms of fire protection for all developments and the applicant shall provide written verification from the fire chief that their proposal meets his approval.

For every five houses or units the developer shall provide one of the following means of fire protection:

- Sprinkler system installed in each residential unit;
- Provide a 10,000 gallon cistern
- Hook up to town water system and provide a hydrant every 800-1,000 feet;
- Construct a fire pond that will sustain a minimum of 20,000 gallons of water and a hydrant that meets the standards of the Waterboro Fire Department.

8.8 GREEN BELTS

8.8.0 For the purpose of these Regulations, a "greenbelt" is defined as a strip of land vegetated with grass or other plant life maintained as open green space. Removal of dead trees, mowing of grass and pruning of other vegetation, to the extent appropriate for routine maintenance, are the only cutting permitted within a greenbelt area. The only construction permitted within a greenbelt is that necessarily related to the exercise or use of a utility easement and/or that necessarily related to a driveway. If another means of access to the property other than through the greenbelt is available, construction related to utility easements shall be the only permissible construction within the greenbelt boundaries.(Amended 7/18/89)

8.8.1 If the proposed subdivision abuts Routes 5 or 202 or 4, and all state-aid roads, a strip of land not less than twenty-five (25) feet and not more than one hundred (100) feet in width adjacent to said highway and running along said highway may be required to be set aside as a green belt, and the developer shall submit provisions for maintaining this area. (A conservation easement may be conveyed to the Town of Waterboro over said strip.) Said green belt shall be shown on the Preliminary and Final Plans.

8.8.2 If the proposed subdivision abuts a Town road, a strip of land not less than twenty-five (25) feet or greater than fifty (50) feet in width and adjacent to said road and running along said road may be required to be set aside as a green belt, and the developer shall submit provisions for maintaining this area. (A conservation easement may be conveyed to the Town of Waterboro over said strip.) Said green belt shall be shown on Preliminary and Final Plans.

8.9 ACCESS STREETS

8.9.1 Where a proposed subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets (street parallel to arterial street providing access to adjacent lots), reverse frontage (that is frontage on a street other than the existing or proposed arterial street) with 8.8.2 along the rear property line or such other treatments as may be necessary for adequate protection of the residential properties and to afford separation of through and local traffic.

ARTICLE IX DESIGN STANDARDS

9.1 MONUMENTS

9.1.1 Permanent monuments shall be set at all corners and angle points of the subdivision boundaries and at corners of each lot; also at all street intersections and points of curvature.

9.1.2 Monuments shall be stone, metal or concrete located in the ground at final grade level, and indicated on the Final Plan. After they are set, if stone or concrete drilled holes, 1/2 inch deep shall locate the point or points described above.

9.2 STREET SIGNS

9.2.1 Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.

9.2.2 Street name signs shall be furnished and installed by the subdivider. The type, size and location shall be to the approval of the Board.

9.3 STREETS

9.3.1 Layout and Construction

9.3.1.1 Proposed streets shall conform, as far as practical, to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to the submission of a Preliminary Plan.

9.3.1.2 In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a fifty (50) foot wide easement in the line of the street or in any practical direction to provide for continuation of utilities or access of pedestrian traffic to the next street.

9.3.1.3 Construction of streets, sidewalks, bridges, culverts and surface drainage systems shall conform to applicable standards and specifications.

9.3.1.4 Grades of all streets shall conform, in general to the terrain, and shall not be less than one-half (1/2) of one (1) percent nor more than ten (10) percent in residential areas, but, in no case, more than three (3) percent within fifty (50) feet of any intersection.

9.3.1.5 Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two streets intersect at an angle smaller than sixty (60) degrees. To this end where one street approaches another between 60-90degrees, the former street should be curved approaching the intersection.

9.3.1.6 A dead-end street, or cul-de-sac, shall not exceed six hundred (600) feet in length and shall have a turnaround at the closed end in which the radius of the traveled way shall not be less than seventy-five (75) feet.

9.3.1.7 All streets shall be provided with adequate drainage facilities, having year-round effectiveness, that will provide for the removal of storm water thereby preventing flooding of the pavement and surrounding property, and these facilities shall be so constructed as to prevent erosion of the drainage-ways.

9.3.1.8 The reserved right-of-way for all residential streets shall be not less than fifty (50) feet in width, and the paved surface shall be not less than twenty-four (24) feet; the centerlines of the right-of-way and the paved surface shall coincide.

9.3.1.9 Side slopes of filled road beds shall not be steeper than one (1) vertical foot in every three (3) horizontal feet (1 to 3 or 33 and 1/3 percent). They shall be smoothly graded, loamed and seeded by the subdivider with "Soil Conservation Mix" and a viable and effective growth produced which will prevent erosion.

9.4 CUTTING AND PLANTING

9.4.1 Cutting and Removal of Natural Vegetation

9.4.1.1 Trees, natural undergrowth, topsoil and gravel or other soil deposits in their natural state at the time of the reapplication Inspection by the Board shall be considered a part of the subdivision and, except for the removal or rearrangement required for building construction, landscaping, parking lots, recreations areas and streets or for the removal of diseased and hazardous trees, shall not be removed except in accordance with specific agreement with the Planning Board.

9.4.1.2 Cutting Restrictions: On slopes of up to ten (10) percent, no restriction; on slopes greater than 10 percent and not exceeding twenty-five (25) percent, and over, measures at a height of twenty-four (24) inches above ground level at the base, is prohibited; and on slopes exceeding 25 percent, no cutting will be permitted. The

Planning Board or its representative may grant such relief from this restriction as it deems reasonable or necessary. This restriction shall be covenanted in each deed and shall be perpetual, (applicable to subdivisions with slopes of over 10%).

9.4.1.3 It shall be the responsibility of the subdivider, in all landscaped areas created by filling or redistribution of available soil, to ensure that the earth is properly compacted, fertilized, seeded and a viable and effective growth produced thereon which will prevent erosion or slippage, or both, for a period of two (2) years after the sale of the property. No side slopes of any areas so obtained shall exceed forty (40) percent (1 foot vertically to 2.5 feet horizontally).

9.5 STORM WATER MANAGEMENT DESIGN STANDARDS

9.5.1 Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

A. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

B. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

C. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24hour duration, Type III storm frequencies, based on rainfall data for Portland, Maine. When the subdivision discharges directly to major water body as defined in the Town of Waterboro Zoning Ordinance, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized, second modeling by TR-55 or TR-20 shows hydrologic impacts to be minimal, and water quality impacts are minimal. Existing water quality of a waterbody should be investigated to analyze the nitrate and phosphorus content. The plan should then analyze the project to see if nutrient loading will occur. If after review and based on flow rates or potentially poor water quality, detention ponds may be required.

D. The minimum pipe size for any storm drainage pipe shall be four inches. Pipe shall be bedded on 3/4 inch stone, containing stones no larger than two inches. If the fill material is approved by the town, pipe may be bedded in that material and can be covered with a geotextile liner. No clay, loam, silt, mulch, stumpage, brush or other such materials should be used for backfill. Clay or loam cap maybe used by the designing engineer if surface percolation is not desired. Perforated pipes shall be bedded six inches below the invert of the outer diameter of the pipe to a minimum of six inches over the high point of the pipe. Solid pipe shall be bedded six inches under the pipe to the spring line of the pipe. No geotextile is required for solid pipe.

E. The Planning Board may require nutrient removal structures where maintaining water quality in downstream waters is deemed important.

F. Planning Board under advisement of a registered professional engineer or other qualified professional (York County Soil and Water Conservation District) shall have the authority to waive detention requirements where benefits to the public are minimal. This shall be determined on a case-by-case basis only.

9.5.2 The Planning Board may require nutrient removal structures where maintaining water quality in downstream waters is deemed important. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

9.5.3 Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage. Planning Board under advisement of R.P.E. or other qualified professional District/SES shall have the authority to waive detention requirements where benefits.

9.5.4 Catch basins shall be installed where necessary or required, and should be located at the curb line or the invert of a ditch as required.

9.5.5 Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever type storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

9.5.6 The subsurface drainage system maybe incorporated with the storm water drainage system if the system is designed to incorporate both systems.

9.5.7 Maintenance responsibility for detention and nutrient removal structures must be established.

9.6 STORM DRAINAGE CONSTRUCTION STANDARDS

9.6.1 Materials.

A. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTOM 175 for the appropriate diameters.

B. Asbestos Cement Pipe. Asbestos Cement Pipe shall meet the requirements of ASTM Designation C-428 (AASHTOM 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved preformed plastic sleeve type.

C. Corrugated Metal Pipe. Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and the type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

D. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

E. Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252

F. Manholes. Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted

foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

9.6.2 Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.

9.6.3 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

9.6.4 Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

9.7 CERTIFICATION OF CONSTRUCTION

9.7.1 Certification of Construction. "As built" plans shall be submitted to the Road Review Committee. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets the design and construction requirements of these regulations and the Street Design and Construction Standards Ordinance for the Town of Waterboro.

ARTICLE X RELEASE OF GUARANTY CHECK OR BOND

Before a subdivider may be released from any obligation required by his guarantee of performance the Board of Selectmen shall require certification from all other concerned Town Boards, Committees and Inspectors to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances and all consultant fees payable pursuant to Article VI Section 6.1.9 and Article VI Section 6.2.1 paragraph 26 (E) have been fully paid.

ARTICLE XI VARIANCES AND WAIVERS

11.1 Where the Planning Board finds that extraordinary hardship will result from strict compliance with these Regulations due to unusual conditions existing in any particular proposed subdivision, it may give justifiable relief by granting variances to Regulations provided, however, such actions will not have the effect of defeating the intent of these Regulations or any Official Map, Comprehensive Plan or Zoning Ordinance which may exist.

11.2 Where the Board determines that, due to certain conditions existent in a proposed subdivision, the provision of certain required improvements is not requisite in the public interest, or is inappropriate because of inadequacy or lack of prerequisite facilities in the proximity of the proposed subdivision, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

ARTICLE XII APPEALS

12.1 An appeal from a decision of the Planning Board may be taken to a General Board of Appeals, if such has been established by the Municipality in accordance with Title 30, M.S.R.A., Chapter 213, Section 2411, or taken to the Superior Court.

ARTICLE XIII FEES

All persons developing or utilizing land, water, or structures in a manner which requires Planning Board review under these regulations shall pay fees for the review process to the Town of Waterboro according to the appropriate fee schedule. These fees shall be used to defray the costs of the Planning Board review process.

The fee schedule which is defined under individual articles within these Land Subdivision Regulations is as follows:

\$250 per lot within the subdivision with a minimum application fee of \$1,000.

At final plan an additional charge of \$.75 per lineal foot of road and \$.50 per lineal foot of pipe.

All fees received for subdivision review under these regulations shall be used by the Planning Board and Planning Department towards operational funds.

ARTICLE XIV SEPARABILITY AND EFFECTIVE DATE

13.1 The invalidity of any provision of these Regulations shall not invalidate any other part.

13.2 These Regulations shall take effect immediately upon adoption by the Planning Board.

GROWTH MANAGEMENT ORDINANCE

Adopted July 23, 2002

Amended through January 15, 2013

1. TITLE

This Ordinance shall be known as the "Growth Management Ordinance of the Town of Waterboro, Maine" and shall be referred herein as the "Ordinance".

2. LEGAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided in Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A. Section 3001, and pursuant to 30-A M.R.S.A. Section 4360.

3. PURPOSE

The purpose of this Ordinance is to protect the health, safety and general welfare of the residents of Waterboro through placing limitations on residential development and meeting the following:

- A. To plan for continued residential population growth of Waterboro which would be compatible with orderly and gradual expansion of community services including, but not limited to, education, public safety, transportation infrastructure, waste disposal and health services.
- B. Avoid a situation in which the rapid development of new residences, potentially housing many families, could outpace RSU 57's capability to expand its schools and other services soon enough to avoid serious school over-crowding and a significant reduction in other services.

4. APPLICABILITY

This Ordinance shall apply to all new dwelling units and any new family units added to an already existing dwelling unit (including manufactured housing) within the Town of Waterboro. No new dwelling unit, which fails to meet the requirements of the Ordinance, shall be constructed or placed within the Town of Waterboro.

5. EXEMPTIONS

This Ordinance shall not apply to the following:

- A. The repair, replacement, reconstruction or alteration of any existing building or structure provided the number of dwelling or Family units is not increased, regardless of the need for a variance.

- B. Hotels, motels, group homes, assisted living facilities, boarding houses, bed and breakfast, rehabilitation facilities, or temporary seasonal sites operated as a business such as campgrounds and/or cottage rentals.
- C. Significant Subdivision: Subdivisions of greater area than 500 acres that have obtained a Contract Zoning Agreement approved by the Selectmen, which agreement ensures the preservation of large tracts of open space for public use and/or provides a major contribution to certain public capital improvements as a condition of said Contract Zoning Agreement, shall be exempt from the growth Cap, subject to terms hereof. In the event such an Agreement is not approved by the Selectmen, such subdivisions shall remain subject to this Growth Management Ordinance. (amended 4/21/07)

6. **ADMINISTRATION**

A. **Maximum Number of Dwelling Units**

- 1. Unless and/or until this Ordinance is amended the maximum number of new Growth Permits issued shall be seventy-four (74), from January 1 to December 31 each year, plus 8 additional Growth Permits that shall be for affordable housing as defined in 30-A M.R.S. § 4301. (amended 6/7/05, amended 11/16/10)

B. **Application Procedure**

- 1. All Growth Permit Applications shall be submitted together with a completed building permit application and waste water disposal system (HHE 200) to the Code Enforcement Officer or his/her assistant or agent (hereinafter the CEO) during normal office hours.
- 2. The CEO shall indicate on the Growth Permit Application form the date and time that all Permit Applications have been received and provide the applicant with a receipt, showing that all said applications have been submitted and determined to be complete. The Applications shall be reviewed in the order in which they were received. Only complete Applications will be accepted.
- 3. The Growth Permit Application shall be accompanied by a non-refundable administrative fee in the amount of Two Hundred (\$200.00) Dollars, with documentation establishing the applicant's right, title and interest to the property.
- 4. A separate Application shall be required for each dwelling unit.

