

2016

Town of North Haven Maine Ordinances

North Haven, Me.

Follow this and additional works at: <https://digitalcommons.library.umaine.edu/towndocs>

Repository Citation

North Haven, Me., "Town of North Haven Maine Ordinances" (2016). *Maine Town Documents*. 8072.
<https://digitalcommons.library.umaine.edu/towndocs/8072>

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.

TOWN OF NORTH HAVEN

AN ORDINANCE PROHIBITING THE SALE AND USE OF CONSUMER FIREWORKS

I. **Definitions.** The following definitions shall apply in this ordinance:

- a. *Consumer fireworks* shall have the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. “Consumer fireworks” does not include the following products:
 - i. Missile-type rockets, as defined by the State Fire Marshal by rule;
 - ii. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
 - iii. Sky rockets and bottle rockets. For purposes of this paragraph, “sky rockets and bottle rockets” mean cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.
- b. *Display* means an entertainment feature where the public or a private group is admitted or permitted to view the display or discharge of fireworks or special effects.

II. **Prohibition.** No person shall use, possess with the intent to use, sell, possess with the intent to sell or offer for sale consumer fireworks in the Town of North Haven. State law prohibits the sale and possession of all fireworks, with the exception of consumer fireworks (see 8 M.R.S.A. §223). By prohibiting the sale and use of consumer fireworks, the Town is therefore prohibiting the use of all fireworks in the Town of North Haven. The following are not considered fireworks or consumer fireworks: toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

III. ***Exceptions.*** This ordinance does not apply to a person issued a fireworks display permit by the Town of North Haven and/or the State of Maine pursuant to 8 M.R.S.A. §227-A.

IV. ***Penalties.***

- a. Any person who uses consumer fireworks or possesses consumer fireworks with the intent to use in the Town of North Haven shall be punished by a fine of not less than two hundred dollars (\$200.00) and not more than four hundred dollars (\$400.00) plus costs. For second and subsequent offenses, a fine of not less than three hundred dollars (\$300.00) and not more than six hundred dollars (\$600.00) per violation plus costs shall be imposed.
- b. Any person who sells consumer fireworks or possesses consumer fireworks with the intent to sell in the Town of North Haven shall be punished by a fine of not less than five hundred dollars (\$500.00) plus costs. For second and subsequent offenses, a fine of not less than one thousand dollars (\$1,000.00) per violation plus costs shall be imposed.

V. ***Seizure and disposal of fireworks.*** The Town may seize consumer fireworks that the Town has probable cause to believe are used, possessed or sold in violation of this section and shall forfeit seized consumer fireworks to the State for disposal.

Floats & Docks Ordinance, Town of North Haven

Approved June 23, 2016

Definitions:

Town Dock: A structure extending into the waters of a harbor to facilitate receiving or discharging persons or things to or from a vessel. The Town Docks are designated and located as follows:

- Thorofare Town Dock located adjacent to and west of the Maine State Ferry Terminal
- Pulpit Harbor Town Pier and Dock located on Pulpit Harbor Road near the eastern end of Pulpit Harbor

Town Float: A floating platform associated with a pier to facilitate the movement of pedestrians and goods via a ramp between the pier and vessels tied to the float. The Town Floats are designated as follows:

1. Float Thorofare 1: Located at the north end of the Thorofare Town Dock and supports the ramp from the Ferry Terminal Parking Lot;
2. Float Thorofare 2: Located south of and connected to Float TF-1;
3. Float Thorofare 3: Located south of and connected to Float TF-2.
4. Float Thorofare 4: Located south of and connected to Float TF-3.
5. Float Pulpit Harbor 1: Located at the north end of the Pulpit Harbor Town Pier and supports the ramp from the Pier;
6. Float Pulpit Harbor 2: Located south of and connected to Float PH-1;
7. Float Pulpit Harbor 3: Located south of and connected to Float PH-2;

Intent, Rules, and Regulations

Intent: It is the intent of the Town of North Haven that the municipal floats and docks be available for use by all boat owners and operators to board and depart from their vessels, to load and unload their vessels, and to tie up small tenders. Further it is the intent of the Town of North Haven to insure that the municipal floats and docks are available for the use and enjoyment of the public.

Rules and Regulations: The following rules and regulations shall apply to every individual using the municipal floats and docks:

Floats & Docks Ordinance, Town of North Haven
Approved June 23, 2016

Thorofare

- No dinghy or vessel which exceeds 17 feet in length shall be tied to the east faces of TF-1, TF-2 & TF-3. No dinghy or vessel which exceeds 12 feet in length shall be tied to TF-4. (The east faces of the floats are designated by a white stripe on the decking of these floats.)
- Vessels tied to the west face of Thorofare Floats are subject to the following limits:
 - TF-1, TF-2, TF-3: no vessel may be tied to these float for more than 2 hours;
 - TF-4: no vessel may be tied to this float except to load and unload; the vessel's master must remain present;
 - No vessel shall be tied overnight to any float except with the permission of the Harbor Master.

Pulpit Harbor

- No dinghy or vessel which exceeds 17 feet in length shall be tied to the east faces of Pulpit Harbor Floats 1,2,3 (these locations being designated by a white stripe on the decking of these floats);
- Vessels tied to the west face of Pulpit Harbor Floats are subject to the following limits:
 - PH-1: no vessel may be tied to this float except to load and unload; the vessel's master must remain present;
 - PH-2 & PH-3: no vessel may be tied to these floats for more than 2 hours;
 - In no case, may any vessel be tied overnight to any float except with the permission of the Harbor Master.

All Town Floats and Docks

- Vessels having a length greater than 45 feet on deck, may tie up to a Town float only with prior permission from the Harbor Master.
- No dinghy, fishing gear of any type, bait, bait containers, debris, fuel tanks, or other items shall be left on a Town pier or float unattended or stored for more than twenty four (24) hours without prior approval from the Harbor Master; violators are subject to fines and/or to having their property removed or disposed of.
- No boat cradle, trailer, fishing gear, or mooring tackle shall be stored or left unattended in the parking lots. Violators are subject to fines and/or to having their property removed or disposed of.

Floats & Docks Ordinance, Town of North Haven
Approved June 23, 2016

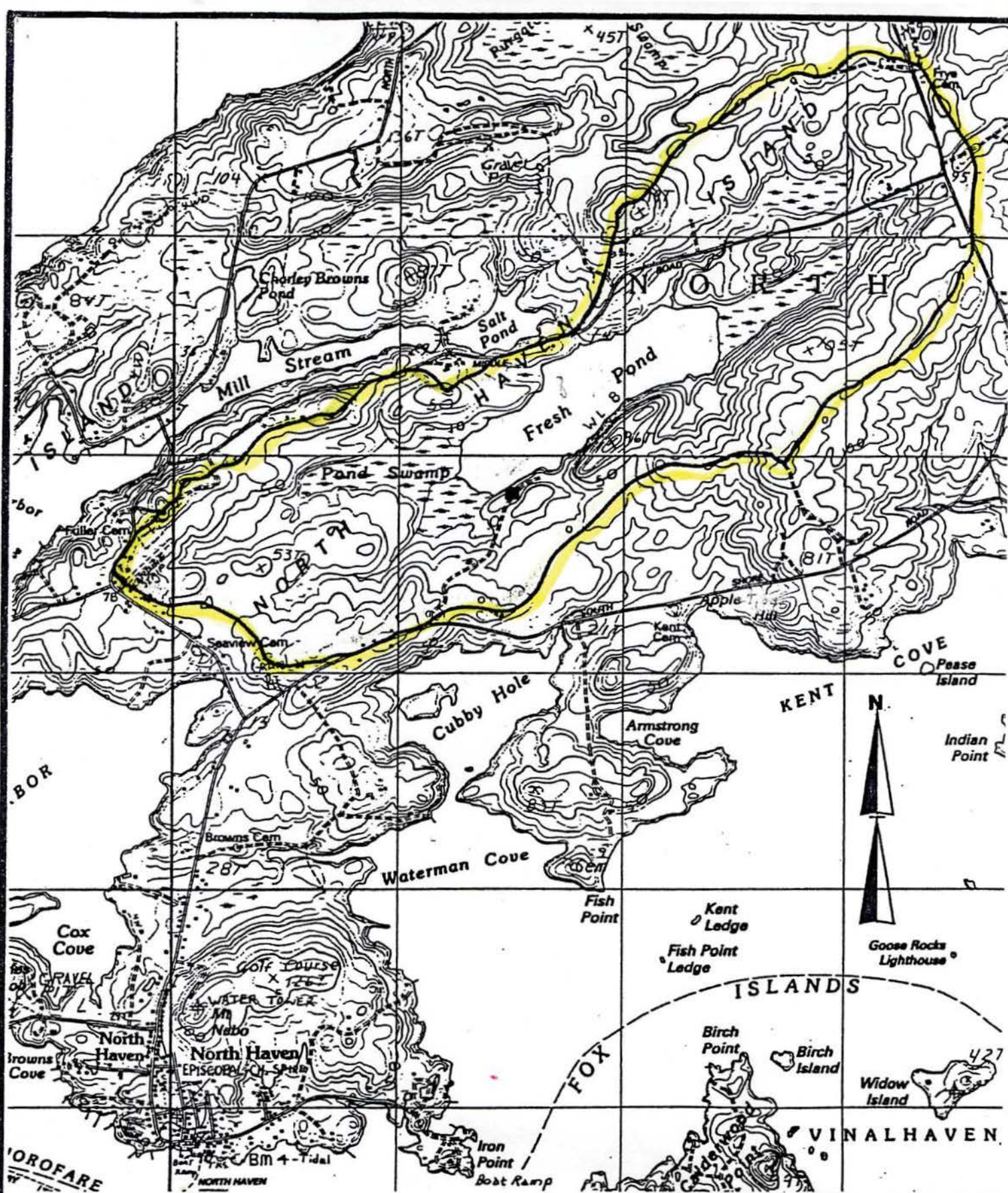
- All dinghies moored at a Town float must have either soft rub-rails or use suitable fenders on both sides. Oar locks must be unshipped and either removed or left inboard. All outboards must be left in the down position.
- The owners of dinghies moored at a Town float shall be responsible for the proper maintenance of their respective dinghies. Any dinghy left un-bailed or posing a hazard to adjacent dinghies may be impounded by the Harbor Master. To re-claim the impounded dinghy, the owner must first reimburse the Town for the cost of hauling the dinghy and pay a fine of \$25. If unclaimed after one (1) year, the Town may sell the impounded dinghy at auction.
- Town floats are not long term parking lots. The Harbor Master may impound any dinghy stored without use for three weeks or more.
- Any individual damaging Town property covered by this Ordinance, including but not limited to the Town piers, ramps, and floats shall be liable for the cost of repairing the damages thereto in addition to penalties allowed under the **Penalties** section of this Ordinance.
- Any individual witnessing or discovering damage to Town property covered by this Ordinance, including but not limited to the Town piers, ramps and floats shall contact the Harbor Master or the Town Office.

Penalties

Violations of any provision of this Ordinance are subject to a fine of \$25.00. Any violation not remedied within 24 hours shall be considered a second violation, subject to a \$50.00 fine, which shall continue to accrue for each additional 24 hour period.

Failure to pay fines within 10 days of issuance will result in additional fines of \$50 for each 10 day period or part thereof in which the fine remains unpaid.

No boat registration will be renewed for the owner of any vessel, nor any excise tax sticker issued for the owner of any documented vessel, who has unpaid fines.



Fresh Pond Watershed Protection Ordinance

Section 1. Purpose and Applicability:

The Fresh Pond Watershed Protection District is established by this Ordinance and consists of that watershed area in which surface and subsurface waters ultimately flow or drain into Fresh Pond, a public water supply for the Town of North Haven. The North Haven Water Department in an effort to protect this sole supply of drinking water and in order to minimize its cost of operation seeks to protect Fresh Pond from water quality degradation. Additionally this effort will help to maintain the aesthetic value of Fresh Pond.

Section 2. Statement of Authority:

This Ordinance is adopted in accordance with the authority granted to the Town under the provisions of 30-A MRSA sections 3001 and 3009, 22 MRSA sections 26-42 and 26-49, 38 MRSA sections 435-449.

Section 3. Definitions:

For purposes of this Ordinance, the following definitions shall be observed. All terms, not specifically defined herein, shall have their ordinary or customary meanings. Words used in the present tense shall include the future, and the plural shall include the singular.