C. **Issuance Procedure**

1. Growth Permit Applications shall not be accepted by the CEO until on or after the effective date of this Ordinance. Growth Permit Applications shall be on file with the CEO. From that time on, Applications will be accepted, and Growth Permits issued, as provided for herein.
2. Growth Permits shall be available on a first-come, first-served basis.
 - i. Expired Growth Permits shall be available for reissue only in the same calendar year.
 - ii. The CEO shall issue Growth Permits for all complete Applications if they do not outnumber the supply of Growth Permits.
 - a. If Applications exceed supply for any given year, Permits shall be issued on the basis of the order complete Applications were received by the CEO. Those on the list who do not get a Permit for that year shall have first priority to get a Permit in the next year, in the order in which the Applications were deemed to be complete.
3. If, at the end of the calendar year, there are any unissued Growth Permits still available, they shall not be carried over to the next year.

4. Multifamily housing:

Each dwelling unit within a multifamily dwelling requires a separate growth permit regardless of the number of building or plumbing permits required

single family home	1 growth permit
two family home	2 growth permits
three family home	3 growth permits
etc	etc

D. Expiration

A Growth Permit shall expire with the building permit. (See section 2.03 of the Zoning Ordinance.)

E. Transferability

Growth Permits are lot specific. They shall be valid for construction on the lot specified on the Application and by the Applicant; provided however, that such valid Permits shall be transferable to new owners of the lot should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

7. **CONFLICT WITH OTHER ORDINANCES**

This Ordinance shall not repeal, annul, or otherwise impair or remove the necessity of compliance with any federal, state or other local laws or ordinances. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall prevail.

Compliance with the conditional and/or contract rezoning provisions of Section 13.04 of the Waterboro Zoning Ordinance shall be required for Significant Subdivisions as defined in Section 5(C) of this Ordinance to be exempt from this Ordinance and any violation of a Contract Zoning Agreement and/or conditional rezoning negotiated there under shall automatically subject said Significant Subdivision to the conditions and limitations of this Ordinance.

8. **SEPARABILITY**

Should any section or provision of this Ordinance be found by the courts to be invalid, illegal, or unenforceable, such decision shall not affect any other section or provision of this Ordinance either singly or collectively.

9. **EFFECTIVE DATE**

The effective date of this Amended Ordinance shall be January 1, 2013.

10. **REVIEW PROCEDURE**

This Ordinance shall be reviewed by the Planning Board every three years as required by State statute to assess the efficacy of the Ordinance and to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital program requirements to establish, maintain, or enlarge needed public facilities and services. Based on its review the Planning Board may recommend amending this Ordinance as provided in Section 11.

11. **AMENDMENTS**

1. An amendment to this Ordinance may be initiated by one of the following:
 - (A) The Planning Board.
 - (B) The Selectmen.

- (C) The residents, pursuant to state law.

12. VIOLATIONS

- A. A violation of this Ordinance shall be deemed to exist when any person, partnership or corporate entity engages in any construction activity directly related to the erection or placement of a dwelling unit, upon any land within the Town without first having obtained a Growth Permit from the CEO.
- B. If a dwelling unit has been constructed or an additional separate family unit has been added to a pre existing dwelling unit without a Growth Permit, it shall be deemed a violation for any person, firm, or corporate entity to sell, lease, rent or occupy such dwelling unit until such permit has been duly issued.

13. NOTICES OF VIOLATIONS; LEGAL ACTION

When a violation of any provision of this Ordinance shall be found, the CEO shall send a written notice of the violation to the responsible party or parties and shall notify the Selectmen of the violation.

If the notice does not result in the correction of the violation, the Selectmen may institute any and all actions and proceedings, either legal or equitable, including seeking injunctive relief, the imposition of fines, removal of the structure, or other action that may be appropriate or necessary to enforce the provisions of this Ordinance. Such actions may include an enforcement action under the provisions of 30-A M.R.S.A Section 4452.

The remedies set forth herein are intended to be cumulative and not exclusive of each other. The Selectmen are authorized to enter into administrative consent orders to eliminate violations with or without court action. Such agreement shall not allow an illegal structure or use to continue.

14. PENALTIES

Penalties for violations of this Ordinance shall be as established by 30-A M.R.S.A. Section 4452.

15. APPEALS

- A. The Zoning Board of Appeals in accordance with Section 10 of the Waterboro Zoning Ordinance, may, upon written application of an aggrieved party and after public notice, hear appeals from determinations of the Code Enforcement Officer in the administration of this Ordinance. Following such hearing, the Zoning Board of Appeals

may reverse the decision of the Code Enforcement Officer only upon a finding that the decision is clearly contrary to the specific provisions of this Ordinance.

16. **DEFINITIONS**

- A. **Building Permit:** A permit is defined by and issued in accordance with the Waterboro Building Code and Section 2.03 of the Waterboro Zoning Ordinance.
- B. **Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for a family, including provisions for living, sleeping, cooking and eating. The term shall include, but not be limited to, manufactured housing, modular/mobile homes, apartment units, duplexes and multiplexes and condominium units. The term shall not include trailers or recreational vehicles used for overnight or temporary lodging only.
- C. **Growth Permit:** A permit issued, in accordance with the provisions of this Ordinance, by the CEO to allow the establishment of a new dwelling unit.
- D. **Family / Family unit:** A person or persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging residence, hotel or motel.
- E. **Manufactured Housing:** A fabricated pre-assembled dwelling unit designed to be transported after fabrication and to be used as living quarters. The term "Manufactured Housing" may include the term "Modular Home" and "Mobile Home", except that the fabricated single-family modular home is assembled on the building site on a permanent foundation.
- F. **Person:** A person—for the purpose of this ordinance shall also mean to include a corporation, LLC, partnership.

TOWN OF WATERBORO

**STREET DESIGN AND
CONSTRUCTION
STANDARDS ORDINANCE
FOR THE TOWN OF
WATERBORO**

ADOPTED MARCH 10, 1984

**STREET DESIGN AND CONSTRUCTION
STANDARDS ORDINANCE FOR THE
TOWN OF WATERBORO
Enacted March 10, 1984**

TABLE OF CONTENTS

ARTICLE 1	AUTHORITY
ARTICLE 2	DEFINITIONS
ARTICLE 3	PROCEDURES FOR ACCEPTANCE
ARTICLE 4	STREET DESIGN & CONSTRUCTION STANDARDS
ARTICLE 5	VARIANCES AND WAIVERS
ARTICLE 6	APPEAL
ARTICLE 7	SEVERABILITY
ARTICLE 8	REPEAL
ARTICLE 9	EFFECTIVE DATE

PARTIAL BIBLIOGRAPHY

ARTICLE 1 AUTHORITY

1.1 This Ordinance shall be entitled "Waterboro Street Design and Construction Standards Ordinance" and is enacted pursuant to the provisions of Title 30, M.R.S.A. Sections 1917 and 2151.

Waterboro, like many small rural towns, finds itself with a large area, a growing population, and a considerable mileage of roads to be maintained and upgraded. As the Town continues to grow, many existing roads will need to be reconstructed or extended in order to provide safe and economical service to the residents of the town.

The costs of maintaining and building roads has escalated quite dramatically. This situation requires that standards take into consideration the existing as well as potential future use of each road. The Town thereby has the option of applying lower standards to low volume roads and correspondingly higher standards to high volume roads. In this way, the Town will get the most mileage out of its limited highway budget.

The standards recommended herein are based on a review of available resource materials which include: road design and standards publications; rural road standards for Massachusetts, New Hampshire and Vermont; State aid road standards for Maine; and existing road standards for small Maine towns. A partial listing of this resource material is included in the bibliography.

The first step in determining which set of standards to apply to any given road is to determine what volume of traffic that particular road can be expected to carry. The road definitions are to assist the Town in classifying existing roads as well as proposed new roads. These classifications are intended for Town roads only and do not necessarily apply to any Federal or State highways or State aid roads within the Town.

ARTICLE 2 DEFINITIONS

2.1 PETITIONER: For the purpose of this Ordinance, a petitioner is defined as a person, firm, organization, corporation, developer or subdivide who petitions the Municipal Officers to accept a street as a Town way.

2.2 STREET: For the purpose of this Ordinance, a street is defined as any existing way within the boundaries of the Town of Waterboro including boulevards, avenues, roads, streets, alleys, lanes, private ways or other rights of way.

- A. **ARTERIAL TOWN ROAD:** An arterial Town road shall be defined as a major through road which may ultimately service more than 150 residences or carry average daily traffic (ADT) of 1,500 vehicles per day.
- B. **COLLECTOR TOWN ROAD:** A collector Town road shall be defined as a through road which may ultimately service at least 25 residences but not more than 150 residences or carry average daily traffic between 250 and 750 vehicles per day.
- C. **LOCAL TOWN ROAD:** A local town road shall be defined as a residential dead end or loop road which may ultimately serve less than 25 residences with average daily traffic less than 250 vehicles per day.
- D. **LOW VOLUME TOWN ROAD:** A low volume town road shall be defined as an existing town road which services less than 10 residences and carries average daily traffic less than 100 vehicles per day. This classification should not be applied to any proposed new roads.

ARTICLE 3

STREET DESIGN AND CONSTRUCTION STANDARDS

SECTION 1: GENERAL PROCEDURES AND REQUIREMENTS

4.1 Subdividers shall submit to the Planning Board, as part of an integral part of the plot plan an application for subdivision approval, the following information:

- 1. Applicant's name, address, phone number, signature and date;
- 2. Names of the owners of record of the land upon which the proposed street is located;
- 3. A statement of any legal encumbrances on the land upon which the proposed street is located;
- 4. The anticipated beginning and ending dates of each major phase of street construction;
- 5. A profile view, centerline view, and typical cross section view of the proposed street(s).
- 6. Engineer's or designer's name.

4.2 Plans: The plans and illustrations submitted as part of the application shall include the following information:

- 1. The date and scale of the plan;
- 2. The direction of magnetic north;
- 3. The beginning and ending points with relation to accepted Town ways, and any planned or anticipated future extensions of the streets proposed for acceptance. (All terminal points and the centerline alignment shall be identified by survey stationing);
- 4. The roadway and road landmarks;

5. Dimensions, both linear and angular, curved out necessary lines;
6. The lots as laid out and numbered on the proposed street showing the names of all owners or abutting property;
7. All natural waterways and watercourses in or on land contiguous to the proposed street;
8. The kind, size, location, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and/or watercourses;
9. Complete curve data shall be indicated for all horizontal and vertical curves;
10. The turning radii at all intersections;
11. All centerline gradients;
12. The limits and location of all proposed sidewalks and curbing;
13. The location of all existing and proposed overhead and underground utilities, to include but not be limited to the following: public water supply system, sanitary sewer system, electric power line poles or underground vaults, telephone line poles or underground vaults, fire hydrants, street lights, fire alarm boxes.
14. Existing contours at 2' or 5' intervals depending on scale of plan.

4.3 Upon receipt of an application for subdivision approval which includes proposed streets, the Planning Board shall confirm, in writing, the classification of the proposed streets. In addition, the Planning Board shall notify the Board of Selectmen and the Road Commissioner of said application and its classifications, and shall request a review and comment of the proposed street plans.

The following table lists the minimum standards which shall be applied to the various Town road classifications and all subdivision roads proposed within the Town. These standards do not necessarily apply to any Federal or State highways or State aid highways within the Town.

MINIMUM SAFE SITE-DISTANCES

Posted Speed Limit (mph)*	30	35	40	45	50	55
For Passenger Cars	300'	350'	400'	450'	500'	550'
For Single-Unit Trucks	415'	475'	540'	600'	675'	750'
For Tractor-Trailers	530'	615'	700'	840'	975'	1100'

***Note:** Where it is impossible to meet these sight-distance standards, due to physical conditions, a maximum variance of 30% may be permitted, in accordance with the waiver provisions in Article 5. The 30% variance is consistent with the absolute minimum stopping distance requirements on wet pavements established by the Maine Department of Transportation.

MINIMUM DESIGN STANDARDS TYPE OF ROAD

DESCRIPTION	ARTERIAL	COLLECTOR	LOCAL	LOW VOLUME
Design Speed MPH	45	35	25	25
Right-of-way Width	60H	50H	50H	50H
Pavement width	24'A	22'	18-20'B	18'
Pavement type	Hot Bituminous ^F	Hot Bituminous ^F	Hot Bituminous	Asphalt Penetration ^D

Pavement Thickness

Base Course	1"-2" ^A	1"-1 1/2" ^A		
Surface Course	1"	1"		
Crushed gravel base	3"-4" ^A	3"	3"	3"
Gravel sub-base	18"	18"	15"	15"
Roadway crown	1/4"/ft	1/4"/ft	1/4"/ft	1/4"/ft
Shoulder width	4'-6' ^A	4'	2'-4' ^B	2'
Shoulder slope	1/2"/ft	1/2"/ft	1/2"/ft	1/2"/ft
Minimum grade	0.5%	0.5%	0.5%	0.5%
Maximum grade	6%	8% ^C	8% ^C	8% ^C
Max. intersection grade (w/in 50' of an intersection)	2%	3%	3%	3%
Min. angle of intersections	90°	90°	90° ^G	90° ^G
Min. tangent between curves of reverse alignments	300'	200'	100'	100'
Min. centerline radius	750'	250'	150'	150'
Min. property line radius at intersections	20'	10'	10'	10'
Min. centerline radius turnarounds	Not Allowed	Not allowed	75' ^E	75' ^E
Edge pavement radii at intersections	25'	20'	15'	
Min. ditch depth	2'-0"	1'-6"	1'-6"	1'-6"
Min. driveway culvert	12"	12"	12"	12"
Min. roadway culvert	15"	15"	15"	15"

Notes:

- A. Use higher values if heavy trucks are expected to exceed 5% of ADT, if used by a majority of school buses, or ADT is greater than 2500. Paved shoulders may be required if deemed necessary.
- B. Use higher values if ADT is greater than 50.

- C. Board may allow grades 2% steeper for ADT greater than 250 and 4% steeper for ADT less than 250 for difficult terrain.
- D. Board may require Hot Bituminous pavement at their discretion.
- E. Board may require T type.
- F. Board may allow such pavement as shall meet Town specifications.
- G. Waiver may be granted if applicant can demonstrate a valid need beyond inconvenience and extra cost.
- H. The centerline of the roadway shall be the centerline of the right-of-way.

4.4 Sidewalks: Sidewalks installed shall meet the minimum requirements as set forth herein.

1. Bituminous sidewalks:

- A. The Gravel Aggregate Sub-base Course shall be not less than 6 inches in thickness.
- B. The Crushed Aggregate Base Course shall not be less than 2 inches in thickness.
- C. The Hot Bituminous Pavement Surface Course shall not be less than 2 inches in thickness, after compacting.

2. Bituminous Cement or Concrete Sidewalks:

- A. The sand base shall not be less than 6 inches in thickness.
- B. The Bituminous Cement or Concrete shall be reinforced with 6 inch square number 10 wire mesh and shall not be less than 4 inches in thickness.

4.5 Preparation:

- 1. Before any clearing has started on the right-of-way the center line of the new road shall be staked and side stepped at 50 foot intervals. Limits of clearing shall be marked by stakes or flagging. Distances from the center line shall be obtained from the cross sections.
- 2. Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way to an authorized disposal site.
- 3. Tree stumps and all organic materials shall be removed to a depth of 2 feet below the sub-grade of the roadway. Soils which are designated as being Poor or Very Poor for road fill by the "Soil Suitability Guide for Land use Planning in Maine", as revised in February, 1975 shall be removed from the street site to a depth of 2 feet below the

sub-grade and shall be replaced where necessary with soils listed by the Soil Suitability Guide as being Good or Fair for road fill.

4. Side slopes shall not be steeper than a slope of 3 feet horizontal to 1 foot vertical, graded with top soil no less than 4 inches deep compacted free of stones 1 inch diameter and clay, fertilized and seeded. Planting strips to be limed at the rate of ten (10) pounds of a 10-10-10 fertilizer per 100 square feet or equivalent and seeded with a conservation mix meeting the standards of the York County Soil and Water Conservation District.
5. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting streets shall be cleared of all growth (except isolated trees) and obstructions above the level two (2) feet higher than the center line of the street.

4.6 Material Specifications

GRAVEL SUB-BASE:

Gravel sub-base shall be placed in layers not exceeding six (6) inches and thoroughly compacted. This material shall conform to State of Maine Standard Highways Specifications, Section 703-06 (b) Type "D". The maximum size of stones is six (6) inches.

GRAVEL BASE:

Gravel base shall be placed and thoroughly compacted and graded as required. This material shall conform to State of Maine Standard Highway Specifications Section 703.06 (a) Type "A". The maximum size of stones is six (6) inches. Frost susceptible soils shall be removed to a depth of normal frost penetration and replaced with granular material not subject to ice formation. The immediate area should have sufficient to lower the ground water.

HOT BITUMINOUS PAVEMENT:

BASE COURSE: The aggregate for the base course shall conform to the requirements of the State of Maine Standard Highway Specifications Section 703.09 grading "B". The maximum size of stones is one (1) inch.

SURFACE COURSE: The aggregate for the surface course shall conform to the requirements of the State of Maine Standard Highway Specifications Section 703.09 Grading "E". The maximum size of stones is ½ inch.

ASPHALT PENETRATION PAVEMENT: Asphalt penetration pavement shall be accomplished by an approved method.

4.7 INSPECTIONS

Roads within the Town of Waterboro subject to these standards shall comply with the following inspection schedule:

Upon clearing the right-of-way and preparing the sub-grade and prior to placing any road gravel, the developer shall notify the town that the road sub-grade is ready for inspection. 24 hours notice shall be required for this inspection. Upon inspection and approval of the sub-grade by the Town's authorized agent, the developer may commence work on the gravel sub-base and base. Upon completion of the gravel base and prior to placing any pavement, the developer shall notify the Town that the road base is ready for inspection. 24 hours notice shall be required. Upon inspection and approval by the town's authorized agent shall inspect and approve all paving operations prior to final acceptance of any roads subject to these standards. All inspections will be at the developers expense.

The developer shall upon request provide documented evidence to the Town that all materials to be used to construct the road are in compliance with these standards and specifications.

Any work determined to be substandard by the Town shall be repaired and brought into acceptable standards before continuing with the work.

The developer shall keep a set of approved construction plans on the site of the work at all times. These plans shall be made available to the Town's inspector and shall show all changes that may be made during the execution of the work.

Upon completion of the work and before acceptance by the Town, the developer shall furnish the Town a set of "As-Built" plans which show the finished profile of the road as well as the horizontal alignment. All drainage structures shall be detailed with all sizes, inverts, slopes, alignments and materials noted. The "As-Built" plans shall be sealed by a Registered Engineer and certified with respect to their accuracy.

COST ESTIMATES

1983

ROAD TYPE	PAVEMENT WIDTH	PAVEMENT TYPE	SHOULDER WIDTH	COST/ L.F.	ADD FOR 5' BIKEWAY
Low Volume	18'	Gravel	2'	\$10.00	N/A
Local	18'	Asphalt Penetration	2'	\$15.00	\$2.50
Local	18'	1 1/2" cold mix	2'	\$15.50	\$2.75
Local	18'	2" Hot Bituminous	2'	\$21.00	\$4.25
Local	18'	Asphalt Penetration	4'	\$17.50	\$2.50
Local	20'	1 1/2" cold mix	4'	\$18.00	\$2.75
Local	20'	2" Hot Bituminous	4'	\$24.00	\$4.25
Collector	22'	1 1/2" Cold Mix	4'	\$20.50	\$2.85
Collector	22'	2" Hot Bituminous	4'	\$27.25	\$4.40
Collector	22'	2 1/2" Hot Bituminous	4'	\$30.00	\$5.00
Arterial	22'	1 1/2" cold mix	4'	\$22.50	\$2.85
Arterial	22'	2" Hot Bituminous	4'	\$29.25	\$4.40
Arterial	24'	3" Hot Bituminous	6'	\$40.00	\$5.50

ARTICLE 5

VARIANCES AND WAIVERS

5.1 Where extraordinary hardship may result, or due to special circumstances, certain requirements of this Ordinance may be varied and/or waived by the Planning Board subject to appropriate conditions. In granting variances and/or waivers, the Planning Board shall require such conditions as well, in its judgment, secure substantially the objectives of the requirements so varied or waived.

ARTICLE 6

APPEAL

6.1 Any person aggrieved by a decision or failure to act of the Planning Board pursuant to this Ordinance may appeal to York County Superior court under Rule 80-B of the Court Rules of Civil Procedure within thirty (30) days of receipt of such decision or refusal to issue a decision.

ARTICLE 7
SEVERABILITY

7.1 The Invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

ARTICLE 8
REPEAL

8.1 All provisions of prior Ordinances pertaining to Town ways that are inconsistent with this Ordinance are hereby repealed.

ARTICLE 9
EFFECTIVE DATE

This Ordinance shall take effect immediately upon adoption of the same by a Town Meeting.

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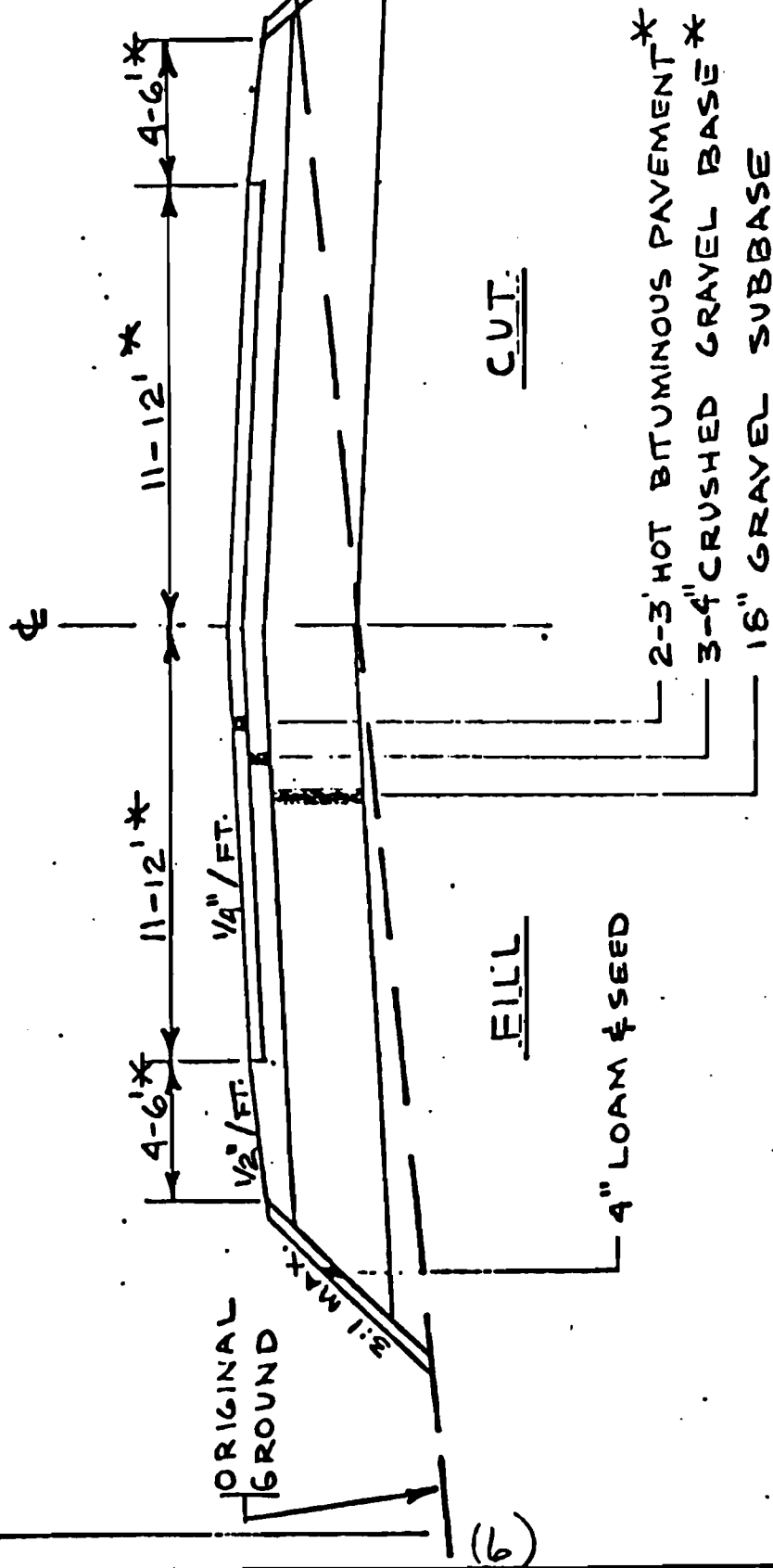
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60' R.O.W.