Dry Well – stone or brick lined pit constructed for the purpose of collecting surface waters and conducting such waters to the absorbent earth underground.

Expansion of a Structure – an increase in the floor area or volume of a structure, including all extensions such as, but not limited to, attached decks, garages, porches and greenhouses.

Expansion of Use – the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

(F) – the amount of additional phosphorous that, exported from the watershed to the lake, would produce a 1 ppb increase in the lake's phosphorous concentration. This value is determined by the DEP Lakes section.

Grey Water – a liquid waste discharged from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive or contain fecal matter.

Impervious – impenetrable by water

Primary Shoreland Zone – a strip of land, 250 feet in horizontal distance from the normal high water line of Fresh Pond, or 75 feet from the normal high water line of its tributaries (as defined

below). In the case where wetlands are adjacent to Fresh Pond, the zone will extend 250 feet from the upland edge of the wetland rather than 250 from the open water line.

Recharge – the infiltration of stormwater into the ground to recharge an aquifer.

Seasonal Conversion – the expansion of use of a residence from seasonal to year round.

Tributary – any perennial or intermittent stream depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map.

Water Department – North Haven Water Department

Watershed District – the North Haven Watershed Protection District: the area delineated on the official map on file at the North Haven Town Office.

Watershed – that area of land drained by Fresh Pond and as defined by the Soil Conservation Service on an official map on file at the North Haven Town Office.

Section 4. Effective Date:

The effective date of this Ordinance is 12/10/91. A certified copy of this Ordinance shall be filed with the Department of Environmental Protection and the Department of Human Services, Division of Health Engineering upon its adoption.

Section 5. Amendments:

- a. This Ordinance may be amended by a majority vote at Town Meeting. The Commissioner of the State Department of Environmental Protection in accordance with the procedures in the Mandatory Shoreland Zoning Act, 38 MRSA Section 438-A, and the Chief of the Drinking Water Program of the State Division of Health Engineering shall be notified by mail of amendments to this Ordinance prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.
- b. Initiation of Amendment – an amendment to this Ordinance may be initiated by:
 1. The Planning Board or the Water Department provided a majority of the Board has so voted;
 2. Request of the Selectmen; and
 3. Written petition of ten percent (10%) of the registered voters to the Selectmen.
- c. Adoption – All proposed amendments shall be referred to the Water Department and the Planning Board for their recommendations. The Planning Board may hold a public hearing on any proposed amendment. Within thirty (30) days of receiving a proposed amendment, the Planning Board and the Water Department shall make its recommendation known to the Selectmen and the Town. After receiving these

recommendations, the amendment may be adopted or rejected by a majority vote of the Town at Town Meeting.

Section 6. Severability and Conflicts with other Ordinances:

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

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, including the Land Use and Subdivision Control Ordinance and the Fresh Pond Ordinance, the more restrictive provision shall apply.

Section 7. Official Map and Boundary:

For the purposes of this Ordinance, the Fresh Pond Watershed District shall be delineated on a watershed map, on file at the North Haven Town Office. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed or shoreland zone boundary. Where there is some dispute as to where the watershed or shoreland zone boundary lies on a particular property, the Water Department and the landowner shall conduct an on-site investigation to determine where the drainage divide lies. If the Water Department and the landowner cannot agree on the location of the drainage divide or shoreland zone based on the on-site investigation, the burden of proof shall lie with the landowner to provide information from a registered land surveyor or other certified professional showing where the drainage divide lies. As a minimum the Watershed District will include the 250 foot Primary Shoreland Zone, even where that area falls outside of the watershed boundary.

Section 8. 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 in the Fresh Pond Watershed District, as defined in this Ordinance, except in conformity with all of the regulations herein specified, unless a variance is granted.

Section 9. 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 shall be allowed to continue, subject to the requirements set forth in this section.

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 permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

1. **Expansions:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as the new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

- a. After January 1, 1991 if any portion of a structure is less than the required setback from the normal high-water line of a water body or edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by thirty percent (30%) or more, during the lifetime of the structure.
- b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided: that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent, as determined by the Planning Board, basing its decision on the criteria specified in Subsection 2, Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet, unless additional elevation is mandated by the North Haven Floodplain Ordinance.
- c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided the site of relocation conforms to all setback requirements to the greatest practical extent, as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules 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 shall consider the 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.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than fifty percent (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 one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any.

Any non-conforming structure which is damaged or destroyed by fifty percent (50%) or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit from the Code Enforcement Officer.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another 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 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.

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 expansion of such structures as permitted in Section 8 (C) (1) (a) above.
3. 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 nonconforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one-year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
4. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no great adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 8 (C) (4) above.

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 size and frontage, can be met. Variances relating to setback or other requirements, not involving lot size or 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 or 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 and 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.

Section 10. Permitted Uses:

The following uses are permitted, provided all necessary state and local permits have been obtained, and the use meets all applicable performance standards in Section 12 of the Ordinance:

- Low Intensity Recreation
- Emergency Operations
- Agriculture (PB)
- Single Family Residential Dwelling Units (CEO)
- Timber Harvesting (CEO)
- Public Utilities and Related Facilities (PB)
- Road Construction (PB)
- Uses accessory to the foregoing (PB, CEO)
- Uses similar to permitted uses (PB, CEO)

Note: (PB) Planning Board Permit Required
(CEO) Code Enforcement Officer Permit Required

The Planning Board shall determine that a use is similar to a permitted use only if it is:

- 1) consistent with the purposes of this Ordinance;
- 2) similar to permitted uses;
- 3) not similar to prohibited uses;
- 4) is compatible with the low-density, low-impact uses permitted in this Ordinance.

Section 11. Prohibited Uses:

The following uses are prohibited in the Fresh Pond Watershed Protection District:

- Swimming and all water activities that involve body contact
- Campgrounds
- Commercial, industrial or retail uses
- Dry cleaning
- Mineral extraction industry

Furniture stripping and wood preserving
Golf courses
Multi-unit residential dwellings
Junkyards
Landfills
Land application of sludge and other process wastes
Manufacture, use, storage, or disposal of solid wastes, hazardous materials
Use of chemical pesticides or herbicides
Commercial motor vehicle service, repair, storage or salvage
Operation of motorized vehicles on Fresh Pond, as referenced in the Fresh Pond Ordinance
Salt and salt-sand stockpiles
Spray irrigation of sewage or industrial wastewater
Truck terminals
Underground storage of petroleum or hazardous materials
Warehouses, storage units

Section 12. Performance Standards:

In the Fresh Pond Watershed Protection District, in order to minimize phosphorous runoff and other deleterious impact on water quality, the following additional resource protection measures will be required:

A. Agriculture

1. Tilling is not permitted within 500 feet of the normal high water mark of Fresh Pond or the upland edge of the adjacent wetlands or 250 feet of its tributaries.
2. Manure spreading for commercial agriculture is prohibited in the 'Primary Shoreland Zone', but is permitted in the remaining watershed area if carried out in conformance with a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission and if approved by the Knox County Soil and Water Conservation District. The Conservation Plan must include provision for control of surface water runoff and non-point sources of water pollution. Use and application of nitrogen fertilizer for commercial agriculture in the 'primary shoreland zone' must be carried out in conformance with an approved Conservation Plan which meets the standards listed above.
3. Animal husbandry and associated manure handling must be carried out in conformance with a Conservation Plan which meets the standards of the State Soil and Water Conservation Commission and is approved by the Knox County Soil and Water Conservation District. The Conservation Plan must include provision for control of surface water runoff and non-point sources of water pollution.

Stockpiling of manure is prohibited in the 'primary shore land zone'.

B. Runoff, Drainage, and Dry Wells

1. Unless it can be shown that an increase in runoff will have no off-site impact, peak runoff from the site in the developed state shall not be increased beyond that in the undeveloped state.
2. Provision shall be made for on-site recharge of stormwater runoff unless the Planning Board, in consultation with the Water Department, determines that recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board.
3. Dry wells shall be used for control of surface runoff only if other methods of control are infeasible.
4. Dry wells shall not be used for disposal of any leachable materials or hazardous materials and shall not be connected to floor drains.
5. Within the Fresh Pond Watershed District, all activities other than normal home gardening and property maintenance, involving the disturbance of existing ground cover due to excavation, grading or filling of an area in excess of 500 square feet, shall require the preparation of an Erosion and Sediment Control Plan making use of appropriate Best Management Practices from the Maine Erosion and Sediment Control Handbook for Conservation, March 1991, (DEP and Cumberland County S&WCD) as part of the permit application. Within the Watershed district, all areas where ground cover is removed due to excavation, grading, or filling shall be mulched and seeded as specified in the handbook cited above. Specifically temporary mulch shall be placed before any rainstorm event or within 7 days after work stops. Mulch shall be maintained over all unvegetated areas until permanent vegetation, buildings, pavement, or other permanent means to prevent erosion and reduce sedimentation are in place.
6. Steep Slopes: In areas of steep slopes, the following standards shall apply:
 - a. 15 to 20%: No more than thirty percent (30%) of such areas shall be altered, regraded, cleared or built upon.
 - b. Greater than 20%: No more than twenty percent (20%) of such areas shall be altered, regraded, cleared or built upon.

C. Structures

1. Any new principle or accessory structures shall be prohibited in the Primary Shoreland Zone. These structures shall be screened from the water by existing vegetation, and the forest practices standards in Section 11.f. shall be followed.
2. Minimum lot size shall be 3 acres in the Fresh Pond Watershed District.
3. Before any construction is begun adjacent to the 'Primary Shoreland Zone', hay bales, erosion fencing, or a similar sedimentation barrier shall be installed of sufficient width and at appropriate points to protect water bodies from any erosion or sedimentation that might result from the construction.
4. No more than twenty percent (20%) of the total lot area shall be stripped of existing vegetation and no more than ten percent (10%) of the total lot area shall be rendered impervious.

D. Wastewater Disposal Systems

1. Underground sewage disposal facilities and privies shall be placed outside of the 'Primary Shoreland Zone', as defined above. This requirement shall not be reduced by variance except for replacement for systems which were existing prior to enactment of this Ordinance.
2. Not less than twenty-four (24) inches of original soils shall be present between the bottom of the subsurface disposal area and the most limiting factor (seasonal high groundwater table, bedrock, or other restrictive layer).
3. All septic tanks installed after the establishment of this Watershed District shall be pumped at the expense of the landowner and arranged by the Water Department in order to ensure proper functioning of the system. Year round residences shall be pumped every three years and seasonal residences shall be pumped every five years, as a minimum. Sewage collection, treatment, and disposal systems which discharge shall be prohibited.
4. The Water Department shall have the right to inspect any system within the Watershed Protection District during its construction or operation for compliance with these provisions and the requirements of the Maine Subsurface Wastewater Disposal Rules. Defects or malfunctions shall be reported to the Plumbing Inspector for enforcement action.
5. For waste disposal systems existing prior to the effective date of this Ordinance and determined not to be in compliance with the standards contained herein, a yearly renewal permit will be required. A plan satisfactory to the Water Department to mitigate the detrimental effects of such non-conforming waste

disposal systems and to achieve compliance with the standards contained herein shall be submitted to the Water Department within one (1) year of the enactment of this Ordinance. Once this plan has been accepted by the Water Department, owners of non-conforming systems will have one (1) additional year to implement the plan.

E. Roadway Construction and Maintenance

1. Developers of new permanent roads, except for those providing access to already permitted uses, shall demonstrate that no reasonable alternative route exists outside of the 250 foot buffer zone around the normal high water mark of Fresh Pond and its adjacent wetlands. When roads must be located within the 'primary shoreland zone', they shall be set back as far as practicable from this buffer zone and shall be screened from the water body by existing vegetation.
2. All roads in the Watershed District shall be constructed to avoid steep slopes (areas larger than five (5) acres with an average slope greater than ten percent (10%)), and to divert road ditching flows periodically into flat wooded areas. When such ditch diversion is not possible the Planning Board will decide whether another alternative (such as a wetpond or buffer strip or other method) is feasible and whether to issue a permit or not.
3. Salt shall be applied at a minimum level on roads within the Watershed District.