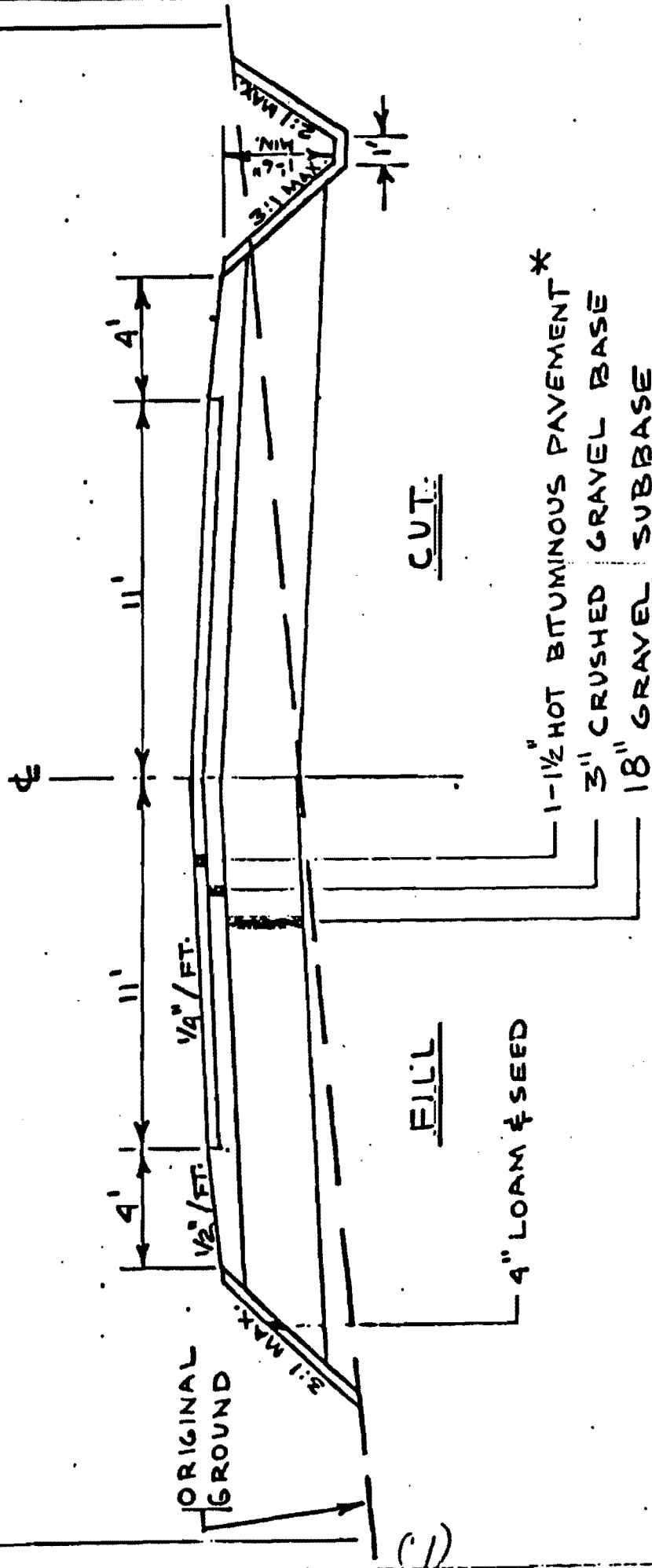
ARTERIAL TOWN ROAD

NOT TO SCALE

SERVES MORE THAN 150 RESIDENCES
OR ADT of 1500 VEHICLES PER DAY.

* USE HIGHER VALUES WHEN HEAVY
TRUCKS WILL EXCEED 5% OF ADT.

50' R.O.W.



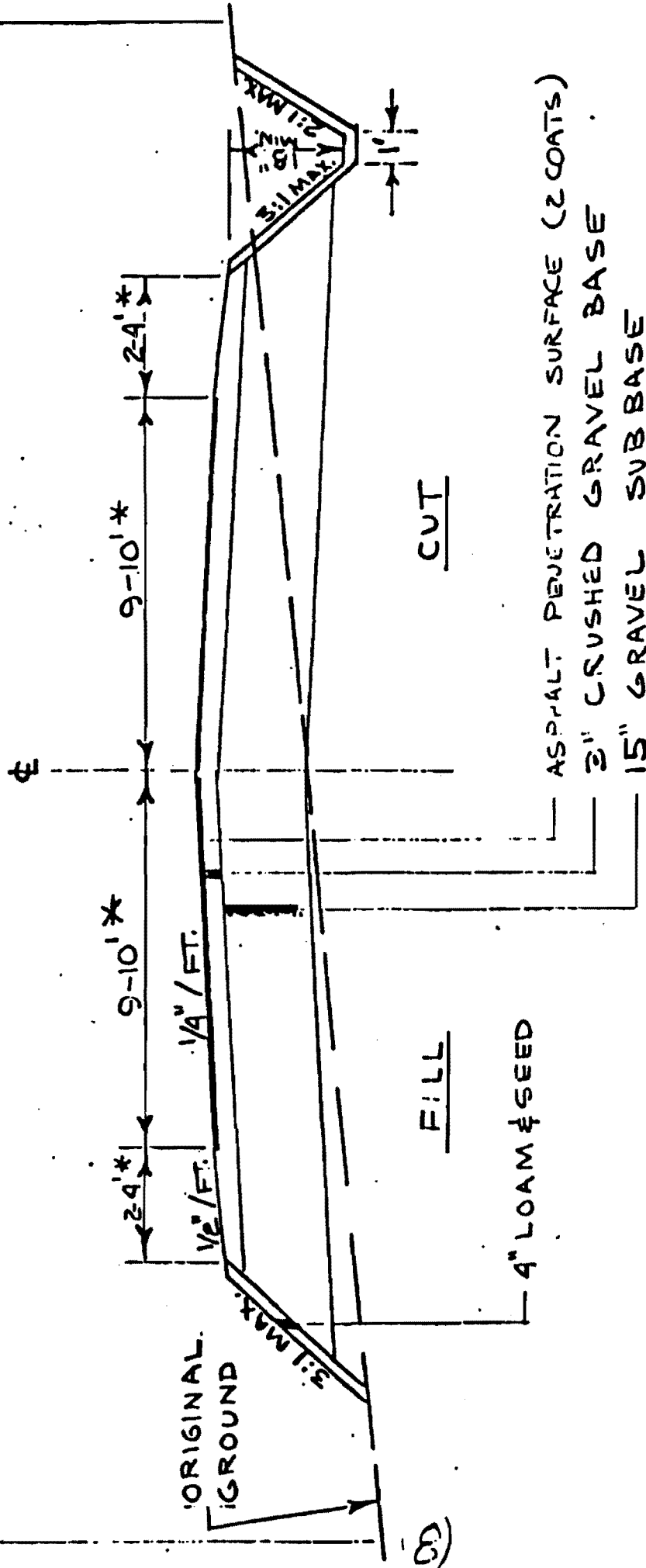
COLLECTOR TOWN ROAD

NOT TO SCALE

SERVES 25 TO 150 RESIDENCES OR
ADT 250 TO 750 VEHICLES PER DAY

* USE HIGHER VALUES WHEN HEAVY
TRUCKS WILL EXCEED 5% OF ADT

50' R.O.W.



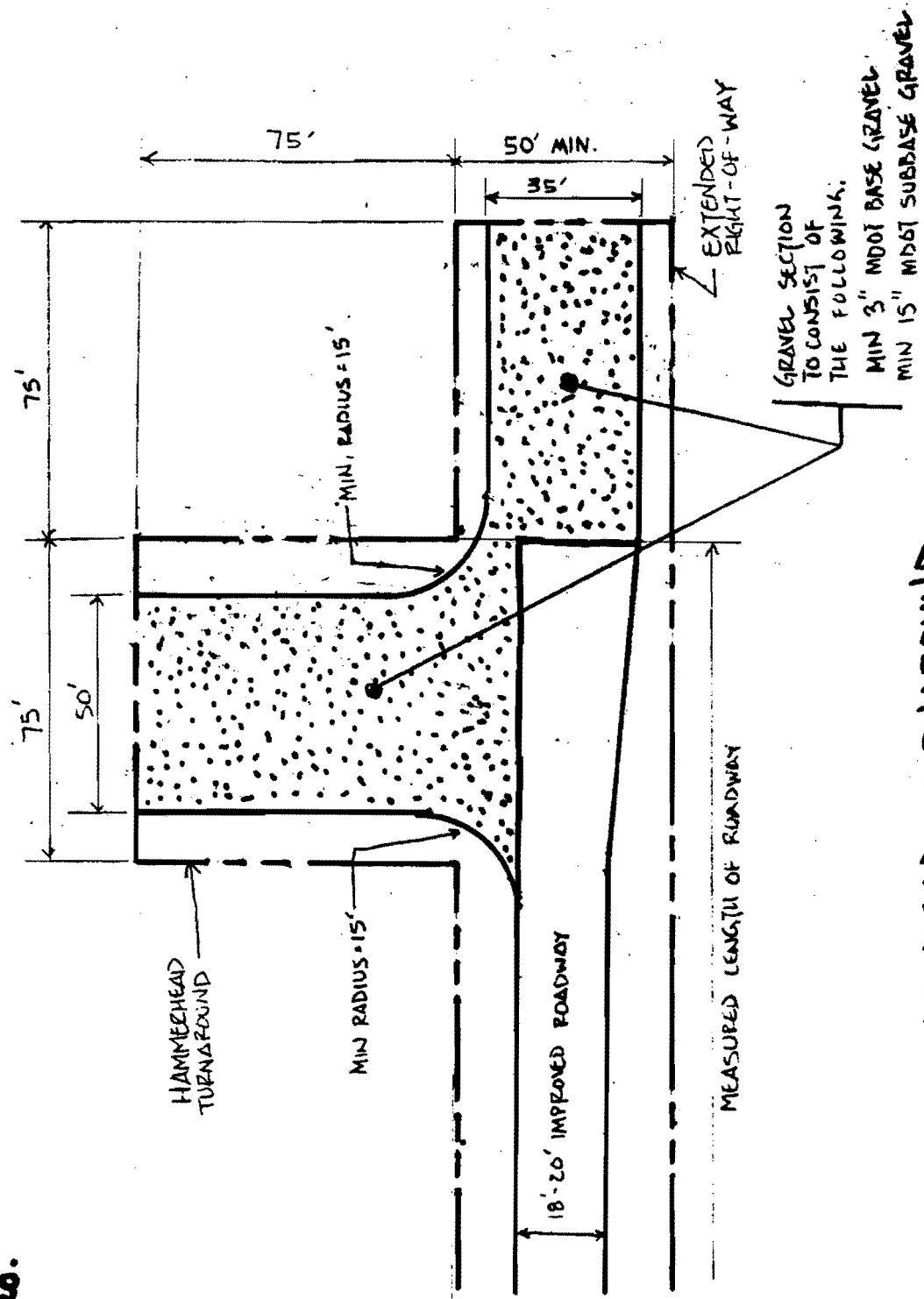
LOCAL TOWN ROAD

NOT TO SCALE

SERVES LESS THAN 25 RESIDENCES
OR ADT < 250 VEHICLES PER DAY

* USE HIGHER VALUES FOR ADT > 250
VEHICLES PER DAY

NOTE: ALL ROADWAY IMPROVEMENTS SHALL CONFORM TO THE STREET DESIGN AND CONSTRUCTION STANDARDS ORDINANCE FOR THE TOWN OF WATERBURY.



HAMMERHEAD TURNAROUND

1" = 40' ±

**TOWN OF WATERBORO, MAINE
SITE PLAN REVIEW ORDINANCE**

ADOPTED JUNE 28, 1988

AMENDED August 19, 2008

AMENDED October 20, 2009

I. PROCEDURE:

- A. Any Site Plan Review applicant shall go directly to the Town Planner to whom they shall submit a sketch plan for comment and review. The Town planner and Code Enforcement Officer will submit a written report and pre-application checklist to applicant within five (5) business days.
- B. Site Plan Review and Approval by the Planning Board shall be required before issuance of a building permit or certificate of occupancy for any building or structure or any expansion of any building or structure of 1,000 square feet or more; including but not limited to: office buildings; multi-family residences; shopping centers; mobile home parks; travel trailer parks; and commercial complexes; except as provided in Subparagraph (C).
- C. Site Plan Review and Approval shall not be required:
 - 1. To change a use permitted by the zoning ordinance to another permitted use, in an existing structure, provided;
 - a. The change does not increase the requirements for off-street parking, as provided by the Zoning Ordinance for the Town of Waterboro; and
 - b. The floor area devoted to the proposed use is equal to or no less than that devoted to the existing use; and
 - c. No structural changes are proposed for the existing building; and
 - d. No changes are proposed for the site on which the existing building is located.
 - 2. For single-family dwellings and accessory facilities.
 - 3. For multi-family dwellings of no more than two dwelling units and their accessory facilities.
 - 4. Any development reviewed by Planning Board as a residential subdivision.
- D. This Ordinance shall operate in conjunction with the Zoning Ordinance, Shoreland Zoning, Land Subdivision Regulations and Road Standards of the Town of

Waterboro. Compliance with all applicable zoning requirements shall be a prerequisite for obtaining site plan approval.

- E. All applications for Site Plan Review shall be filed concurrently with the Town Planner and Code Enforcement Officer. The application shall also include eight (8) copies of a 24 x 36 blue line or black line print or photocopy of a plan drawn to a scale of not greater than 1" to 100' showing the following features, both existing and proposed:
1. Boundaries of the site and abutting streets with widths indicated.
 2. Footprints of all buildings - showing the number of stories, access and use.
 3. Layout and location of off-street parking; loading; and access drives; and vehicular maneuver-areas to conform with the standards set forth in Article 5 of the Waterboro Zoning Ordinance.
 4. Location and size of all signs, gasoline pumps, and other freestanding structures.
 5. Location, direction, and type of outdoor lighting.
 6. Location and type of screening and/or buffers and other landscaping.
 7. Location of all utilities.
 8. Topography of a contour interval not greater than two feet showing the effects of drainage from the site upon adjacent property. A greater contour interval may be used if the Planning board determines that the plan is adequate to evaluate site conditions.
 9. The applicant shall, in addition, submit for any project utilizing an on site septic disposal system if the septic system has a design system flow in excess of 800 gallons or if predominantly made up of non typical septic waste, a hydrogeologic impact study prepared by a State of Maine Certified Geologist of a Registered Professional Engineer with experience in hydrogeology. This study shall contain, at a minimum, the following components:
 - a. A map showing the soil types using the Unified Soil Classification System (USCS).
 - b. Groundwater levels and flow rates through the site, and the aquifer type.
 - c. An analysis of surface drainage conditions and their relationship to off-site conditions.
 - d. Data on existing groundwater quality and quantity for the site should be provided. Collection of this data can either be provided by test

wells on the proposed site or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site. If public water is to be used, the applicant shall submit a written statement from the Waterboro Water District that it can provide adequate water service to the proposed development.

- e. A calculation of average nitrate nitrogen levels on-site after development and a calculation of nitrate nitrogen levels at the down-gradient property line(s). These calculations should be done under simulated conditions of both normal rainfall and draught conditions.
 - f. A map showing the recommended sites for the subsurface wastewater disposal system(s) and well(s) on the site.
- F. The Town Planner, Code Enforcement Officer and Fire Chief shall review the application and evaluate its compliance with the Zoning Ordinance, and shall within five (5) business days of receipt of a complete application:
- 1. Forward a complete application which, in their opinion, complies with all applicable zoning requirements, Shoreland Zoning, Land Subdivision Regulations and Road Standards together with written certification to that effect, to the Town Planning Board for scheduling of Site Plan Review; or
 - 2. Notify the applicant in writing of the reasons why the application site plan is incomplete or does not comply with the applicable ordinance(s).
- G. The Planning Board Secretary shall within five (5) business days after receiving a Site Plan Review packet from the Town Planner and Code Enforcement Officer, identify the next available appointment before the Planning Board, schedule the application for Planning Board Review; and notify the applicant; the Board of Selectmen; the Chief of the Fire Department and the Chairmen of the Economic Development and Road Review Committees.
- H. Owners of abutting property shall be notified by the applicant, by certified mail of the date, time and purpose of that appointment.

II. SITE PLAN REVIEW STANDARDS:

- A. In reviewing a site plan application, the Planning Board shall require the applicant to provide written evidence that the following standards have been met:
- 1. The proposed use meets the definitions and/or requirements set forth in the Zoning Ordinance;
 - 2. The proposed use will not create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles; adequate dry hydrants; or adequate access to off-site dry hydrants and from there to the site;

3. The proposed exterior lighting will not: create hazards to motorists traveling on adjacent public streets; be inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;
4. The provisions for buffers and on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development;
5. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause;
6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety or will not impose significant burdens on public facilities which could be avoided by reasonable modification of the plan;
7. The bulk, location, height or design of proposed buildings, structures or paved areas, or the proposed uses thereof, will not have a significant detrimental effect on private development on adjacent properties, or on the value of adjacent properties which could be avoided by reasonable modifications of the plan;
8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements; or storm water detention pond(s) are not adequate;
9. Adequate provisions have been made for the disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;
10. Adequate provisions have been made to control erosion or sedimentation;
11. Adequate provisions have been made to handle storm water run-off or other drainage problems on the site;
12. The proposed water supply will meet the demands of the proposed use or for fire protection purposes;
13. Adequate provisions have been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law and Waterboro Hazardous Waste Ordinance;
14. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;

15. The project will not increase nitrate nitrogen concentrations in surface or groundwater at the property line of the site in excess of State of Maine Drinking Water Standards. If groundwater contains contaminants in excess of the primary drinking water standards and the project is to be served by on site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated to meet applicable standards.
- B. Statement of Findings: All findings by the Planning Board under this section shall be accompanied by written statements that set forth with particularity the precise reasons why the findings were made. The Statement of Findings shall be provided to applicant within five (5) business days after vote and adjournment.

III. ADMINISTRATION

- A. Where the Board determines that, due to conditions existent in a proposed development, the provisions of certain improvements otherwise required by this ordinance is not necessary to the public interest, or is inappropriate because of inadequacy or lack of prerequisite facilities in proximity to the proposed site, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified, and of this ordinance in general.
- B. The Planning Board shall schedule a public hearing upon initial review of the application and at any point thereafter, with applicant bearing all responsibility for the cost of publicizing the hearing notice and the responsibility to notify abutters within 7 days prior to the hearing by certified mail. Applicant shall provide proof of certified notices to the town. The remaining balance due, if any, shall be paid prior to final plan approval.
- C. The Planning Board may require professional services based on staff recommendations, and/or legal fees, to evaluate a proposal or design's compliance with this ordinance, the expense of that review shall be borne by the applicant. The estimated cost of the consultant's review fees shall be paid by the applicant to the Planning Board at the time the design subject to review is submitted. The remaining balance due, if any, shall be paid prior to final plan approval.
- D. Applicant shall provide a certified as built survey at the completion of the project to insure the construction was built according to the approved plans.
- E. Planning Board shall require the applicant to employ a clerk of the works to certify that the project is being built according to the approved plans except where the board finds that extraordinary hardship will result from strict compliance with this requirement and votes to grant a waiver.
- F. The Planning Board shall, based on the standards in Article II above, approve; approve with conditions; or deny the application and forward its action in writing to the Code Enforcement Officer, the applicant; and all parties entitled to notice under Article I, Section H and Section G.

G. Appeals involving an action of the Planning Board under this ordinance shall be to the Zoning Board of Appeals.

H. Failure to comply with any conditions of the Site Plan Review subsequent to the receipt of a building permit or certificate of occupancy shall be construed to be a violation of this ordinance and shall be grounds for the revocation of the building permit or certificate of occupancy by the Code Enforcement Officer.

I. Each applicant shall pay a filing fee in the amount determined by the current Town Site Plan Application Fee Structure at the time the application is submitted, and consultant fees as required by Article III, Section C. See current Town Site Plan Application Fee Structure for any additional site plan fees.

Applicant will also pay cost associated with advertising and mailing.

J. Violations of this Ordinance shall be subject to enforcement under the provisions of 30-A M.R.S.A. Sec. 4452.

J. No Certificate of Occupancy shall be issued until all improvements shown on site plan are installed or a sufficient Performance Guarantee has been posted for improvements not yet completed (including but not limited to grading, drainage, paving, planting, and landscaping).

IV. DEFINITIONS

Accessory Facilities - see accessory use or structure as defined in Town of Waterboro Zoning Ordinance.

Aquifer - Geological unit composed of rock, gravel, sand, silt, or clay which contains sufficient saturated permeable materials to conduct ground water and yield economically significant quantities of ground water to wells, springs, and streams.

Buffer of Screening - A natural or man-made barrier maintained to reduce the usual or audible impacts of a use to abutting properties or roadways. Examples of screening or buffers would be stockade fencing, tree plantings or earthen berms.

Commercial Complexes - A single commercial building with more than one use. It can be a combination of commercial and residential uses.

Dwelling Unit - A single-family residence, living quarters for one family.

Multi-family dwelling - See multi-family dwelling as defined in the Town of Waterboro Zoning Ordinance.

Non-typical septic waste - Would be any waste disposed of into a septic system that is not typical to a residential home. Examples of non-typical waste are petroleum products, hazardous materials (as listed in the Waterboro Hazardous Waste Ordinance), liquid waste from manufacturing processes, or industrial cleaning products.

Structure - See structure as defined in the Town of Waterboro Zoning Ordinance.

Structural Change - See structural alteration in the Town of Waterboro Building Code.

Town Planner – Person appointed by Board of Selectman to be Town Planner.

TOWN OF WATERBORO
ENHANCED 9-1-1
ADDRESSING ORDINANCE
Adopted June 3, 1995 – Amended April 25, 2003

SECTION 1. PURPOSE

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery.

SECTION 2. AUTHORITY

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A.M.R.S.A. Section 3001.

SECTION 3. ADMINISTRATION

This ordinance shall be administered by the Board of Selectmen who shall assign road names and numbers to all properties, both on existing and proposed roads. The Board of Selectmen shall be responsible for maintaining the following official records of this ordinance:

- a. A Town of Waterboro map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

SECTION 4. NAMING SYSTEM

All roads in the Town of Waterboro that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the town shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. Similar names – no two roads shall be given the same or similar-sounding (e.g., Beech and Peach, Pine Road and Pine Lane) names.
- b. Each road shall have the same name through its entire length.

SECTION 5. NUMBERING SYSTEM

Numbers shall be assigned every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system:

- a. All number origins shall begin from the designated center of Waterboro or that end of the road closest to the designated center. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.
- c. Every structure with more than one principal use or occupancy shall have a separate number for each use or occupancy. (ie. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2).

SECTION 6. COMPLIANCE

All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

- a. Number on the structure of residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.
- b. Number at the street line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure.
- c. Size and color of number. Numbers shall be displayed in a color and size approved for use by the board of selectmen and shall be located as to be visible from the road.
- d. Every person whose duty it is to display the assigned number shall remove any different number which might be mistaken for, or confused with the number assigned in conformance with this ordinance.
- e. Interior location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergence reference.

SECTION 7. NEW DEVELOPMENTS AND SUBDIVISIONS

All new developments and subdivisions shall be named and numbered in accordance with the provisions in this ordinance and as follows:

- a. New developments. Whenever any residence or any structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the board of selectmen. This shall be done at the time of the issuance of the building permit.
- b. New subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet so as to aid in assignment of numbers to structures subsequently constructed. The developer shall be responsible to purchase and place all road signs upon approval of the road name by the Board of Selectmen. Replacement of private road signs shall be the responsibility of the developer or homeowners association and/or residents of the road. The numbers shall be placed on each house and all road signs placed prior to any occupancy permits being issued in the development. Such road signs shall be of the same color and design as used throughout the Town of Waterboro and approved by the road commissioner prior to installation.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective as of June 3, 1995. It shall be the duty of the Town of Waterboro to notify by mail each owner and the post office of the new addresses within thirty (30) days of notification. On new structures, numbering will be installed prior to final inspection, if required by ordinance, or when the structure is first used or occupied, whichever comes first.

**EXTRACTIVE INDUSTRY
AND
LAND RECLAMATION ORDINANCE
OF THE TOWN OF WATERBORO**
enacted March 11, 2000

Section 1. TITLE

This ordinance shall be known and may be cited as the "Extractive Industry and Land Reclamation Ordinance of the Town of Waterboro, Maine."

Section 2. PURPOSE AND INTERPRETATION

This ordinance regulates the operation of extractive industries and land reclamation projects; defines extractive industry and land reclamation; requires approval by the Planning Board of extractive industries and land reclamation projects before any work may commence, and establishes procedures for such approval; establishes the minimum standards for project design and operations; and prescribes penalties for the violation of its provisions. In interpreting and applying this Ordinance, the Planning Board shall construe the provisions of this ordinance as minimum requirements. Nothing in this ordinance shall prohibit the Planning Board from imposing stricter standards when deemed necessary to accomplish the purposes of the ordinance.

Section 3. DEFINITIONS

For the purpose of this ordinance, the following terms used herein are defined as follows:

Extractive Industry: The removal and/or processing of topsoil, rock, sand, gravel, and/or similar earth materials; except as is merely incidental to any other activity conducted pursuant to receipt of a permit issued by the Town of Waterboro.

Land Reclamation: Any action, which restores land to its natural state or allows full utility of land, except as is merely incidental to any other activity conducted pursuant to a permit issued by the Town of Waterboro.

Active Status: Active status for extractive industries shall mean the operation of an extractive industry for remuneration for at least six months per year for the three year period immediately preceding the effective date of this ordinance. The Planning Board shall require proof of such active status by evidence, which may include cash receipts, affidavits, verbal testimony, photographs, or other reliable information.

Rehabilitation Plans: Rehabilitation plans shall be plans that identify the intent of the owner of any extractive industry to rehabilitate the site of an extractive industry to a

natural state by landfill, landscaping, or other means acceptable to the Planning Board. Such plans shall conform to the requirements contained in this ordinance.

Section 4. EXTRACTIVE INDUSTRIES

- 4.1 Within sixty days from the effective date of this ordinance, all owners of extractive industries operating within the Town of Waterboro must formally declare to the Planning Board in writing whether they are in active status as defined in this ordinance. Failure to file such a declaration within the specified period shall constitute a declaration of inactive status. Substantiating evidence must accompany any claim of active status, and the Board shall in each instance determine whether active status has been demonstrated.
- 4.2 Any extractive industry that fails to establish active status as defined in this ordinance shall not resume active status, nor shall it be the site of a reclamation project until it has complied fully with this ordinance and all other state and local regulations.
- 4.3 Within ninety days after filing a claim of active status as described in Section 4.1 of this ordinance, the owner of any extractive industry shall file the necessary plans and reports to comply with the provisions of this ordinance for any expansion of existing operations.
- 4.4 The removal or deposit of any material at the site of an extractive industry that fails to prove its claim of active status as defined in this ordinance is strictly prohibited except in conformance with the terms of this ordinance.

Section 5. RECLAMATION PROJECTS

- 5.1 Reclamation projects may be undertaken only in conformance with this ordinance.
- 5.2 The reclamation of gravel pits that fail to demonstrate active status, for open space, tree farming, or conservation purposes which comply with the requirements of the Tree Growth Tax Law and/or Farm and Open Space Land Law, shall be encouraged, and no fee shall be charged to an applicant for such a project.