F. Timber Harvesting

1. Timber harvesting operations shall be conducted in such a way as to minimize soil erosion and sedimentation of surface waters, by the methods described in the "Erosion and Sediment Control Handbook, Best Management Practices", February, 1991, Maine Forest Service.
2. Skid trails and ruts deeper than one foot (1') shall be smoothed over as soon as practicable, but no later than November 1 in any given 12-month period.
3. Logging yards, skid trails, landings, and other sites where the operation of logging machinery results in the exposure of substantial areas of mineral soil shall be located such that an unscarified, undisturbed filter strip is retained between the exposed mineral soil and the normal high water mark of public water supplies and their tributaries. This strip shall extend a minimum of 100 feet from Fresh Pond and 50 feet from tributaries of the public water supply, and for each ten percent (10%) rise in elevation from the normal high water mark, the undisturbed strip shall be increased by 20 feet.

4. All harvesting activities on more than five (5) acres shall be reported to the Planning Board at least one (1) week prior to the commencement of operations.
5. Within the strip of land extending 75 feet inland from the normal high water line and its adjacent wetlands there shall be no timber harvesting, except to remove safety hazards. Beyond that 75 foot buffer strip, but within the primary shoreland zone, harvesting shall not remove, in any ten (10) year period, more than twenty percent (20%) of the volume on each acre involved of trees four inches (4") or more in diameter measured at four and one-half feet (4-1/2') above ground level. Removal of trees less than four inches (4") in diameter, measured as above, is permitted if otherwise in conformance with these regulations. For the purpose of these standards, volume may be determined as being equivalent to basal area.

G. Seasonal Conversions

1. Seasonal conversions are prohibited in the Primary Shoreland Zone.
2. No permit for conversion shall be issued unless one of the following is met:
 - a. Available records show the dwelling's sewage disposal system meets the full requirements of the State Plumbing Code without variance.
 - b. Site evaluation can demonstrate site conditions will permit installation of a sewage system meeting the full requirements of the State Plumbing Code without variance in the event of future system malfunction.
 - c. No conversions shall be permitted unless required minimum lot size is met.

H. Water Quality Protection

1. The application for any proposed residential development or expansion falling partially or completely within the Watershed District shall be reviewed by the Planning Board for phosphorus contribution to the lake by the method outlined in "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development", Maine DEP, September 1989. At the writing of this document, the water quality in Fresh Pond has been classified by the DEP as "moderate/sensitive", because DEP has no available data regarding lake quality. Given that classification and in order to afford the lake a high level of protection, the phosphorus control guide, cited above, specifies that the maximum acceptable increase in lake phosphorus concentration is 0.75 parts per billion. The DEP has given the lake an (F) value of 9.02 lbs/ppb/yr. The Planning Board will use these values and classifications as the premise of the phosphorus review process of development, unless modified values are provided by the DEP.

2. No person shall cause any liquid, gaseous, or solid materials to runoff, seep, percolate, or wash into surface or ground waters such that any pollutant or constituent or derivative thereof attains a concentration in ground or surface water that is above background levels or current public health drinking water standards for Maine, whichever is most stringent. (Note: Drinking water standards shall be obtained from current manuals, including, but not limited to: State of Maine Rules of the Department of Human Services Relating to Drinking Water; “Drinking Water and Health”, published by the National Academy of Sciences; “Suggested No-Adverse Response Levels” as determined by the Environmental Protection Agency; “Ambient Water Quality Criteria” manuals, published by the Environment Protection Agency.)
3. Domestic fuel oil must be stored in accordance with the State of Maine Oil Burner Rules.
4. The washing and bathing or cleaning of humans, animals or objects with soap, detergents, or cleaning agents shall be prohibited in surface waters or in areas adjacent to surface waters if the washwaters can immediately enter the surface water without absorption into the soils.

Section 13. Administration:

- A. Any land use or activity in the Fresh Pond Watershed District which is permitted in Section 10 or Section 12 of this Ordinance, contingent on the review and permitting by the Code Enforcement Officer or Planning Board, must be reviewed using the performance standards outlined in this ordinance as the basis for its determination whether to grant or deny a permit application.
- B. Applications to conduct a permitted use requiring Planning Board or Code Enforcement Officer review shall be submitted to the Planning Board or Code Enforcement Officer with the following information:
 1. A map showing the location of the property and the location of the proposed activity on a USGS topographic map at a scale of 1:24,000 (1” = 2,000’ or larger);
 2. A written description of the proposed activity and how all applicable performance standards shall be met;
 3. If applicable, a copy of the soil evaluation form required under the State of Maine Subsurface Wastewater Disposal Rules, as submitted to the local plumbing inspector;

4. Any additional information the Planning Board or the Code Enforcement Officer considers necessary to properly review the application according to the standards contained herein.
5. Unless otherwise indicated herein, The Town of North Haven, the North Haven Planning Board and the Town's Code Enforcement Officer shall utilize the same procedural and due process requirements as contained in the North Haven Shoreland Zoning Ordinance, in the administration of this Ordinance, including the provisions related to variances and appeals.

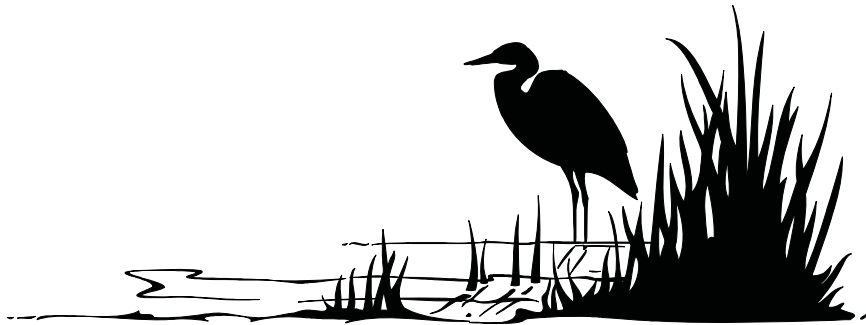
Section 14. Enforcement:

- A. The Code Enforcement Officer or a representative of the Water Department may, with the permission of the landowner or their authorized agent, enter on and inspect any property within the Watershed Protection District to determine whether all land uses and activities conducted on the property are in compliance with the provisions of the Watershed Protection District.

All reviews of permit applications by the Planning Board or Code Enforcement Officer shall be completed within sixty (60) days of receipt of a completed application.

- B. Failure to conform with the provisions of the Watershed Protection District shall constitute a violation and shall be subject to the penalties and actions set forth in the North Haven Shoreland Zoning Ordinance.
- C. The Code Enforcement Officer shall enforce the provisions of this Ordinance.

**Land-Use Ordinance
FOR
NORTH HAVEN, MAINE**



EFFECTIVE DATE: OCTOBER 9, 1996

AMENDED

Annual Town Meeting, March 8, 1997
Special Town Meeting, March 25, 1997
Special Town Meeting, April 14, 1998
Annual Town Meeting, March 11, 2000
Special Town Meeting, July 28, 2004
Special Town Meeting, January 23, 2008
Special Town Meeting, February 16, 2010

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

TABLE OF CONTENTS

PART I	GENERAL	
1.1	Authority	1
1.2	Purpose.....	1
1.3	Effective Date	1
1.4	Amendments	1
1.5	Word Usage	1
1.6	Definitions.....	2
PART II	NON-CONFORMANCE	
2.1	Purpose.....	5
2.2	Non-Conforming Use.....	5
2.3	Non-Conforming Lots.....	5
2.4	Transfer of Ownership	6
2.5	Maintenance and Enlargement.....	6
2.6	Reconstruction	6
2.7	Pending Application for Land-Use Permits.....	7
PART III	ZONING DISTRICTS	
3.1	Zoning Districts	7
3.2	Interpretation of District Boundaries	7
3.3	Village District.....	7
3.4	Rural District.....	8
3.5	Shoreland Protection District.....	10
3.6	Resource Protection District	11
3.7	Commercial District.....	11
3.8	Fresh Pond Watershed Protection District.....	13
PART IV	PERFORMANCE STANDARDS	
4.1	Guest House	13
4.2	Use of Signs	13
4.3	Off-Street Parking Requirements.....	14
4.4	Setbacks	14
4.5	Building Height.....	14
4.6	Multi-Family Dwelling Conversions	15
4.7	Multi-Family Dwelling New Construction.....	15
4.8	Subdivisions.....	15
4.9	Land Surveys	15

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

4.10	Lot Divided by Road.....	15
4.11	Fences	16

PART V ADMINISTRATION

5.1	Land-Use Permits.....	16
5.2	Application for Land-Use Permits	16
5.3	Fees	17
5.4	Code Enforcement Officer	18
5.5	Board of Appeals	18
5.6	Enforcement.....	19
5.7	Validity	19
5.8	Conflict with other Ordinances	19

PART VI CONDITIONAL-USE PERMITS

6.1	Authorization	19
6.2	Powers and Duties.....	19
6.3	Activities Requiring Conditional-Use Permits	20
6.4	Application Procedure	20
6.5	Standards for Conditional-Use.....	21
6.6	Conditions Attached to Conditional Use	21
6.7	Reapplication	22
6.8	Duration of Conditional-Use Permit.....	22

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

PART I GENERAL

1.1 Authority

This ordinance enacted pursuant to:

- | | |
|-------|-----------------------------------|
| 1.1.1 | Maine Constitution Article VIII a |
| 1.1.2 | 30A MRSA § 2691 and 4353 |
| 1.1.3 | 30A MRSA § 4502 and 4503 |
| 1.1.4 | 38 MRSA § 435 - 449 |
| 1.1.5 | 30A MRSA § 3001 |
| 1.1.6 | 30A MRSA § 4401 |
| 1.1.7 | 30A MRSA § 4506 |

1.2 Purpose

The purpose of this Ordinance is to protect the safety, health, and general welfare of the inhabitants of the Town of North Haven; to preserve the surface and ground water supply, and minimize its contamination by overloading and improper operation sewage disposal systems; to preserve the Town's shore land and other natural resources, as well as its ability to provide necessary and desirable public facilities and services; and to help keep its growth orderly. This Ordinance establishes a system for dividing all the land in the Town into classifications as to use, together with regulations to guide future land use in accord with the objectives and goals of the Town Plan. These classifications are based on such factors, among others, as present land use, the types and quality of soils and water bodies, the ability of the Town and other public agencies to provide necessary facilities and services, and the purposes of the Mandatory Shoreland Zoning Act as set forth in 38 MRSA § 435. Since these regulations are based on present knowledge and goals for the Town's future, the classification of certain areas may be changed. The classifications themselves may also be changed.

1.3 Effective Date

The effective date of this Ordinance is when approved, and subsequent dates on which amendments have been adopted.

1.4 Amendments

This Ordinance may be amended by a majority vote of any Town Meeting. Amendments may be initiated by a majority vote of the Planning Board, or by request of the Board of Selectmen to the Planning Board or on petition presented to the Board of Selectmen by a number of registered votes equal to 10% of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on any proposed amendment.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

1.5 Word Usage

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

The word **person** includes a firm, association, organization, partnership, trust, company, corporation, municipal or quasi-municipal corporation, as well as an individual; the present tense includes the future tense, the singular number includes the plural and the word **may** is permissive; the words **uses or occupied** include the words **intended, designed, or arranged to be used or occupied**; the word **building** includes the word **structure**; and the word **dwelling** includes the **residence**; the word **lot** includes the words plot or parcel. The word **establish** includes the words **re-establish** and **expand substantially**. In case of any difference of meaning or implication between the text of this Ordinance and any map of illustration, the text shall control.

Terms not defined will have customary dictionary meaning.

1.6 Definitions

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

Accessory Use of Structure – Use or structure located on the same lot, of a nature customarily incidental and subordinate to those of the principal use of structure.

Boathouse – a non-residential structure designed for the purpose of protection or storing boats for non-commercial purposes.

Conditional-Use – A use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without restriction, but which, if controlled under the provisions of this Ordinance, such uses may be permitted if specific provisions of such conditional-use is made in this Ordinance.

Construction Trailer- a trailer or building used only for the storage of building material and equipment may be moved on to a construction site two (2) weeks prior to the start of construction and must be removed within one month of the completion of active construction as determined by the Planning Board.

Dwelling Unit – A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping cooking, and eating. The term shall include mobile homes, but shall not include recreational vehicles.

Expand Substantially – An expansion resulting in an increase of more than thirty-three (33%) of the floor area of the structure.

Family – One or more persons occupying a dwelling unit and living as a single-housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

Flag Lot – Lots or parcels with less frontage on a public street than is normally required. The panhandle is a narrow access corridor to the bulk of the lot of parcel located behind lots or parcels with normally required street frontage.

Frontage on a Water-body – The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high-water elevation.

Fish House – A non-residential structure designed for the purpose of protecting and storing gear and equipment required in fishing.

Height – The vertical distance above the average finished grade of the adjacent ground to the highest point on the highest roof of the structure. *Amended March 8, 1997*

Home Occupation – An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure, accessory to a dwelling unit, carried on by a member of the family residing in the dwelling unit, and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Incidental Protrusions – Shall mean any structures attached or fixed to a building or structure which do not exceed in area five percent of the square footage of the building or structure, or proposed building or structure and do not exceed in height twenty percent of the building or structure height or proposed building or structure height. Chimneys, antennas, cupolas, towers, or steeples are examples of the type of structures that are usually considered incidental protrusions. Incidental protrusions shall not include living space.

Land use – The purpose for which land is intended to be or is used (e.g., inactive, farming, woodlot, dwelling, retail store, marine service).

Lodging Facility – A building in which rooms are offered for overnight accommodations, with or without meals, for compensation. This definition includes tourist homes, inns, bed and breakfasts, and boarding houses.

Lot – A parcel of land having distinct and defined boundaries, described in a deed, plot plan, or similar legal document. Land located on opposite sides of a public or private road, as set forth in Performance Standard 4.10 and with the same limitations therein, shall be considered each a separate lot of land, even though the deed, plot plan, or similar legal document describes the land as a single lot. *Added second sentence April 14, 1998*

Low-Intensity Recreation – A non-commercial use – hunting, fishing, picnicking, swimming, birding – not involving a structure; earth-moving activity; the removal or destruction of vegetative cover; spawning grounds for fish, aquatic life, bird and other wildlife habitat; or the production of excessive noise or smoke.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

Multi-Family Dwelling – A structure containing two (2) or three (3) separate dwelling units, either new or converted from an existing building.

Non-Conformance – The term *non-conformance* shall refer to aspects of a lot (area, frontage), a building (setbacks, height), or a land use which does not conform to the applicable standards or requirements of the Ordinance. Non-conforming aspects are permitted only because they were in lawful existence on the effective date of this Ordinance or subsequent amendments.

Pond – For the purpose of this Ordinance, any inland body of water which has a surface area in excess on ten (10) acres, except where such a body of water is man-made and is completely surrounded by land held by a single owner, and except those privately-owned ponds which are held primarily as waterfowl and fish breeding areas, or for hunting and fishing.

Recreational Vehicles – A vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pickup campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to the Land-Use Ordinance of Federal Manufactured Housing Standards, the unit must remain with its tires on the ground, and most be road-worthy (i.e., possess a current registration sticker from any state Division of Motor Vehicles). A recreational vehicle shall not be occupied as a dwelling for more than 90 consecutive days, or more than 120 days in any calendar year.

Road Frontage – The linear distance between the sidelines of a lot, measured along the lot line that borders upon the road at the edge of the traveled way.

Rod – A linear measurement equal to 16.5 feet or 5.03 meters.

Setback – The minimum horizontal distance from a lot line to the nearest part of a structure. Setback from a road shall be measured from the middle of the road. *Amended March 8, 1997*

Setback from Water – The minimal horizontal distance from the normal high-water mark to the nearest part of a structure.

Single-Family Dwelling Use – A land use having its principal use that of a dwelling and its accessory uses, those incidental and subordinate to one customarily associated with the principal use, such as home gardening and home-occupations (e.g., doctor's office, lobstering, crabmeat preparation and sale). The permitted structures for this are one principal dwelling unit and the appropriate structures for the accessory uses (e.g., garage, fish house, boathouse, tool sheds, workshop, studio, non-commercial entertainment barn, guest house).

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kW and which is intended to primarily reduce on-site consumption of utility

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

power.

Structure – Anything constructed or erected, the use of which requires a fixed location on or in the ground, or an attachment to something having a fixed location on the ground.

System Height: The tower height plus the blade radius from the hub.

Timber harvesting – The cutting and removal of trees from their growing site. Timber harvesting does not include the clearing of land for approved construction.

Tower: The structure on which the wind energy system is mounted.

Tower Height: The height above grade of the fixed portion of a tower, excluding the wind turbine.

Turbine: The parts of the wind system including the blades, generator and tail.

Water or Water-body – A pond or tidal salt water as defined in the Mandatory Shoreland Zoning and Control Act (38 MRS § 436).

PART II NON-CONFORMANCE

2.1 Purpose

The intent of the Zoning Ordinance is to regulate non-conforming lots, uses, and structures. The Ordinance intends to be realistic so that: non-conforming lots of record can be reasonably maintained or repaired, and non-conforming uses can continue to be changed to other less non-conforming or to conforming uses. These regulations are designed for the betterment of the community and for the improvement of property values.

2.2 Non-Conforming Use

- A. Any lawful use of buildings, structures, premises, land, or parts thereof, existing on the effective date of this Ordinance, or amendments thereto, and not in conformance with the provisions of this Ordinance shall be considered to be a non-conforming use.
- B. Any non-conforming use may continue and may be maintained, repaired, and improved. No such non-conforming use or structure may be expanded, changed to another conforming use, replaced or renewed after it had been discontinued for a period of twelve (12) months, without a permit from the Planning Board in accordance with the provisions of this Ordinance. No

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

structure which is less than the required setback from the normal high-water mark shall be expanded toward the water.

2.3 Non-Conforming Lots

- A. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area or frontage requirements of this Ordinance may be built upon provided that such lot is not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met.
- B. If two or more contiguous lots of record are in the same ownership on or after the effective date of adoption or amendment of this Ordinance and if all or part of the lots do not meet the area requirements of this Ordinance, the lands involved shall be considered to be a single lot for the purposes of this Ordinance, and may be built upon provided that all other provisions of this Ordinance shall be met.
- C. On or after the effective date of adoption or amendment of this Ordinance, no division of a lot shall be made which reduces any dimension or area below the requirements of this Ordinance; and no lot shall be created which does not meet or exceed the area requirements of this Ordinance, except for conveyance to an abutting owner, in which case the provisions of the preceding paragraph shall apply.
- D. Rear flag lots are allowed provided all dimensional requirements are met except for road frontage and road setback requirements.

2.4 Transfer of Ownership

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

2.5 Maintenance and Enlargement

Any structure in existence as of the effective date of this Ordinance, which becomes non-conforming solely from a failure to satisfy the area requirements of the district in which it is located, may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance provided that:

- A. the enlargement or accessory structure itself meets the height requirements of the district in which it is located; and
- B. that the enlargement or accessory structure itself meets the setback requirements of the district, or, if located on the same lot as the non-conforming structure, and contains no more than 33% of the ground area of the grandfathered structure.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

2.6 Reconstruction

Any non-conforming use or structure which is hereafter damaged or destroyed by fire of cause other than the willful act of the owner of his agent, may be restored or reconstructed to its original dimensions, and used as before within twelve (12) months of the date of said damage or destruction; provided that such reconstruction and use shall not be more non-conforming than the prior non-conforming building or structure or use, and the non-conforming structure shall not be enlarged except in conformity with this Ordinance and Maine State Plumbing Code. Nothing in this section shall prevent:

- A. The demolition of the remains of any building so damaged or destroyed; or
- B. the strengthening or restoring to safe condition any part of any building or structure declared unsafe by the Code Enforcement Officer.

2.7 Pending Application for Land-Use Permits

Nothing in this Ordinance shall require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which application for a Building Permit has been made or a Building Permit has been issued or upon which construction commenced prior to the adoption or amendment of this Ordinance, provided construction shall within (6) months after the issuance of such permit. A lawful land-use in existence on the date this ordinance, or amendments to it, becomes effective is not affected by them.

Added last sentence March 8, 1997

PART III ZONING DISTRICTS

3.1 Zoning Districts

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the official map entitled *Land-Use District Map- Town of North Haven* on file in the municipal office of the Town, which is hereby made a part of this Ordinance.

For the purposes of this Ordinance, the Town shall be divided into six districts

- A. Village District
- B. Rural District
- C. Shoreland Protection District
- D. Resource Protection District
- E. Commercial Districts
- F. Fresh Pond Watershed Protection District

3.2 Interpretation of District Boundaries

Unless otherwise set forth, the districts' boundaries are property lines, the center lines of streets, roads, and rights-of-way. Where uncertainty exists as to the exact location of any district boundary line, the Board of Appeals, with advice from the Town Planning Board, shall interpret the intent and purpose of the zoning map.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

3.3 Village District

It is the intent of this District to provide areas for residential growth and development as are compatible with public sewer and water.

A. Area Covered

Beginning at the southwest corner of Map 30, Lot 2, and proceeding north along Main Street and westerly along road to Pulpit Harbor to the Grange Hall, thence back easterly and southerly along same roads to Map 31, Lot 53, thence easterly to Lot 75, Map 30, thence southerly to center line of Iron Point Road, thence westerly following Main Street to the point of beginning at the Thorofare. Along the roads, this includes the area 300 feet on both sides of road, measured from the middle of the road, ending at a point 300 feet on the southerly side of the Crabtree Point and North Shore roads as indicated on attached zoning map. If 50% of a lot lies within the Village District, the whole lot shall be considered within the District.

B. Permitted Uses

1. Low-Intensity Recreation Use
2. Single-Family Dwelling Use
3. Timber Harvesting

C. Conditional Uses

1. Multi-Family Dwelling
2. Municipal
3. Restaurant
4. Retail Trade
5. Commercial
6. Lodging Facilities
7. Boathouse and Marine Storage
8. Business and Professional Office
9. Public Utilities
10. Church
11. Small Non-Residential Facilities for Education, Scientific or Nature Services
12. School and Day-Care Facilities

D. Space Standards

1. Minimum lot size (outside Shoreland Zone)..... 20,000 sq. feet
2. Minimum road frontage.....100 feet
3. Maximum building height excluding incidental protrusions.....35 feet
4. Minimum setback from road.....35 feet plus one-half the width of the road
- side.....10 feet
- rear.....10 feet
- shore..... 75 feet

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

5. Minimum shore frontage.....150 feet

Amended (4) March 11, 2000 Amended (3) February 16, 2010

3.4 Rural District

The Rural District generally extends beyond the area of North Haven that is serviced by year-round public water and sewer. It is intended that open space, agricultural, low-density residential uses be encouraged, in that they tend to enhance, reinforce, and protect the rural, open atmosphere now characterizing much of the Town.

A. Area Covered

This includes all land on North Haven except those defined in the Village, Shoreland Protection, Resource Protection, Commercial, and Fresh Pond Watershed Protection Districts.

B. Permitted Uses

1. Low-intensity Recreation
2. Single-Family Dwelling
3. Farming and Market Gardening, including accessory structures
4. Timber Harvesting
5. Wireless Telecommunication Facilities *Added (5.) July 8, 2004*
6. Small Wind Power Turbine *Added (6.) January 23, 2008*

C. Conditional Uses

1. Multi-Family Dwelling
2. Municipal
3. Restaurant
4. Retail Trade
5. Commercial
6. Lodging Facilities
7. Boathouse and Marine Storage
8. Business and Professional Office
9. Public Utilities
10. Church
11. Small non-residential facilities for Education, Scientific, or Nature Services
12. School and Day-Care Facilities

D. Space Standards

1. Minimum lot size, serviced by year-round water..... 1 acre
2. Lots not serviced by year-round water.....2 acres
3. Minimum road frontage150 feet

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

- 4. Maximum building height excluding incidental protrusions 35 feet
except for a structure that has been approved pursuant to the *Wireless Telecommunications Facilities Ordinance* and *Small Wind Turbine Ordinance*
- 5. Minimum set back from the road50 feet
 - plus one-half the width of the road
 - side10 feet
 - rear10 feet

Amended (5.) March 8, 1997

Amended (5.) March 11, 2000

Amended (4.) July 28, 2004 to exclude structures approved under WTF Ordinance.

Amended (4.) January 23, 2008 to exclude structures approved under SWT Ordinance

Amended (4.) February 16, 2010

3.5 Shoreland Protection District

It is the intent of this District to protect fragile shorelines and surrounding waters by discouraging inappropriate uses in accordance with the purposes and guideline of the Mandatory Shore Zoning Act (38 MRSA § 435). Also see separate ordinance effective January 15, 1995.

A. Area Covered

All surrounding Shoreland and wetland, two hundred fifty (250) feet deep measured from the normal high water mark.