Section 6. ADMINISTRATION

- 6.1 The Planning Board of the Town of Waterboro, herein after called the Board, shall administer this ordinance.
- 6.2 Before any permit relating to an extractive industry and/or land reclamation project (sometimes herein after called "project") shall be granted, and before any utility installations, ditching, grading, construction of roads, or excavating shall be done in connection with or to facilitate any project, the proponent of such project must file a

plan that shall be in conformance with the standards and specifications as set forth in this ordinance.

- 6.3 As to any intended project, the owner shall prepare and formally submit to the Board both a preliminary plan for study (and modification where required), and a final plan. The final plan shall not be prepared until the owner has received from the Board written notice that a majority of the Board has approved the preliminary plan of such project.
- 6.4 The Planning Board shall approve no proposal for an extractive industry and/or reclamation project until after the Board has held a public hearing thereon. Public notice of the hearing shall be given at least ten (10) days prior to such hearing, and shall be advertised in at least two newspapers in general circulation in the Town.
- 6.5 Owners of abutting and adjacent property shall be notified by the applicant via certified mail of the date, time, and purpose of the public hearing, a minimum of seven (7) days prior to the hearing. Return receipts documenting that notice shall be furnished to the Planning Board.

Section 7. GENERAL REQUIREMENTS

- 7.1 Any proposed project shall be in conformity with the comprehensive plan of the Town of Waterboro and with the provision of all-pertinent state and local codes and ordinances.
- 7.2 The Board shall review any proposed project with regard to its impact upon the natural environment. The project shall not adversely affect the ecological balance and/or natural resources of any area.

In order to approve an application, the Board must find based upon the information presented to it by the applicant and other interested parties, that the proposed project:

- a. Will not result in unsafe or unhealthful conditions;
- b. Will not result in erosion or sedimentation;
- c. Will not result in water pollution;
- d. Will conserve vegetation;
- e. Will conserve natural beauty;
- f. Will avoid problems associated with flood plain development and use;
- g. Will avoid hazards due to steep slopes;
- h. Will avoid problems due to standing water;
- i. Will avoid problems due to gas generation;
- j. Will not result in noise pollution;
- k. Will not adversely affect the character of adjacent residential areas;
- l. Will not adversely affect existing land uses in the vicinity of the proposed project;

- m. Will not adversely affect existing transportation facilities in the vicinity of the proposed project;
- n. Will satisfy all regulations and performance standards set forth in this ordinance.

The Planning Board may, at the owner's expense, engage a certified engineer of its choice to determine whether a proposed project complies with the provisions of this ordinance.

- 7.3 Any project proposal shall be accompanied by a report regarding anticipated types, quantities, and sources of wastes to be disposed of, site geology, hydrology, and soil conditions; source and pertinent engineering properties of waste and cover materials; types and number of equipment to be used for excavating, earth moving, spreading, compacting, and other purposes; persons responsible for the actual operation and maintenance of the site; proposed written operating procedures; and the ultimate plan and purposed use of the completed site.
- 7.4 Sufficient topsoil or loam shall be retained, or other provisions must be made, to cover to the Board's satisfaction all areas within proposed rehabilitation projects.
- 7.5 Provisions must be made to avoid hazards from excessive slopes and to avoid standing water.
- 7.6 Where an embankment must be left upon completion of operations at a location within the project, it shall be at a slope not steeper than 1 foot vertical to 4 feet horizontal.
- 7.7 The operation must be shielded from surrounding property with adequate screening and create no disturbance of water sources.
- 7.8 The operation when terminated shall not detract from the appearance or value of nearby property.
- 7.9 The edge of all workings shall be set back from the property lines a minimum of 200 feet, and 500 feet from an existing residence. When encroachment has been made within 200 feet of a property line or 500 feet of an existing residence the Board shall require corrective measures to protect adjacent properties.
- 7.10 No excavation shall be extended below the grade of adjacent streets unless two hundred feet from the street line.
- 7.11 The plan review by the Planning Board shall take into consideration, but is not limited to, the following items:
 - a. Fencing, landscaping, buffer strips, and public safety;
 - b. Advertising signs and lighting;
 - c. Parking space, loading and unloading areas;
 - d. Entrances and exits;

- e. Time period for operation;
- f. Hours and methods of operation;
- g. Weight and loading limit of trucks;
- h. Prevention of sand and gravel spillage upon public streets;
- i. Rehabilitation plans (per Section 11 Below); and
- j. Ecological and other natural considerations.

7.12 The Board shall impose such conditions, as it deems necessary to safeguard the health, safety, and welfare of the community.

Section 8. PRELIMINARY PLAN REQUIREMENTS AND PROCEDURES

8.1 A request for approval of any project shall be made to the Board in writing on forms provided by the Town, and shall be accompanied by a preliminary plan which shall be drawn at no smaller scale than 100 feet to the inch. A location map showing the relationship of the proposed to adjacent properties shall accompany the preliminary plan.

8.2 When practical, a standard sized sheet (24" x 35") shall be used for all plans. Plans shall contain at least the following information:

- a. Name of project, owner(s), and engineer(s) or surveyor(s);
- b. Graphic scale, date, and north point;
- c. Boundaries and names of existing zoning districts;
- d. Ownership and boundaries of abutting properties;
- e. Type, location, profile, and cross section of all existing and/or proposed surface water impoundment's;
- f. Location of all existing and/or proposed utilities (water, gas, electricity, and other);
- g. Existing and proposed topography, at no less than five-foot contour intervals, unless otherwise prescribed by the Board;
- h. Proposed use of property at completion of the project.

8.3 The Preliminary Plan Application shall be accompanied by an engineering opinion, in form and content satisfactory to the Planning Board, and other technical information required by the Board to make the necessary findings under Section 7.2. The cost of obtaining this information shall be borne by the owner. In addition, the Board may require the owner or others to undertake studies where it is deemed necessary or desirable by the Board. Said studies are to be undertaken at the owner's expense.

8.4 A complete application for approval of a Preliminary Plan shall be considered at a regular meeting of the Board within 30 days after such application is declared complete.

8.5 The final plan shall be submitted by the owner to the Board for review within 60 days from the granting of preliminary approval. Failure to do so shall constitute a withdrawal of the application.

Section 9. FINAL PLAN REQUIREMENTS AND PROCEDURE

9.1 A request for final approval of a project shall be made to the Board in writing on forms provided by the Town and shall be accompanied by a final plan of such project legibly drawn in black ink on permanent transparency material together with three dark lined copies. The plan shall be drawn at no smaller scale than 100 feet to the inch or as otherwise prescribed by the Board as being adequate to show all details clearly.

9.2 The plans shall be presented on one or more sheets of standard 24' x 36' size and shall contain the following information:

- a. All information required in the Preliminary Plan and amendments thereto requested by the Board;
- b. Existing and final proposed lines of streets, easements for utilities and drainage, and any areas to be dedicated to the public.
- c. Sufficient data to determine and reproduce on the ground the exact location, direction, and length of every street line, easement, property line, and/or drainage facility.
- d. Location of all permanent monuments existing and/or proposed wherever, in the opinion of the Board, such monuments are necessary to properly determine the location on the ground of any street line, easement, property line or drainage facility.
- e. Designation of the location, size, planting, and landscaping of such areas as may be proposed or prescribed as necessary to the prevention of erosion or sedimentation, to provide appropriate visual screens or buffer strips, and/or to enhance the final appearance and utility of the site.
- f. The seal of the registered engineer, surveyor, planner or other qualified professional person responsible for the preparation of the plans, application and supporting documentation.

9.3 The final plan shall be accompanied by certification from authorized local public officials and/or agencies and appropriate state officials and/or agencies, that the design of all facilities, drainage, streets, utilities, and the overall project conforms to the requirements of all-pertinent state and local codes and ordinances. The cost of certification and/or inspection shall be bore by the owner.

9.4 The Board shall consider a final plan at a regular meeting within 30 days of submission of a complete final plan.

9.5 The approval of a final plan shall be attested to on the original tracing cloth and three copies by the signature of a legal majority of the Board.

9.6 The Board shall retain a tracing of the final plan as approved. The owner shall record the approved final plan with the York County Registry of Deeds within 30 days of its approval by the Board; or else that plan shall be null and void.

Section 10. PERFORMANCE STANDARDS

In addition to the satisfying the foregoing provisions of this ordinance, all proposed and existing extractive industries and/or land reclamation projects shall comply with the following performance standards:

10.1 Excavation may not occur within 5 feet of the seasonal high water table. If standing water already exists in excavated areas, no further excavation that would result in an increased area of standing water shall be allowed. Notwithstanding the foregoing, the Town of Waterboro may allow excavation to extend to or below the water table and an area of standing water may be increase through excavation if the Maine Department of Environmental Protection (MDEP) approves such excavation.

10.2 At least one monitoring pit or monitoring well must be maintained on each 5 acres of excavation.

10.3 The following setbacks must be maintained between the excavation and any water supply in existence prior to the excavation:

- | | |
|--|------------|
| 1. Dug well or point-driven well | 400 feet |
| 2. Well drilled into saturated bedrock | 200 feet |
| 3. Public water supply serving 500 or fewer persons | 600 feet |
| 4. Public water supply serving more than 500 persons | 1,500 feet |

10.4 All fuels or hazardous materials must be stored within spill-proof secondary containment with sufficient capacity to contain 110% of the volume of the single largest container. Equipment refueling and oil changes must take place over impervious surfaces. Routine maintenance operations are allowed for fixed equipment such as screens, crushers, and wash facilities, provided that precautionary measures such as portable drip pans or vacuum devices are used.

10.5 Natural buffer strips must be maintained between the excavation and the following:

- | | |
|--|----------|
| 1. Great pond, river, or coastal wetland | 200 feet |
| 2. Stream, brook, or freshwater wetland | 150 feet |
| 3. Public road right-of-way | 200 feet |
| 4. Private road right-of-way | 100 feet |
| 5. Property boundary | 200 feet |
| 6. Existing residence | 500 feet |

- 10.6 Except for access roads and grubbed areas, all reclaimed and unreclaimed areas must be naturally internally drained unless the applicant prepares a storm water management plan that demonstrates to the satisfaction of the Planning Board that surface water discharges from areas that are not internally drained will not be increased as a result of storm water runoff from storms up to a level of intensity of a 25-year, 24-hour storm.
- 10.7 Topsoil stockpiles to be used for reclamation must be seeded, mulched, or stabilized. Grubbed areas must be stabilized and all disturbed portions of the subject parcel must be protected from erosion and sedimentation by a plan approved by the Planning Board and in conformance with the Maine Erosion and Sedimentation Control Handbook - Best Management Practices, March 1991.
- 10.8 Sufficient sight distance shall be provided at the intersection of the access road with a public or private road. At a minimum, sight distance shall be 10 feet for every mile per hour of posted speed limit on the public or private road. The access road and internal roadways shall be treated to control dust as necessary with water or calcium chloride. The access road leading from the excavation site to a public road shall be blacktopped to reduce road dust and mud for a distance of at least 100 feet from its intersection with the public road.
- 10.9 All abutting and adjacent landowners within 100 yards of the excavation site shall be notified 24 hours in advance of blasting to be done on site. Additionally the Code Enforcement Officer shall be notified 36 hours prior to any blasting.
- 10.10 Hours of operation shall not exceed 6:30 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturdays. No Sunday operations are permitted. The hours of operation may be further restricted by the Planning Board if it is determined that the above-listed hours of operation will unreasonably interfere with residential uses in existence at the time the application for an excavation permit is determined to be complete.

Section 11. REHABILITATION PLANS

In addition to the satisfying the foregoing provisions of this ordinance, all proposed and existing extractive industries and/or land reclamation projects shall comply with the following performance standards.

All extractive industries that apply for and are granted active status as provided for in this ordinance, shall submit a rehabilitation plan to the Planning Board for approval. Such a rehabilitation plan may, with the Board's approval, be incorporated into the preliminary and final plans. The rehabilitation plans shall include, at a minimum, the following:

- 11.1 A vegetative erosion and sediment control plan, which shall meet the minimum requirement established by the Maine Soil and Water Conservation Commission as specified in the "Maine Erosion and Sediment Control, On Commercial, Industrial, Residential, Recreation, and Governmental Construction Sites Environmental Quality Handbook", dated June 1974.
- 11.2 All surface areas affected shall be graded, and slopes shall not be steeper than 1 foot vertical to 4 feet horizontal.
- 11.3 All grubblings shall be removed from the site or buried.
- 11.4 All loamed, seeded, and planted areas shall be guaranteed for eighteen months during which time the performance guarantee required under Section 12 shall remain in full force and effect.
- 11.5 Provisions must be made to provide trees for a visual and acoustical buffer between the project and adjacent properties. The Board shall approve the number and location of the areas.
- 11.6 All exposed slopes shall be graded and where practical, as determined by the Board, planted, loamed, seeded or otherwise landscaped. Sufficient topsoil or loam shall be retained to cover all areas or other provisions made to the Board's satisfaction within the rehabilitation plan. Such provisions shall be shown in the vegetative plan described in Section 11.1 above.
- 11.7 Where standing water is present the following requirements shall be met:
- a. The water supply shall be from natural springs or natural streams, brooks or rivers but in no event from storm drains or intermittent surface drainage ditches;
 - b. All storm drains or intermittent surface drainage ditches shall be diverted away from areas rehabilitated by means of natural water fill;
 - c. An outlet may be required by the Board to assure a proper cycling of the water supply in the rehabilitated area;
 - d. The Board may require testing of the water in the rehabilitated area for the purpose of detecting unsanitary, unsightly, or odoriferous conditions. Should such conditions be detected the Board may require the owner to take appropriate corrective measures;
 - e. The owner shall file evidence of insurance with the Town Clerk annually against liability arising from the use of the extractive industry areas rehabilitated by means of natural water fill in an amount of not less than \$1,000,000 for as long as the site remains a water filled area;
 - f. Grading and restoration shall be completed in such a manner that will insure proper natural drainage and prevent erosion; and

- g. In instances where standing water is present, grades left under the high water level shall be at a slope not steeper than one-foot vertical to eight feet horizontal for the first ten feet (measured horizontally), and one-foot vertical to four feet horizontal for the next thirty feet (measured horizontally).
- 11.8 Access to the site of the project shall be controlled by the installation of gates and signs. Gates shall be located on all access roads and driveways, and shall be closed and locked whenever the owner or his authorized agents are not present on the premises. Signs shall be posted advising that the property is the site of a rehabilitate extractive industry and trespassers may encounter hazards.
- 11.9 The owner shall be responsible for the continued maintenance of the area and compliance with the rehabilitation plans.