B. Permitted Uses

- 1. Low Intensity Recreation
- 2. Single Family Dwelling
- 3. Timber Harvesting
- 4. Livestock Grazing with no accessory structure

C. Conditional Uses

- 1. Multi-family Dwelling
- 2. Restaurant
- 3. Retail Trade
- 4. Commercial
- 5. Lodging Facilities
- 6. Boathouses and Marine Storage
- 7. Piers, Docks, Wharves, Breakwaters
- 8. Boatyard
- 9. Marina
- 10. Commercial Fisheries

D. Space Standards

- 1. Minimum lot size.....3 acres
- 2. Minimum road frontage150 feet

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

- 3. Maximum building height excluding incidental protrusions.....35 feet
- 4. Minimum setback from the road50 feet
 - plus one-half the width of the road
 - side10 feet
 - rear10 feet
 - shore75 feet
- 5. Minimum shore frontage200 feet
 - Amended (4.) March 8, 1997*
 - Amended (4.) March 11, 2000*
 - Amended (3.) February 16, 2010*

3.6 Resource Protection District

It is the intent of this District to protect the water supply in which development would lower the water quality, significantly disturb essential natural plant and animal relationships, or general scenic and natural values, and to discourage developments in unsafe or unhealthy areas.

- A. Area Covered
 - 600 feet back from the shore of the Fresh Pond.
- B. Permitted Uses
 - Low-intensity recreation
- C. Conditional Uses
 - Timber harvesting
- D. No new structure shall be located within six hundred (600) feet of the Fresh Pond (Town Water Supply) as designated on the official zoning map.
- E. In the Resource Protection District, a residential use which becomes non-conforming as a result of its location under this Ordinance may be expanded, reconstructed, or accessory buildings added, if the Planning Board issues a permit after review and approval under Sections 5.2 and 6.5.

3.7 Commercial Districts

It is the intent of these districts to provide for small businesses which, but their nature and character, can fit in harmoniously with the existing pattern of residential and commercial uses.

- A. Area Covered
 - Beginning at the most western boundary of Map 30, Lot 107 (land now or formerly of Andrew T. L. Anderson-Bell and Fiona Anderson-Bell), thence following the Thoroughfare generally

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

easterly to the most eastern boundary of Map 30, Lot 87 (land now or formerly of James E. Brown), including all land on the southern side of Main Street between these two points. Also, the following properties are specifically zoned for Commercial use:

Map	Lot	Landowners 2/1/2008
9	11	Edwin Thayer
10	4	David Haskell
10	6-A	Fox Islands Electric Co-op, Inc.
10	9	Charles Curtis
10	11	Rexford Crockett
19	13	North Haven Historical Society
19	16	Edward Beverage, Jr.
19	25	Gordon & Marnelle Bubar
21	7	Elliott & Jane Brown
23	11	David & Linda Haskell
30	34	North Haven House, LLC
30	42	Nancy Hopkins-Davisson
30	45	David & Roberta Cooper
30	58	Herbert J. Parsons
31	25	Douglas Stone

B. Permitted Uses

1. Single-family Dwelling
2. Boatyard
3. Marina
4. Commercial Fisheries
5. Retail Trade
6. Multi-use of building/combination of permitted and conditional uses.
Added (6) March 8, 1997
7. Wireless Telecommunications Facilities *Added (7.) July 28, 2004*

C. Conditional Uses

1. Multi-family Dwelling
2. Lodging Facilities
3. Piers, Docks, Wharves, Breakwaters
4. Restaurants
5. Business and Professional Office
6. Small Non-Residential Facilities for Educational, Scientific, or Nature Services
7. Public Utilities
8. Municipal
9. Place of Public Assembly *Added (9.) March 8, 1997*

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

D. Space Standards

All uses shall meet all dimensional requirements of the district in which it is located, with the Village Commercial District meeting the Village District Space Standards, excluding the shore setback and shore frontage.

E. Other Standards

Commercial District includes a prevailing mix of existing uses of residential and low-intensity business, commercial or recreational water-dependent uses. It is compatible with the comprehensive plan for the waterfront. Resumed uses will not be precluded by a twelve month time limit. An existing structure built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body may be converted to a residential dwelling unit in the Commercial District provided it complies with applicable health, building, and fire safety codes, and is connected to a public sewerage system, or a central collection and treatment system in accordance with the Maine State Plumbing Code.

Added (E.) March 8, 1997

3.8 Fresh Pond Watershed Protection District

See separate ordinance approved December 10, 1991.

PART IV PERFORMANCE STANDARDS

4.1 Guest House

- A. Only one guest house per lot
- B. Will not exceed footprint of the principal structure
- C. In no case shall all structures, including the guest house, cover more than 20% of a lot.
- D. All other provisions of this Ordinance must be met before building a guest house.

4.2 Use of Signs

In all districts, the use of signs shall be governed by the following provisions and do not require a permit.

- A. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided such signs shall not exceed two signs per premises, and shall not exceed six (6) square feet in all districts, except eighteen (18) square feet in the Commercial District. Directional signs shall be permitted, provided such signs shall not exceed two (2) square feet. Billboards and signs relating to goods and services not rendered on the premises shall be prohibited.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

- B. Name signs of family living on premises shall be permitted, provided such signs shall not exceed two (2) signs per premises and providing that no such sign exceeds two (2) square feet in area.
- C. 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.
- D. Signs relating to trespassing and hunting shall be permitted without restriction as to the number provided that no such sign shall exceed two (2) square feet in area.
- E. No sign shall extend higher than twenty feet above the ground.
- F. Signs may be illuminated only by shielded, non-flashing lights.
- G. Off-premises signs are permitted for non-profit organizations, religious groups, political candidates, and similar signs, using 23 MRSA § 1901 et seq as a guide.
- H. Realty signs are permitted and shall not exceed six (6) square feet. *Added (H.) March 8, 1997*

4.3 Off-Street Parking Requirements

No use of premises shall be authorized or expanded, and no structures shall be constructed or enlarged unless there is off-street automobile parking space provided in accordance with this Ordinance:

- A. Single-family dwelling – one space.
- B. One space for each sleeping room in tourist home, boarding or lodging house, or bed and breakfast establishment.
- C. Retail or service business – one space for up to three hundred (300) square gross floor space area, and two spaces for over three hundred (300) square feet of gross floor space area.
- D. Multi-Family Dwelling – Off street parking shall provide a minimum of one (1) space per dwelling unit.

4.4 Set Backs

- A. In no district shall any expansion of an existing non-conforming use or structure, or any new structure be built or placed nearer to any lot line than ten (10) feet.
- B. In no district, except the Commercial District, shall any expansion of an existing non-conforming use or structure, or any new structure be built or placed nearer to the normal high-

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

water line of any water-body than seventy-five (75) feet. This restriction shall not apply to boathouses or fish houses provided such structures do not contain sanitary facilities.

4.5 Building Height

On any new building, the highest point shall not exceed a height of thirty-five (35) feet, excluding vertical distance above the average finished grade of the adjacent ground, excluding incidental protrusions. *Amended February 16, 2010*

- A. Transmission towers erected for licensed amateur radio purposes are limited to a height of 65 feet and meet the provisions of FCC Rulemaking under PRB-1 codified as FCC Part 97.15 a-e. The proposal must be reviewed by the Planning Board and meet the criteria of health, safety, and aesthetics described in Part V of this Ordinance. *Paragraph added March 25, 1997*

4.6 Multi-Family Dwelling Conversions

A dwelling or other building may be converted to no more than three (3) dwelling units per lot, provided:

- A. exterior alterations shall be limited to those required to comply with applicable health, building, and fire safety codes, and shall not substantially alter the historical structure of the building;
- B. multi-family dwelling units shall meet all dimensional requirements of the district in which it located;
- C. if not connected to a public or private sewerage system, the lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code, Part 2; and

4.7 Multi-Family Dwelling New Construction

A dwelling designed for multiple families living independently shall conform to the following:

- A. The minimum setback from all lines shall meet the requirements of the district in which they are located; *Amended (A.) March 8, 1997*
- B. Multi-family dwelling units shall meet all dimensional requirements of the district in which they are located;
- C. All units shall be connected to a common water supply and distribution system, either public or private;

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

D. All units shall be connected to a public sewerage system, if available, or to a central collection and treatment system in accordance with the Maine State Plumbing Code; and

4.8 Subdivisions

See separate ordinance approved December 4, 1989.

4.9 Land Surveys

Any land surveys should follow the standards as set forth in the *Standards of Practice for Land Surveyors* (Title 32, Chapter 121, Revised Statutes of 1964)

4.10 Lot Divided by Road

In all zoning districts, including all districts set forth in the Shoreland Zoning Ordinance, land on opposite sides of a public or private road (including a town way or public easement as defined in Title 23 MRSA § 3655, and including a private way established legally by any means) shall be considered each a separate lot unless such road was established by the owner of land on both sides thereof after September 22, 1971. *Added April 4, 1998*

4.11 Fences

In all zoning districts, when a fence is built new or to replace an existing fence and it is designed to have a finished face, the finished face is to be erected towards the nearest abutting property.
Added March 11, 2000

PART IV ADMINISTRATION

5.1 Land-Use Permits

No person may establish, expand substantially or re-establish a land use not in existence on the date this Ordinance, or amendments to it, becomes effective without first having obtained a land-use permit granted by the Code Enforcement Officer or Planning Board. No land-use permit shall be issued except in conformity with the provisions of this Ordinance. A land-use permit, secured under the provisions of this Ordinance, shall expire if the Planning Board determines that the work or change is not commenced within one (1) year of the date on which the permit is granted.

5.2 Application for Land-use Permit

A complete land-use permit application (obtained at the Town Office or from the Code Enforcement Officer) shall be filed in writing with the Code Enforcement Office. Within fourteen (14) days of filing an application, the CEO shall mail a form to the applicant if the application is incomplete. If the application is incomplete, specific areas of information required to make the application complete will be outlined.

A. Before granting a permit for any land use ***not requiring*** review by the Town Planning Board, the CEO shall satisfy himself that the statements made in the application are substantially

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

correct and true, and that the proposal complies with the requirements of this Ordinance. The CEO shall take action within 14 days of receiving the completed application.

- B. All applications with the necessary information as stated shall be on file in the Town Office seven (7) days prior to the regularly scheduled Planning Board meeting. Once the application is complete, the Planning Board will hold a Public Hearing within thirty (30) days and make a final determination, in writing, that the application is either approved, approved with specific conditions, or denied within 60 days. If the application is denied, the reasons for denial shall be specified.
- C. Applications for a permit for a land use *requiring* review by the Town Planning Board shall be granted only after the Board reviews the following criteria and makes a finding based on the information presented to it that, the applicant has complied with provisions of this Ordinance. The Board has the authority to approve, approve with conditions, or deny an application based on the findings. The proposed use will not result in:
1. unhealthy pollution of the public water supply or the ground water;
 2. undue water or pollution;
 3. an undue burden on an existing water supply;
 4. unreasonable soil erosion or saturation so as to cause a dangerous, unhealthy, or
water
polluting situation;
 5. creation of undue road or highway congestion, or unsafe road or highway conditions;
 6. inadequate provisions for sewerage disposal;
 7. overburdening of existing sewerage or solid waste disposal facilities;
 8. an unreasonable burden on municipal sewers;
 9. will protect archaeological and historic resources as designated in the Comprehensive plan; and
 10. wherever situated, in whole or in part, within two hundred fifty (250) feet of the normal high-water mark of any pond or salt water body adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

5.3 Fees

Commercial Property

New Construction - \$.12 per square foot - \$10 minimum, \$200 maximum

Renovations - \$.08 per square foot - \$10 minimum, \$150 maximum

Residential Property (includes Garage)

New construction - \$.10 per square foot - \$10 minimum, \$150 maximum

Renovations - \$.08 per square foot - \$10 minimum, \$150 maximum

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

Minor Structures

Porches, decks, residential garages of less than three cars, utility sheds of less than 200 square feet, small agricultural barns of less than 500 square feet - \$.05 per square foot, \$5 minimum, \$25 maximum.

Subdivisions

Under five lots-\$50 per lot, payable upon submission of final plan Five or more lots:

- | | |
|----------------------------|---|
| 1. Pre-application meeting | \$50 |
| 2. Preliminary Plan | \$100 per lot |
| 3. Final Plan | \$100 per lot (Fees do not include land-use permit) |

Amended Permit

The fee for an amended permit which changes the footprint shall be based on the above fees. The minimum charge shall be \$30 amendment.

Permit Renewal Fee

The fee for renewal of a permit shall be 10% of the original fee. Renewal will be from time of expiration and will be one only.

5.4 Code Enforcement Officer

The Board of Selectmen shall appoint a Code Enforcement Officer and fix his/her salary and expense provisions. The Code Enforcement Officer shall:

- A. grant land-use permits in accordance with this Ordinance and/or the Planning Board's written instruction.
- B. 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, 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 .
- C. 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;
- D. 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.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

5.5 Board of Appeals

The Appeals Board shall consist of five (5) members and each member shall serve for a term of five (5) years. One member shall be elected each year at Town Meeting. The Board of Appeals may authorize a variance for lot size, height, lot coverage by structures, frontages, and set-backs. A variance may be granted by the Board only where strict applications of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words *undo hardship* mean:

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

Administrative Appeals: The Board of Appeals shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer or Planning Board in the administration of this Ordinance. The Appeals Board shall have the authority to hear and decide appeals set forth in Section 10 of the *Wireless Telecommunication Facilities Ordinance*. Added paragraph July 28, 2004

5.6 Enforcement

Any person who established, re-establishes, or expands substantially a land use not in existence on the date of this Ordinance or amendments to it become effective without having first been granted a permit by the Code Enforcement Officer or Planning Board, or who fails to comply with a permit issued by the CEO or the Planning Board, is subject to a minimum penalty of \$100 and a maximum penalty of \$2,500. Each day of violation, after notification to cease and desist given in writing by the CEO, shall be deemed a separate violation.

5.7 Validity

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

5.8 Conflict with other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of this Ordinance or any other Ordinance, code, or statute, the more restrictive shall apply.

PART VI CONDITIONAL-USE PERMITS

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

6.1 Authorization

The Planning Board is hereby authorized to hear and decide upon application for a conditional use in accordance with State law and the provisions of this Ordinance. The decision of the Planning Board may be appealed to the Board of Appeals, and thence to Superior Court.

6.2 Powers and Duties

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for conditional-use permits. No conditional-use permit shall be authorized unless specific provisions for such conditional use is made in this Ordinance.

- A. The uses classified as conditional use are intended as potential land uses in the district in which they are designated.
- B. Any use or activity which was commenced prior to the enactment of this Ordinance, and would have required a conditional-use permit in compliance with Ordinance been in effect, is hereby deemed to be non-conforming in use and any expansion of such use shall require a conditional-use permit in compliance with this Ordinance.

6.3 Activities Requiring Conditional-Use Permits

A building, structure, or parcel of land may be employed for a conditional use if the use is specifically listed in the regulations governing the zoning district in which the use is proposed, and if a conditional-use permit is approved by the Planning Board. A conditional-use permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such conforming use on a continued basis which has been discontinued for at least two (2) years.

6.4 Application Procedure

Application for a conditional-use permit shall be made to the Code Enforcement Officer on forms provided for that purpose. All plans for conditional use presented for approval shall also include:

- A. Such materials as will enable the Planning Board to determine that the standards for approval of a conditional-use permit have been met. The burden for providing the information upon which the Board bases its findings shall be the applicant's.
- B. Following the receipt of a completed application, and before taking action on any application, the Planning Board shall hold a public hearing on the application within thirty (30) days. Notice of such hearing shall be given to the CEO, the Selectmen, and the Board of Appeals at least ten (10) days in advance of the time and place of the hearing, and shall be posted in three (3) obvious places about Town.
- C. The Planning Board shall notify the applicant and owners of all property within two hundred (200) feet of the property involved, at least ten (10) days in advance of the hearing, the nature of the application, and the time and place of the public hearing.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

- D. The owners of the property shall be considered to be those against whom taxes assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
- E. At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued except for good cause.
- F. The Planning Board shall reach a decision on a conditional use after the public hearing and shall inform, in writing, the applicant, the CEO, and the Selectmen of its decision and its reason therefore. If, within sixty (60) days of the public hearing, the Board has not reached a decision, the application shall be deemed denied.
- G. In reviewing any conditional use, a quorum of the Planning Board shall consist of three (3) members. The Board shall approve a conditional use only by majority of those members present and voting, and in so doing, may prescribe conditions and safeguards as are appropriate under this Ordinance.
- H. A conditional-use permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one (1) year of the date on which the conditional use is authorized.
- I. Upon notification of the decision of the Planning Board, the CEO, as instructed, shall issue, issue with conditions prescribed by the Planning Board, or deny a permit.

6.5 Standards for Conditional-Use Permits

A conditional-use permit may be granted by the Planning Board only in the event that the applicant has established to the satisfaction of the Board that:

- A. neither the proposed use nor the proposed site upon which the use will be located are of such a character that the use will have an adverse impact upon the value or quiet possession of surrounding properties greater than would normally occur from the permitted use in the zoning district;
- B. the proposed use will be compatible with the permitted uses, as stipulated in the Subsections of Part III, within the district in which it is located, and Subsection 5.2 C of Part V;
- C. safe and healthful conditions will be maintained at all times within and about the proposed use;
- D. the proposed use will not create new hazards or increase existing hazards to vehicular or pedestrian traffic on or about the proposed use;

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN

- F. satisfactory provisions shall be made for off-street parking and loading areas where required, with particular attention to the economic, noise, and the impact of the proposed use on local population and community facilities; and
- G. that all applicable requirements of the ordinance have been met.

6.6 Conditions Attached to Conditional-Use

Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to ensure compliance with the requirements of this Ordinance. Such conditions may include, but are not limited to, specifications for type of vegetation, increased setback and yards, specified sewerage disposal and water supply facilities, landscaping and planting screen, period of operation, operational controls, professional inspection and maintenance, sureties, deed restrictions, restrictive covenants, location of piers, docks, parking and signs, type of construction or any other conditions necessary to endure compliance with the requirements of this ordinance.

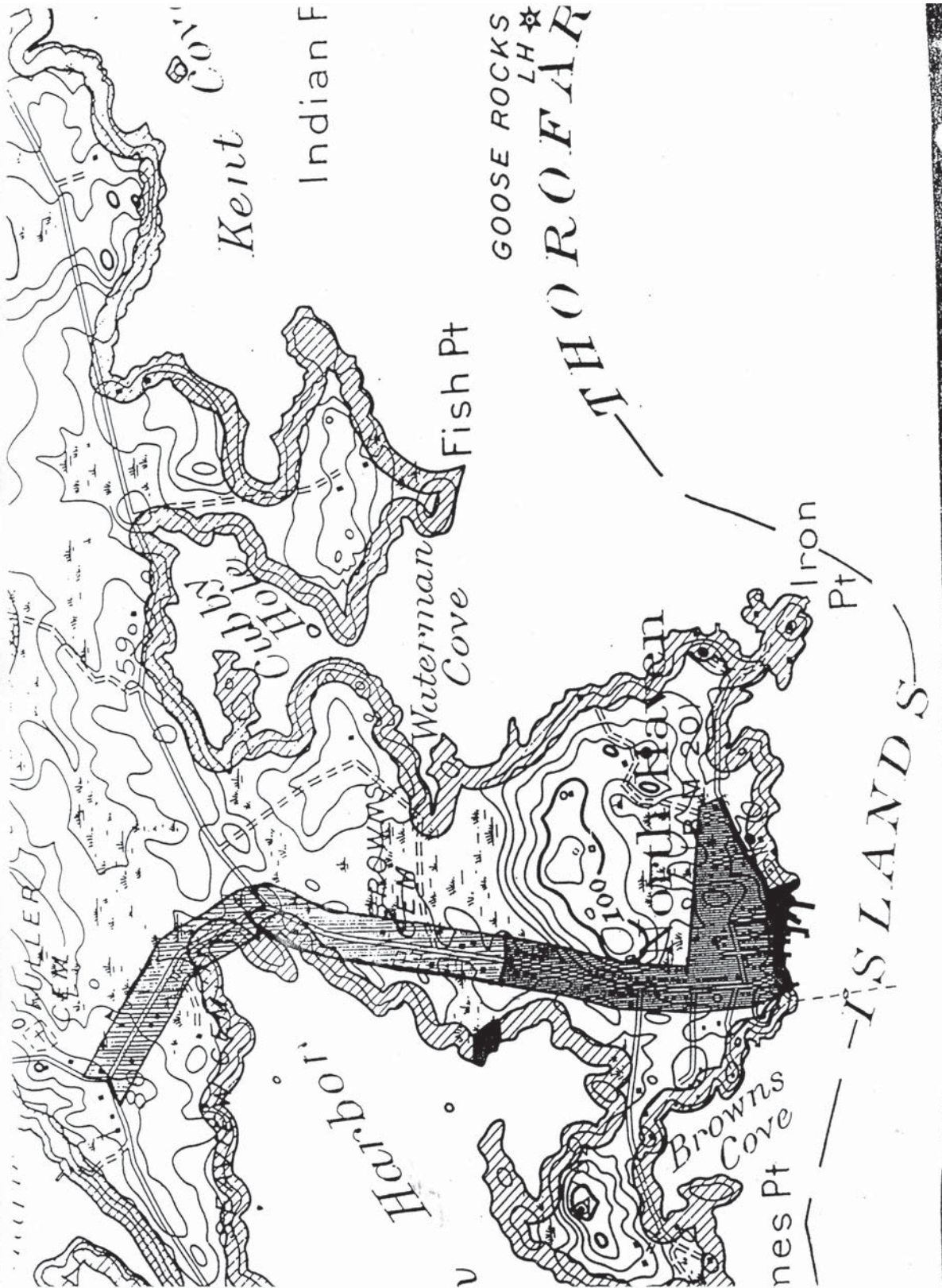
6.7 Reapplication

If the Planning Board denies a conditional-use permit, a second request of a similar nature shall not be brought before the Board within two (2) years from the date of the first request unless, in the opinion of the majority of the Board, substantial new evidence can be brought forward, or unless the Board finds that an error of law or misunderstanding of facts has been made, or unless amendment to the zoning Ordinance has been made which changes the status, circumstances, or conditions of the matter which was brought before the Board.

6.8 Duration of Conditional-Use Permit

Provided all conditions and standards of approval are met, a conditional-use permit shall be a permanent grant of permission and shall *run with the land*, subject to compliance with the expiration provisions in Sections 5.1 and 6.2.

LAND USE
ORDINANCE FOR THE TOWN OF NORTH HAVEN



PARKING FINE ORDINANCE FOR THE TOWN OF NORTH HAVEN

1. **AUTHORITY AND PURPOSE:** This ordinance is adopted by the Municipal Officers (Selectmen) of the Town of North Haven in accordance with 30-A MRSA §3009. The Selectmen find that the current parking fines need to be updated.
2. **DEFINITIONS:** Words used in this ordinance shall be defined in accordance with 29 MRSA §1; any undefined word shall have its common, ordinary meaning.
3. **RESTRICTION:** All vehicles parked between Mills Street and Smith Street must be contained within the parking lines.
4. **FINES:** Any person who violates the parking ordinance(s) of the Town of North Haven shall be subject to the following fines which shall inure to the municipality. In the event that court action is necessary to collect the fine, the violator shall also be responsible for the municipality's court costs and reasonable attorney's fees.

These fines are in effect for the following violations:

Parking in a No Parking Zone	\$10
Violation of Main St. Storage Ordinance	\$25
Snow Removal Interference	\$15
Blocking Fire Hydrant	\$25
Double Parking	\$10
Blocking a Driveway	\$10
Parking out of marked Space	\$10
Parking in a Handicap Zone	\$75

Parking fines must be paid within 30 days of issue.

5. **EFFECTIVE DATE:** This ordinance shall become effective when adopted by a majority of the Board of Selectmen.

Date adopted: 4/10/2007

MAIN STREET PARKING STORAGE ORDINANCE FOR THE TOWN OF NORTH HAVEN

1. **AUTHORITY AND PURPOSE:** This ordinance is adopted by the Municipal Officers (Selectmen) of the Town of North Haven in accordance with 30-A MRSA §3009. They have found that leaving a vehicle standing upon Main Street for a continued period of time creates a public nuisance.

2. **DEFINITIONS:** Words used in this ordinance shall be defined in accordance with 29 MRSA §1; any undefined word shall have its common, ordinary meaning.

3. **RESTRICTION:** Posted restriction. No person shall leave a vehicle standing on Main Street between Mills Street and Smith Street from midnight to six a.m. This restriction shall be in effect from midnight Memorial Day until midnight Columbus Day. From Columbus Day until Memorial Day, vehicles may not be stored for longer than 72 hours. Storage is defined as the leaving of a vehicle standing upon Main Street between Mills Street and Smith Street for a continued period of 72 hours or more. A vehicle shall not be considered to be stored on Main Street under this ordinance when a vehicle has been removed and returned to the same space within a 72 hour period. All vehicles must be contained within the parking lines.