Section 12. PERFORMANCE GUARANTEE

12.1 In order to insure completion of the project in conformance with the approved plans the owner shall furnish to the Town Treasurer at the time of submission of the final plan, a Performance Guarantee. Said performance guarantee may be in the form of cash; certified check payable to the Town of Waterboro; or a performance bond, naming the Town of Waterboro as obligee, issued by a corporate surety licensed to do business within the State of Maine. In no instance shall the amount of the guarantee be less than 125% of the estimated cost of rehabilitation. All proceeds of forfeited bonds or other security shall be expended by the Town for reclamation of the area for which the security was posted, and any remainder shall be returned to the operator or owner.

The performance guarantee shall remain in force until the Code Enforcement Officer certifies that the site has been rehabilitated in conformance with the approved plan.

12.2 The Board may grant an extension not to exceed 12 months beyond the guaranteed performance period when the owner can demonstrate, to the satisfaction of the Board, good cause for such extension; provided however, that the performance guarantee shall remain in full force and effect during any such extension.

12.3 Before the owner may be released from any obligation required by his guarantee of performance, the Board shall require certification from the various departments and agencies concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, state and local codes and ordinances.

12.4 Any project, which is proposed to operate for a period of time in excess of five years, shall be designed to operate in phases. The applicant shall provide a performance guarantee for each phase of the work.

No work shall commence on additional phases until the Planning Board has been satisfied that the completed phase conforms fully to the approved plans, and a new performance guarantee is presented.

Section 13. INSPECTIONS

The Code Enforcement Officer, or his/her designee, shall conduct an annual compliance inspection prior to the anniversary date of the original permit to determine whether the permit holder has complied with, or deviated from the approved plan.

Section 14. FEES

Prior to the submission of a preliminary plan the applicant shall pay to the Town Treasurer a fee for the review of the plan. Said fee shall be non-refundable and shall be computed as follows:

A fee as specified in the Schedule of Offense, Permit and Application Fees established by the Town Council shall be paid.

No fee shall be charged for projects enumerated under Section 5.2.

Section 15. VALIDITY AND CONFLICT OF ORDINANCES

15.1 In the event that any section, subsection, portion, or requirement of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, portion, or requirement.

15.2 In the event that any provision of this ordinance is in conflict with any other federal, state, or local statute, ordinance or regulations, the provision that establishes the most stringent requirement shall govern.

Section 16. EXEMPTIONS

16.1 The provisions of this ordinance do not apply to individuals reclaiming lands where the volume to be filled or reclaimed is less than five hundred (500) cubic yards. Further, the provisions of this ordinance shall not apply to extraction or filling incidental to or associated with activities in conformance with and undertaken pursuant to a valid permit issued by the Town of Waterboro.

16.2 Owners of extractive industries existing at the effective date of this ordinance who apply for and are granted active status shall be exempt from the provisions of Section 7, 8 and 9 of this Ordinance. NOTE: Owners of existing extractive industries who apply for approval under this provision shall notify abutting and adjacent landowners via certified mail at the time of application.

16.3 The provisions of this ordinance do not apply to projects undertaken by the Town of Waterboro for the disposal of other than prohibited wastes.

16.4 The Board of Selectmen may suspend the provisions of this ordinance in the event of a request from public safety officials for sand and gravel due to emergency situations.

Section 17. EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Waterboro.

Section 18. PENALTIES

18.1 Any person, firm or corporation being the owner of or having control or use of any building or premises who violation any of the provisions hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than \$500.00 or more than \$5,000.00 each thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Waterboro.

18.2 As in additional remedy, any violation of this ordinance, or any of the provisions or regulations incorporated herein, shall be deemed an dare declared to be a nuisance and may be subject to abatement by restraining order or injunction issued by a court competent jurisdiction.

**EXTRACTIVE INDUSTRY
AND
LAND RECLAMATION ORDINANCE
OF THE TOWN OF WATERBORO**
enacted March 11, 2000

Section 1. TITLE

This ordinance shall be known and may be cited as the "Extractive Industry and Land Reclamation Ordinance of the Town of Waterboro, Maine."

Section 2. PURPOSE AND INTERPRETATION

This ordinance regulates the operation of extractive industries and land reclamation projects; defines extractive industry and land reclamation; requires approval by the Planning Board of extractive industries and land reclamation projects before any work may commence, and establishes procedures for such approval; establishes the minimum standards for project design and operations; and prescribes penalties for the violation of its provisions. In interpreting and applying this Ordinance, the Planning Board shall construe the provisions of this ordinance as minimum requirements. Nothing in this ordinance shall prohibit the Planning Board from imposing stricter standards when deemed necessary to accomplish the purposes of the ordinance.

Section 3. DEFINITIONS

For the purpose of this ordinance, the following terms used herein are defined as follows:

Extractive Industry: The removal and/or processing of topsoil, rock, sand, gravel, and/or similar earth materials; except as is merely incidental to any other activity conducted pursuant to receipt of a permit issued by the Town of Waterboro.

Land Reclamation: Any action, which restores land to its natural state or allows full utility of land, except as is merely incidental to any other activity conducted pursuant to a permit issued by the Town of Waterboro.

Active Status: Active status for extractive industries shall mean the operation of an extractive industry for remuneration for at least six months per year for the three year period immediately preceding the effective date of this ordinance. The Planning Board shall require proof of such active status by evidence, which may include cash receipts, affidavits, verbal testimony, photographs, or other reliable information.

Rehabilitation Plans: Rehabilitation plans shall be plans that identify the intent of the owner of any extractive industry to rehabilitate the site of an extractive industry to a

natural state by landfill, landscaping, or other means acceptable to the Planning Board. Such plans shall conform to the requirements contained in this ordinance.

Section 4. EXTRACTIVE INDUSTRIES

- 4.1 Within sixty days from the effective date of this ordinance, all owners of extractive industries operating within the Town of Waterboro must formally declare to the Planning Board in writing whether they are in active status as defined in this ordinance. Failure to file such a declaration within the specified period shall constitute a declaration of inactive status. Substantiating evidence must accompany any claim of active status, and the Board shall in each instance determine whether active status has been demonstrated.
- 4.2 Any extractive industry that fails to establish active status as defined in this ordinance shall not resume active status, nor shall it be the site of a reclamation project until it has complied fully with this ordinance and all other state and local regulations.
- 4.3 Within ninety days after filing a claim of active status as described in Section 4.1 of this ordinance, the owner of any extractive industry shall file the necessary plans and reports to comply with the provisions of this ordinance for any expansion of existing operations.
- 4.4 The removal or deposit of any material at the site of an extractive industry that fails to prove its claim of active status as defined in this ordinance is strictly prohibited except in conformance with the terms of this ordinance.

Section 5. RECLAMATION PROJECTS

- 5.1 Reclamation projects may be undertaken only in conformance with this ordinance.
- 5.2 The reclamation of gravel pits that fail to demonstrate active status, for open space, tree farming, or conservation purposes which comply with the requirements of the Tree Growth Tax Law and/or Farm and Open Space Land Law, shall be encouraged, and no fee shall be charged to an applicant for such a project.

Section 6. ADMINISTRATION

- 6.1 The Planning Board of the Town of Waterboro, herein after called the Board, shall administer this ordinance.
- 6.2 Before any permit relating to an extractive industry and/or land reclamation project (sometimes herein after called "project") shall be granted, and before any utility installations, ditching, grading, construction of roads, or excavating shall be done in connection with or to facilitate any project, the proponent of such project must file a

plan that shall be in conformance with the standards and specifications as set forth in this ordinance.

- 6.3 As to any intended project, the owner shall prepare and formally submit to the Board both a preliminary plan for study (and modification where required), and a final plan. The final plan shall not be prepared until the owner has received from the Board written notice that a majority of the Board has approved the preliminary plan of such project.
- 6.4 The Planning Board shall approve no proposal for an extractive industry and/or reclamation project until after the Board has held a public hearing thereon. Public notice of the hearing shall be given at least ten (10) days prior to such hearing, and shall be advertised in at least two newspapers in general circulation in the Town.
- 6.5 Owners of abutting and adjacent property shall be notified by the applicant via certified mail of the date, time, and purpose of the public hearing, a minimum of seven (7) days prior to the hearing. Return receipts documenting that notice shall be furnished to the Planning Board.

Section 7. GENERAL REQUIREMENTS

- 7.1 Any proposed project shall be in conformity with the comprehensive plan of the Town of Waterboro and with the provision of all-pertinent state and local codes and ordinances.
- 7.2 The Board shall review any proposed project with regard to its impact upon the natural environment. The project shall not adversely affect the ecological balance and/or natural resources of any area.

In order to approve an application, the Board must find based upon the information presented to it by the applicant and other interested parties, that the proposed project:

- a. Will not result in unsafe or unhealthful conditions;
- b. Will not result in erosion or sedimentation;
- c. Will not result in water pollution;
- d. Will conserve vegetation;
- e. Will conserve natural beauty;
- f. Will avoid problems associated with flood plain development and use;
- g. Will avoid hazards due to steep slopes;
- h. Will avoid problems due to standing water;
- i. Will avoid problems due to gas generation;
- j. Will not result in noise pollution;
- k. Will not adversely affect the character of adjacent residential areas;
- l. Will not adversely affect existing land uses in the vicinity of the proposed project;

- m. Will not adversely affect existing transportation facilities in the vicinity of the proposed project;
- n. Will satisfy all regulations and performance standards set forth in this ordinance.

The Planning Board may, at the owner's expense, engage a certified engineer of its choice to determine whether a proposed project complies with the provisions of this ordinance.

- 7.3 Any project proposal shall be accompanied by a report regarding anticipated types, quantities, and sources of wastes to be disposed of, site geology, hydrology, and soil conditions; source and pertinent engineering properties of waste and cover materials; types and number of equipment to be used for excavating, earth moving, spreading, compacting, and other purposes; persons responsible for the actual operation and maintenance of the site; proposed written operating procedures; and the ultimate plan and purposed use of the completed site.
- 7.4 Sufficient topsoil or loam shall be retained, or other provisions must be made, to cover to the Board's satisfaction all areas within proposed rehabilitation projects.
- 7.5 Provisions must be made to avoid hazards from excessive slopes and to avoid standing water.
- 7.6 Where an embankment must be left upon completion of operations at a location within the project, it shall be at a slope not steeper than 1 foot vertical to 4 feet horizontal.
- 7.7 The operation must be shielded from surrounding property with adequate screening and create no disturbance of water sources.
- 7.8 The operation when terminated shall not detract from the appearance or value of nearby property.
- 7.9 The edge of all workings shall be set back from the property lines a minimum of 200 feet, and 500 feet from an existing residence. When encroachment has been made within 200 feet of a property line or 500 feet of an existing residence the Board shall require corrective measures to protect adjacent properties.
- 7.10 No excavation shall be extended below the grade of adjacent streets unless two hundred feet from the street line.
- 7.11 The plan review by the Planning Board shall take into consideration, but is not limited to, the following items:
 - a. Fencing, landscaping, buffer strips, and public safety;
 - b. Advertising signs and lighting;
 - c. Parking space, loading and unloading areas;
 - d. Entrances and exits;

- e. Time period for operation;
- f. Hours and methods of operation;
- g. Weight and loading limit of trucks;
- h. Prevention of sand and gravel spillage upon public streets;
- i. Rehabilitation plans (per Section 11 Below); and
- j. Ecological and other natural considerations.

7.12 The Board shall impose such conditions, as it deems necessary to safeguard the health, safety, and welfare of the community.

Section 8. PRELIMINARY PLAN REQUIREMENTS AND PROCEDURES

8.1 A request for approval of any project shall be made to the Board in writing on forms provided by the Town, and shall be accompanied by a preliminary plan which shall be drawn at no smaller scale than 100 feet to the inch. A location map showing the relationship of the proposed to adjacent properties shall accompany the preliminary plan.