4. **FINE AND TOWING:** Any person who violates this ordinance shall be subject to a fine of \$25.00 which shall inure to the municipality. In the event that court action is necessary to collect the fine, the violator shall also be responsible for the municipality's court costs and reasonable attorney's fees. A motor vehicle parked in violation of this ordinance may be towed by a wrecker authorized by the municipality, at the request of the road commissioner or other official duly authorized and appointed by the Selectmen. Within 4 calendar days of the tow the municipal official who requested the tow shall send to the registered owner a notice stating the date and time of the tow, the location where the motor vehicle is impounded, and the requirements for release of the motor vehicle.

5. **POST-TOW HEARING:** The owner or operator of a motor vehicle which has been towed pursuant to this ordinance may, within 30 days after the tow, request a hearing to show good cause why he or she should not be liable for the \$25.00 fine. The hearing shall be conducted by the Board of Selectmen. If the Board determines that the owner has shown good cause, it shall waive the fine. The Board may not, however, reimburse or pay any towing and storage fees paid by the owner to recover the motor vehicle.

6. **RELEASE OF TOWED VEHICLE:** Any person seeking release of a motor vehicle towed pursuant to this ordinance must first (a) pay all towing charges and storage charges and (b) present satisfactory evidence of his or her right to possession and (c)

sign a receipt for the vehicle. The municipality is not liable for any damage that may be caused by towing of a vehicle, or for any towing or storage charges.

7. PRIMA FACIE EVIDENCE OF OPERATION: No person shall cause, allow or permit a motor vehicle registered in his or her name to park in violation of this ordinance. The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person, or with the knowledge or consent of the person, in whose name such vehicle is registered.

8. PARKING FINES: These fines are in effect for the following violations:

Overnight parking (May – October)	\$25
-----------------------------------	------

Over 72 hour parking (October – May)	\$25
--------------------------------------	------

Parking fines must be paid within 30 days of issue.

9. EFFECTIVE DATE: This ordinance shall become effective when adopted by a majority of the Board of Selectmen.

Date adopted: 4/10/2007

TABLE OF CONTENTS SEWER USE ORDINANCE

		<u>Page No.</u>
Article I	Definitions	1
Article II	Abbreviations	5
Article III	Liability Insurance Required	7
Article IV	Use of Public Sewers Required	8
Article V	Private Wastewater Disposal	9
Article VI	Building Sewers and Connections	10
Article VII	Use of Public Sewers	14
Article VIII	Sewer Extension	20
Article IX	Protection from Damage	26
Article X	Powers and Authority of Inspectors	27
Article XI	Penalties	28
Article XII	Sewer Use Charges	29
Article XIII	License	31
Article XIV	Validity	32
Article XV	Sewer Use Ordinance in Force	33
Appendix A	Sample Applications for Building Sewer Permits	

Town of North Haven

Sewer Use Ordinance

ORDINANCE FOR REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE WASTEWATER DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF: IN THE TOWN OF NORTH HAVEN.

Be it enacted by the voters of the Town of North Haven as follows:

ARTICLE I

Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- Section 1. “Biochemical Oxygen Demand (BOD)” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 °C, expressed in milligrams per liter.
- Section 2. “Board of Selectmen” shall mean the duly elected Selectmen of the Town of North Haven, or their authorized representative.
- Section 3. “Building” shall mean a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure, or support of persons, animals, or property of any kind.
- Section 4. “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain extends eight (8) feet (2.44 meters) outside the inner face of the building wall.
- Section 5. “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal, also called house connection.
- Section 6. “Combined Sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.
- Section 7. “Contractor” shall mean any entity engaged in construction of building sewer, storm drains, or sewer extensions within the area governed by the Town.

- Section 8. "Easement" shall mean an acquired legal right for the specific use of land owned by others.
- Section 9. "Engineer" shall mean the Professional Engineer retained by the Town of North Haven. In the event the Town has not retained an Engineer, the term "Engineer" as used herein will be construed to mean the Superintendent of the Town of North Haven.
- Section 10. "Floatable Oil" is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.
- Section 11. "Garbage" shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
- Section 12. "Industrial Wastes" shall mean the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.
- Section 13. "Living Unit" means one or more rooms arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities.
- Section 14. "Motel Unit" means a room or rooms which are directly accessible from an outdoor parking area.
- Section 15. "Natural Outlet" shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.
- Section 16. "Person" shall mean any individual, firm, company association, society, corporation, municipal or quasi-municipal agency, state agency, federal agency or other legal entity.
- Section 17. "pH" shall mean the logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .
- Section 18. "Pollutant" shall include but is not limited to dredged spoil, solid waste, junk, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt, and industrial, municipal, domestic, commercial, or agricultural wastes of any kind.

- Section 19. "Properly Shredded Garbage" shall mean the wastes from the handling, preparation, cooking, and serving of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension.
- Section 20. "Property Line" shall mean the edge of the street right-of-way if the building sewer is to connect with the public sewer in a public street. "Property Line" shall mean the edge of a sewer easement in those instances where the building sewer connects to the public sewer in a sewer easement.
- Section 21. "Public Sewer" shall mean a common sewer owned, operated, and maintained by public authority, or governmental agency.
- Section 22. "Sanitary Sewer" shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- Section 23. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.
- Section 24. "Shall" is mandatory; "May" is permissive.
- Section 25. "Slug" shall mean any discharge of water, or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and adversely affects the collection system and/or performance of the wastewater treatment works.
- Section 26. "Storm Drain" (sometimes termed "Storm Sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- Section 27. "Superintendent" shall mean the Superintendent of wastewater facilities of the Town of North Haven or his authorized deputy, agent, or representative.
- Section 28. "Suspended Solids" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association and referred to as nonfilterable residue.

- Section 29. "Town" shall mean the Town of North Haven.
- Section 30. "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and waste water treatment facilities provided.
- Section 31. "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried waste from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and stormwaters as may be present.
- Section 32. "Wastewater Treatment Plant" shall mean an arrangement of devices and structures for treating wastewater, industrial waste, and sludge.
- Section 33. "Wastewater Facilities" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.
- Section 34. "Water Course" shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

ARTICLE II

Abbreviations

For the purpose of this ordinance the following abbreviations shall have the Meaning ascribed to them under this article. References to standards of the Following organizations shall refer to the latest edition of same.

- Section 1. ANSI shall mean American National Standards Institute.
- Section 2. ASME shall mean American Society of Mechanical Engineers
- Section 3. ASCE shall mean American Society of Civil Engineers.
- Section 4. ASTM shall mean American Society for Testing and Materials
- Section 5. AWWA shall mean American Water Works Association.
- Section 6. cm shall mean centimeter.
- Section 7. CS shall mean Commercial Standards.
- Section 8. Degrees C shall mean degrees Celsius.
- Section 9. Degrees F shall mean degrees Fahrenheit.
- Section 10. DEP shall mean State of Maine Department of Environmental Protection.
- Section 11. EPA shall mean United States Environmental Protection Agency
- Section 12. ICR shall mean Industrial Cost Recovery.
- Section 13. kg shall mean Kilograms.
- Section 14. l shall mean liters
- Section 15. M shall mean meter
- Section 16. mg/l shall mean milligrams per liter.
- Section 17. NEIWPC shall mean New England Interstate Wastewater Pollution Control Commission.
- Section 18. NPC shall mean National Plumbing Code.
- Section 19. ppm shall mean parts per million.

Section 20. sq.m. shall mean square meter.

Section 21. WPCF shall mean Water Pollution Control Federation.

ARTICLE III

Liability Insurance Required

Section 1. A contractor engaged in construction must present to the Town a Certificate of Insurance showing minimum liability coverage of \$400,000* for bodily injury and \$200,000 for property damage including collapse and underground coverage before a permit will be issued for construction of building sewers, storm drains, or sewer extensions. Higher coverage may be required by the Town when circumstances reasonably require it. The Town shall be notified prior to cancellation of the policy.

*(Maximum under Tort Claims Act)

ARTICLE IV

Use of Public Sewers Required

- Section 1. It shall be unlawful for any person to place, deposit, or permit to be placed or deposited in any unsanitary manner on public or private property within the territory of the Town of North Haven, any human or animal excrement, garbage, or other objectionable waste.
- Section 2. It shall be unlawful to discharge to any natural outlet within the territory of the Town of North Haven, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these rules and regulations and the requirements of the State of Maine.
- Section 3. Except as here-in-after provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- Section 4. The owner(s) of all buildings, or other properties used for human occupancy, employment, recreation, or other purposes, situated within the territory of the Town of North Haven and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the Town, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, and if feasible, with a separate connection for each house or building, in accordance with the provisions of these rules and regulations, within 90 days after date of official notice to do so, provided that said public sewer is within 200 feet of the structure to be served, unless undue hardship would result in which case the property owner should request in writing a deferral of these requirements and the owner shall be required to demonstrate the nature and degree of hardship.

ARTICLE V

Private Wastewater Disposal

- Section 1. Where a public sanitary sewer is not available under the provisions of Article IV, Section 4, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article and the State of Maine Plumbing code, Part II Subsurface Wastewater Disposal Rules, Chap. 241.
- Section 2. Before commencement of construction of a private wastewater disposal system the owner shall first obtain a written permit signed by the licensed plumbing inspector for the Town of North Haven. Approval of Private Wastewater disposal systems is a function of the licensed plumbing inspector for the Town of North Haven.
- Section 3. The type, capacities, location, and layout of a private wastewater disposal system shall comply with the State of Maine's Plumbing code, Part II – Subsurface Wastewater Disposal Regulations and the Minimum Lot Size Law (Maine Revised Statutes Annotated Titles 12 Chapter 423-A). No private wastewater disposal system shall be permitted to discharge to any natural outlet.
- Section 4. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.

ARTICLE VI

Building Sewers and connections

Section 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

Any person proposing a new discharge into the system or a substantial change in the volume or character of pollutants that are being discharge into the system shall notify the Superintendent at least forty-five (45) days prior to the proposed change or connection, and shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, subchapter I, Section 361.

Section 2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishment producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgments of the Engineer. A permit and inspection fee of \$15.00 for a single residential sewer permit, plus \$2.00 for each additional living unit incorporated in the same residential structure, shall be paid to the town at the time an application is filed; provided, however, that not more than four (4) living units may be connected to a single tap. The Board of Selectmen shall fix a permit and inspection fee for each commercial, industrial, or other non-residential building, after recommendation of the Engineer, based on the size and nature of the operation proposed as compared to the demands of a single residential structure.

Section 3. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner except for those sewers servicing existing structures and shown in the final design prior to bid (dated 9/12/86). The owner shall indemnify the Town from any loss or damage which may directly or indirectly be occasioned by the installation of the building sewer and all building sewers shall be the property of the landowner.

Section 4. A separate and independent building sewer shall be provided for every building requiring a sewer connection; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where building sewers are to serve multiple dwelling structures,

there shall be provided at least (1) separate building sewer for each group of four (4) living units.

- Section 5. Old building sewers may be used only when they are found, on examination and testing by the Superintendent, to meet all requirements of these rules and regulations.
- Section 6. The building sewer shall be extra heavy cast iron soil pipe and fittings conforming to ASTM A74 or polyvinyl chloride (PVC) pipe conforming to ASTM D2665 or D3034.
- Section 7. The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than four (4) inches, nor shall the slope of the pipe be less than one-eighth (1/8) inch per foot.
- Section 8. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost, but in no event shall be less than four (4) feet. Insulation may be used to decrease depth if approved by the Superintendent. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. The ends of building sewers, which are not connected to the building drain of the structure for any reason, shall be sealed against infiltration by a suitable stopper, plug, or other approved means. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sewage or industrial waste carried by such drain shall be lifted by approved mechanical means and discharged to the building sewer.
- Section 9. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to the public sanitary sewers. All drainage water connections, currently connected to the public sanitary sewer, shall be removed from all house connections in all areas of Town.
(Amended Special Town Meeting June 26, 2007)
- Section 10. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with ASTM C12 except that no backfill shall be placed until the work has been inspected by the Superintendent; and that trench width measured at the top of the installed pipe shall not exceed twenty-four (24) inches.
- Section 11. All joints and connections shall be made gas tight and watertight.