8.2 When practical, a standard sized sheet (24" x 35") shall be used for all plans. Plans shall contain at least the following information:

- a. Name of project, owner(s), and engineer(s) or surveyor(s);
- b. Graphic scale, date, and north point;
- c. Boundaries and names of existing zoning districts;
- d. Ownership and boundaries of abutting properties;
- e. Type, location, profile, and cross section of all existing and/or proposed surface water impoundment's;
- f. Location of all existing and/or proposed utilities (water, gas, electricity, and other);
- g. Existing and proposed topography, at no less than five-foot contour intervals, unless otherwise prescribed by the Board;
- h. Proposed use of property at completion of the project.

8.3 The Preliminary Plan Application shall be accompanied by an engineering opinion, in form and content satisfactory to the Planning Board, and other technical information required by the Board to make the necessary findings under Section 7.2. The cost of obtaining this information shall be borne by the owner. In addition, the Board may require the owner or others to undertake studies where it is deemed necessary or desirable by the Board. Said studies are to be undertaken at the owner's expense.

8.4 A complete application for approval of a Preliminary Plan shall be considered at a regular meeting of the Board within 30 days after such application is declared complete.

8.5 The final plan shall be submitted by the owner to the Board for review within 60 days from the granting of preliminary approval. Failure to do so shall constitute a withdrawal of the application.

Section 9. FINAL PLAN REQUIREMENTS AND PROCEDURE

9.1 A request for final approval of a project shall be made to the Board in writing on forms provided by the Town and shall be accompanied by a final plan of such project legibly drawn in black ink on permanent transparency material together with three dark lined copies. The plan shall be drawn at no smaller scale than 100 feet to the inch or as otherwise prescribed by the Board as being adequate to show all details clearly.

9.2 The plans shall be presented on one or more sheets of standard 24' x 36' size and shall contain the following information:

- a. All information required in the Preliminary Plan and amendments thereto requested by the Board;
- b. Existing and final proposed lines of streets, easements for utilities and drainage, and any areas to be dedicated to the public.
- c. Sufficient data to determine and reproduce on the ground the exact location, direction, and length of every street line, easement, property line, and/or drainage facility.
- d. Location of all permanent monuments existing and/or proposed wherever, in the opinion of the Board, such monuments are necessary to properly determine the location on the ground of any street line, easement, property line or drainage facility.
- e. Designation of the location, size, planting, and landscaping of such areas as may be proposed or prescribed as necessary to the prevention of erosion or sedimentation, to provide appropriate visual screens or buffer strips, and/or to enhance the final appearance and utility of the site.
- f. The seal of the registered engineer, surveyor, planner or other qualified professional person responsible for the preparation of the plans, application and supporting documentation.

9.3 The final plan shall be accompanied by certification from authorized local public officials and/or agencies and appropriate state officials and/or agencies, that the design of all facilities, drainage, streets, utilities, and the overall project conforms to the requirements of all-pertinent state and local codes and ordinances. The cost of certification and/or inspection shall be bore by the owner.

9.4 The Board shall consider a final plan at a regular meeting within 30 days of submission of a complete final plan.

9.5 The approval of a final plan shall be attested to on the original tracing cloth and three copies by the signature of a legal majority of the Board.

9.6 The Board shall retain a tracing of the final plan as approved. The owner shall record the approved final plan with the York County Registry of Deeds within 30 days of its approval by the Board; or else that plan shall be null and void.

Section 10. PERFORMANCE STANDARDS

In addition to the satisfying the foregoing provisions of this ordinance, all proposed and existing extractive industries and/or land reclamation projects shall comply with the following performance standards:

10.1 Excavation may not occur within 5 feet of the seasonal high water table. If standing water already exists in excavated areas, no further excavation that would result in an increased area of standing water shall be allowed. Notwithstanding the foregoing, the Town of Waterboro may allow excavation to extend to or below the water table and an area of standing water may be increase through excavation if the Maine Department of Environmental Protection (MDEP) approves such excavation.

10.2 At least one monitoring pit or monitoring well must be maintained on each 5 acres of excavation.

10.3 The following setbacks must be maintained between the excavation and any water supply in existence prior to the excavation:

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|--|------------|
| 1. Dug well or point-driven well | 400 feet |
| 2. Well drilled into saturated bedrock | 200 feet |
| 3. Public water supply serving 500 or fewer persons | 600 feet |
| 4. Public water supply serving more than 500 persons | 1,500 feet |

10.4 All fuels or hazardous materials must be stored within spill-proof secondary containment with sufficient capacity to contain 110% of the volume of the single largest container. Equipment refueling and oil changes must take place over impervious surfaces. Routine maintenance operations are allowed for fixed equipment such as screens, crushers, and wash facilities, provided that precautionary measures such as portable drip pans or vacuum devices are used.

10.5 Natural buffer strips must be maintained between the excavation and the following:

- | | |
|--|----------|
| 1. Great pond, river, or coastal wetland | 200 feet |
| 2. Stream, brook, or freshwater wetland | 150 feet |
| 3. Public road right-of-way | 200 feet |
| 4. Private road right-of-way | 100 feet |
| 5. Property boundary | 200 feet |
| 6. Existing residence | 500 feet |

- 10.6 Except for access roads and grubbed areas, all reclaimed and unreclaimed areas must be naturally internally drained unless the applicant prepares a storm water management plan that demonstrates to the satisfaction of the Planning Board that surface water discharges from areas that are not internally drained will not be increased as a result of storm water runoff from storms up to a level of intensity of a 25-year, 24-hour storm.
- 10.7 Topsoil stockpiles to be used for reclamation must be seeded, mulched, or stabilized. Grubbed areas must be stabilized and all disturbed portions of the subject parcel must be protected from erosion and sedimentation by a plan approved by the Planning Board and in conformance with the Maine Erosion and Sedimentation Control Handbook - Best Management Practices, March 1991.
- 10.8 Sufficient sight distance shall be provided at the intersection of the access road with a public or private road. At a minimum, sight distance shall be 10 feet for every mile per hour of posted speed limit on the public or private road. The access road and internal roadways shall be treated to control dust as necessary with water or calcium chloride. The access road leading from the excavation site to a public road shall be blacktopped to reduce road dust and mud for a distance of at least 100 feet from its intersection with the public road.
- 10.9 All abutting and adjacent landowners within 100 yards of the excavation site shall be notified 24 hours in advance of blasting to be done on site. Additionally the Code Enforcement Officer shall be notified 36 hours prior to any blasting.
- 10.10 Hours of operation shall not exceed 6:30 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturdays. No Sunday operations are permitted. The hours of operation may be further restricted by the Planning Board if it is determined that the above-listed hours of operation will unreasonably interfere with residential uses in existence at the time the application for an excavation permit is determined to be complete.

Section 11. REHABILITATION PLANS

In addition to the satisfying the foregoing provisions of this ordinance, all proposed and existing extractive industries and/or land reclamation projects shall comply with the following performance standards.

All extractive industries that apply for and are granted active status as provided for in this ordinance, shall submit a rehabilitation plan to the Planning Board for approval. Such a rehabilitation plan may, with the Board's approval, be incorporated into the preliminary and final plans. The rehabilitation plans shall include, at a minimum, the following:

- 11.1 A vegetative erosion and sediment control plan, which shall meet the minimum requirement established by the Maine Soil and Water Conservation Commission as specified in the "Maine Erosion and Sediment Control, On Commercial, Industrial, Residential, Recreation, and Governmental Construction Sites Environmental Quality Handbook", dated June 1974.
- 11.2 All surface areas affected shall be graded, and slopes shall not be steeper than 1 foot vertical to 4 feet horizontal.
- 11.3 All grubblings shall be removed from the site or buried.
- 11.4 All loamed, seeded, and planted areas shall be guaranteed for eighteen months during which time the performance guarantee required under Section 12 shall remain in full force and effect.
- 11.5 Provisions must be made to provide trees for a visual and acoustical buffer between the project and adjacent properties. The Board shall approve the number and location of the areas.
- 11.6 All exposed slopes shall be graded and where practical, as determined by the Board, planted, loamed, seeded or otherwise landscaped. Sufficient topsoil or loam shall be retained to cover all areas or other provisions made to the Board's satisfaction within the rehabilitation plan. Such provisions shall be shown in the vegetative plan described in Section 11.1 above.
- 11.7 Where standing water is present the following requirements shall be met:
- a. The water supply shall be from natural springs or natural streams, brooks or rivers but in no event from storm drains or intermittent surface drainage ditches;
 - b. All storm drains or intermittent surface drainage ditches shall be diverted away from areas rehabilitated by means of natural water fill;
 - c. An outlet may be required by the Board to assure a proper cycling of the water supply in the rehabilitated area;
 - d. The Board may require testing of the water in the rehabilitated area for the purpose of detecting unsanitary, unsightly, or odoriferous conditions. Should such conditions be detected the Board may require the owner to take appropriate corrective measures;
 - e. The owner shall file evidence of insurance with the Town Clerk annually against liability arising from the use of the extractive industry areas rehabilitated by means of natural water fill in an amount of not less than \$1,000,000 for as long as the site remains a water filled area;
 - f. Grading and restoration shall be completed in such a manner that will insure proper natural drainage and prevent erosion; and

- g. In instances where standing water is present, grades left under the high water level shall be at a slope not steeper than one-foot vertical to eight feet horizontal for the first ten feet (measured horizontally), and one-foot vertical to four feet horizontal for the next thirty feet (measured horizontally).
- 11.8 Access to the site of the project shall be controlled by the installation of gates and signs. Gates shall be located on all access roads and driveways, and shall be closed and locked whenever the owner or his authorized agents are not present on the premises. Signs shall be posted advising that the property is the site of a rehabilitate extractive industry and trespassers may encounter hazards.
- 11.9 The owner shall be responsible for the continued maintenance of the area and compliance with the rehabilitation plans.

Section 12. PERFORMANCE GUARANTEE

- 12.1 In order to insure completion of the project in conformance with the approved plans the owner shall furnish to the Town Treasurer at the time of submission of the final plan, a Performance Guarantee. Said performance guarantee may be in the form of cash; certified check payable to the Town of Waterboro; or a performance bond, naming the Town of Waterboro as obligee, issued by a corporate surety licensed to do business within the State of Maine. In no instance shall the amount of the guarantee be less than 125% of the estimated cost of rehabilitation. All proceeds of forfeited bonds or other security shall be expended by the Town for reclamation of the area for which the security was posted, and any remainder shall be returned to the operator or owner.
- The performance guarantee shall remain in force until the Code Enforcement Officer certifies that the site has been rehabilitated in conformance with the approved plan.
- 12.2 The Board may grant an extension not to exceed 12 months beyond the guaranteed performance period when the owner can demonstrate, to the satisfaction of the Board, good cause for such extension; provided however, that the performance guarantee shall remain in full force and effect during any such extension.
- 12.3 Before the owner may be released from any obligation required by his guarantee of performance, the Board shall require certification from the various departments and agencies concerned to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, state and local codes and ordinances.
- 12.4 Any project, which is proposed to operate for a period of time in excess of five years, shall be designed to operate in phases. The applicant shall provide a performance guarantee for each phase of the work.

No work shall commence on additional phases until the Planning Board has been satisfied that the completed phase conforms fully to the approved plans, and a new performance guarantee is presented.

Section 13. INSPECTIONS

The Code Enforcement Officer, or his/her designee, shall conduct an annual compliance inspection prior to the anniversary date of the original permit to determine whether the permit holder has complied with, or deviated from the approved plan.

Section 14. FEES

Prior to the submission of a preliminary plan the applicant shall pay to the Town Treasurer a fee for the review of the plan. Said fee shall be non-refundable and shall be computed as follows:

A fee as specified in the Schedule of Offense, Permit and Application Fees established by the Town Council shall be paid.

No fee shall be charged for projects enumerated under Section 5.2.

Section 15. VALIDITY AND CONFLICT OF ORDINANCES

15.1 In the event that any section, subsection, portion, or requirement of this ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection, portion, or requirement.

15.2 In the event that any provision of this ordinance is in conflict with any other federal, state, or local statute, ordinance or regulations, the provision that establishes the most stringent requirement shall govern.

Section 16. EXEMPTIONS

16.1 The provisions of this ordinance do not apply to individuals reclaiming lands where the volume to be filled or reclaimed is less than five hundred (500) cubic yards. Further, the provisions of this ordinance shall not apply to extraction or filling incidental to or associated with activities in conformance with and undertaken pursuant to a valid permit issued by the Town of Waterboro.

16.2 Owners of extractive industries existing at the effective date of this ordinance who apply for and are granted active status shall be exempt from the provisions of Section 7, 8 and 9 of this Ordinance. NOTE: Owners of existing extractive industries who apply for approval under this provision shall notify abutting and adjacent landowners via certified mail at the time of application.

16.3 The provisions of this ordinance do not apply to projects undertaken by the Town of Waterboro for the disposal of other than prohibited wastes.

16.4 The Board of Selectmen may suspend the provisions of this ordinance in the event of a request from public safety officials for sand and gravel due to emergency situations.

Section 17. EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the date of its official adoption by the Town of Waterboro.

Section 18. PENALTIES

18.1 Any person, firm or corporation being the owner of or having control or use of any building or premises who violation any of the provisions hereof, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than \$500.00 or more than \$5,000.00 each thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Waterboro.

18.2 As in additional remedy, any violation of this ordinance, or any of the provisions or regulations incorporated herein, shall be deemed an dare declared to be a nuisance and may be subject to abatement by restraining order or injunction issued by a court competent jurisdiction.