Section 12. The connection of the building sewer into an existing public sewer shall be made at the property line. The connection of the building sewer from the property line to the sewer main will be by the Town of North Haven. The cost of maintenance of the building sewer from the building drain to the sewer main will be by the building owner.

Section 13. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Superintendent or his representative.

When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent before the trenches are filled; and the person performing such work shall notify the Superintendent when the installation of the building sewer is completed. If the trench is filled before inspection, the Superintendent will require it to be re-excavated for inspection.

Section 14. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

Section 15. When any building sewer is to serve a school, hospital, or similar institution or public building, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Superintendent, will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required, a new manhole shall be installed in the public sewer pursuant to article VIII, Section 4 and the building sewer connection made thereto as directed by the Superintendent.

Section 16. The Town will consider any special situation, where it would be more feasible to connect a maximum of five (5) seasonal cottages, cabins, etc. into a single building sewer. The owner of the seasonal property shall request a review of any special situations in writing, to the superintendent. The Superintendent's approval or disapproval shall be in writing.

- Section 17. "Sewer Department will pay for the maintenance of all lift pumps. The property owners will continue to be responsible for all electrical charges."
(Amended by vote of Board of Selectmen 9/25/2001)
- Section 18. Manholes and cleanouts shall be backfilled with "Screened Gravel" as specified in the Sewer User Ordinance, Article VIII, Section 4, Paragraph h. Gravel backfill shall extend to a minimum of one foot outside of the structures. Cleanouts shall be constructed as directed by the Superintendent.

ARTICLE VII

Use of Public Sewers

- Section 1. No person shall discharge or cause to be discharged any unpolluted waters such as storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- Section 2. Stormwater and all other unpolluted drainage shall be discharged to storm sewers, or to a natural outlet as approved by the Superintendent. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Superintendent, to a storm sewer or natural outlet and the discharge shall comply with Maine Revised Statutes Annotated, Title 38, Chapter 3, Section 413.
(Updated to comply with 6/26/2007 amendment to Art.VI sec 9)
- Section 3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- a. Any gasoline, benzene, naphtha, fuel oil, or other flammable explosive liquid, solid, or gas which will create a fire or explosive hazard in the wastewater facilities.
 - b. Any waters or pollutants containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
 - c. Any waters or pollutants having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works; unless the works are specifically designed to accommodate such discharges.
 - d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshing, entrails, paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.

- e. Any waters or pollutants including oxygen demanding pollutants (BOD, etc.), which released in quantities of flow or concentrations or both, constitute a “slug” as defined herein.
- f. Any heated waters or pollutants in amounts which will inhibit or interfere with biological activity in the wastewater treatment works but in no case heated waters or pollutants in such quantities that the temperature at the wastewater treatment works influent exceeds 104° Fahrenheit (40° Celsius).

Section 4. The following described substances, materials, waters, or pollutants shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than the limitations established in the regulations below if in his opinion more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Superintendent will give consideration to such factors as the quantity of subject wastes in relation to flows and velocities in the sewers, the wastewater treatment process employed, capacity of the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions of waste or wastewaters discharged to the sanitary sewer, which shall not be violated without approval of the superintendent are as follows:

- a. Wastewater having a temperature higher than one hundred fifty (150) °F (65° Celsius).
- b. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- c. Wastewater from industrial plants containing floatable oils, fat, or grease.
- d. Any garbage that has not been properly shredded. (See Article 1, Section 19) Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.

- e. Any waters or pollutants containing iron, chromium, copper, zinc, and similar objectionable or toxic substances in such quantities or concentrations that any such material received in the composite wastewater at the wastewater treatment works exceeds limits established by the Superintendent for such materials.
- f. Any waters or pollutants containing odor-producing substances exceeding limits that may be established by the superintendent.
- g. Any radioactive wastes or isotopes of such half-life or concentrations as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- h. Quantities of flow, concentrations, or both which constitute a “slug” as defined herein.
- i. Waters or pollutants containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- j. Any water or pollutants which, by interaction with other water or pollutants in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- k. Any waters or pollutants having a pH in excess of 9.5 or lower than 5.5.

Section 5. If any waters or pollutants are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4 of this Article, and which in the judgment of the Superintendent may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- a. Reject the waters or pollutants,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers, and/or

- c. Require control over the quantities and rates of discharge, and/or,
- d. Require payment to cover the added costs of handling and treating the wastes.

When considering the above alternatives, the Superintendent shall give consideration to the economic impact of each alternative on the discharger.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment or equalization plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances, laws, and the Town's discharge permit.

- Section 6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts as specified in Section 4 (c), or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owners shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal, which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms. Emulsifiers shall not be used to clean out grease or oil interceptors.
- Section 7. Where pretreatment or flow-equalizing facilities are provided or required for any waters or pollutants, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- Section 8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial pollutants shall install a suitable structure, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structures when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 9. The Superintendent may require a user of sewer services to provide information needed to determine compliance with this Sewer Use Ordinance. These requirements may include:

- a. Wastewater discharge peak rate and volume over a specified time period.
- b. Chemical analyses of wastewaters.
- c. Information on raw materials, processes, and products affecting wastewater volume and quality.
- d. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- e. A plot plan of sewers on the user's property showing sewer and pretreatment facility locations.
- f. Details of wastewater pretreatment facilities.
- g. Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

All industries discharging into a public sewer shall perform such monitoring of their discharges as the Superintendent and/or other duly authorized employees of the Town may reasonably require, including installation, use, and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Superintendent. Such records shall be made available upon request by the Superintendent to other Agencies having jurisdiction over discharges to the receiving waters.

Section 10. All measurements, tests, and analyses of the characteristics of waters and pollutants to which reference is made in the Sewer Use Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the structure as required in Article VII, Section 8, or upon suitable samples taken at said structure. In the event that no special structure has been required, suitable samples shall be taken at the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the wastewater facilities and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples

should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH is determined from periodic grab samples.)

- Section 11. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern provided that such agreements do not contravene any requirements of existing Federal or State laws and/or regulations promulgated hereunder, and are compatible with any User Charge and Industrial Cost Recovery System in effect.

ARTICLE VIII

Sewer Extensions

- Section 1. All extensions to the sanitary sewer system owned and maintained by the Town shall be properly designed in accordance with the Design and Construction of Sanitary and Storm Sewers, ASCE Manuals and Reports on Engineering Practice – No. 37 (WPCF Manual of Practice No. 9). Plans and specifications for sewer extensions shall be submitted to and approval obtained from the engineer before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.
- Section 2. Sewer extensions, including individual building sewers from the sewer to the property line, may be constructed by the Town under public contract, if, in the opinion of the Selectmen, the number of properties to be served by such extension warrants its cost or if the installation is included as part of the installation of the public sewer on Upper Main Street. Under this arrangement the property owner shall pay for the installation of the building sewer from the property line to his residence or place of business in accordance with the requirement of Article VI except for those buildings on Upper Main Street. Property owners may propose sewer extensions within the Town by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the town. The cost of such extensions may be assessed to the benefited property owners in any manner determined by the Town.
- Section 3. If the town does not elect to construct a sewer extension under public contract, the property owner, building contractor, or developer may construct the necessary sewer extension, if such extension is approved by the Selectmen in accordance with the requirements of Article VIII, Section 1. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and the inspection fees shall be paid. Design of sewers shall be as specified in Article VIII, Section 4. The installation of the sewer extension must be subject to periodic inspection by the Engineer and the expenses for this inspection shall be paid for by the owner, building contractor, or developer. The Engineer's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the leakage test required in Article VIII, Section 5 before it is to be used. The cost of sewer extension thus made shall be absorbed by the developers or the property owners, including all building sewers and the discharge shall comply with MRSA, Chapter 3, Section 413.

Section 4. Sewer design must be approved by the Maine Department of Environmental Protection and shall be in accordance with the following provisions:

- a. Pipe material and joints shall be polyvinyl chloride (PVC) conforming to ASTM D3034 or D3033 and the strength requirements of S.D.R. 35 or Class 52 ductile iron meeting AWWA C150 with joints meeting AWWA C104 and fittings meeting AWWA C110.
- b. Minimum internal pipe diameter shall be eight (8) inches.
- c. All joints shall be prepared and installed in accordance with the manufacturer's recommendations.
- d. Wye branch fittings or saddles with stainless steel straps set in mastic between saddle and pipe shall be used and a watertight connection shall be provided.
- e. The minimum slope of sewer pipe and maximum width of the trench at a point six (6) inches above the top of the sewer pipe shall be as follows:

<u>Pipe Diameter</u>	<u>Trench Width</u>	<u>Minimum Slope In Feet Per 100 Feet</u>
8"	2' – 8"	0.40
10"	2' – 10"	0.28
12"	3' – 0"	0.22
14"	3' – 2"	0.17
15"	3' – 3"	0.15
16"	3' – 4"	0.14

- f. If the trench widths are found to exceed the limits of the above table, the sewer pipe shall be encased in a minimum of six (6) inches of concrete.
- g. All pipes shall be laid on six (6) inches of screened gravel, and the screened gravel shall be shaped to a height of $\frac{1}{4}$ of the pipe diameter so as to give uniform circumferential support to the pipe.
- h. The Screened gravel shall cover the pipe to a point twelve (12) inches above the top of the pipe.

- i. Screened gravel shall have the following gradation:

<u>Sieve Size</u>	<u>% By Weight Passing</u>
1 inch	100
¾ inch	90-100
3/8 inch	20-55
#4 mesh	0-10
#8 mesh	0-5

- j. Pipe classes shall be determined according to WPCF Manual of Practice No. 9.

Pipe thickness shall be calculated on the following criteria:

Safety Factor	2.0
Load Factor	1.7
Weight of soil	120 lbs/cu. ft.
Wheel Loading	16,000 lbs.

- k. Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding 350 linear feet and shall be precast.
1. Precast manhole sections shall be manufactured in accordance with ASTM Designation C475-68T. The minimum compressive strength of the concrete for all sections shall be 4000 psi and shall be Type II. The circumferential steel reinforcement for 4-foot diameter riser sections, cone sections, and base walls shall be 0.20 square inches per linear foot. Reinforcing in the bottoms of precast bases shall be of the same design. Reinforcing shall extend into the tongue and groove of each manhole wall section.
 2. The tongue and groove of manhole sections, including the precast base, shall be formed of concrete so as to receive the Butyl rubber sealant. Sections shall be set so as to be vertical and in true alignment and sealed with two (2) 1" Butyl rubber seals.
 3. Manhole steps shall be aluminum drop-front type or Polypropylene reinforced with steel rod, minimum width of 16". All steps shall be cast into walls of the precast sections so as to form a continuous ladder with a distance of twelve (12) inches between steps.

4. Precast base sections shall be monolithically pressure cast. Holes for pipes shall be cast in the base section so that there is a clear distance of four (4) inches minimum between the inside bottom of the base section and the pipe invert.
5. Pipe to manhole connections shall be made with flexible manhole sleeves and stainless steel bands.
6. The top of the precast reinforced concrete unit shall be set at a grade that will allow a minimum of two courses and maximum of five courses of brick and mortar before setting the cast iron frame and cover. Mortar for brick masonry shall be Portland cement mixed in the proportion of one part cement to two parts sand, worked to the proper consistency.
7. The outside of the masonry work of all manholes shall be plastered with a 1:2 Portland cement mortar. The thickness of the mortar shall be one-half ($\frac{1}{2}$) inch and the mortar shall be carefully spread and thoroughly troweled, leaving a smooth, substantially waterproof surface. The mortar shall be extended to completely cover the outside surfaces of all masonry work. The inside brickwork shall be pointed.
8. The concrete manholes shall have a brick channel passing through the bottom which corresponds in shape with the lower half of the pipe. Side inverts shall be curved and main inverts (where direction changes) shall be laid out in smooth curves of the longest possible radius. The top of the brick shelf shall slope to drain towards the flowing through channel.
9. Manhole frames and covers shall meet the standards of the Town. Manhole frames shall be 8" high and shall be approximately 32" in diameter with a 22" opening. Frames shall weigh approximately 310 pounds. Manhole covers shall be 24" in diameter and shall weigh approximately 175 pounds.
10. Manholes shall be back filled with gravel to a point a minimum of two 2 feet from the outside of the manhole.

Section 5. All sewers shall satisfy requirements of a leakage test before they are accepted by the Town. The leakage test shall be as follows:

- a. For each size of pipeline, an initial leakage test shall be made on the first section of the pipeline complete between two adjacent manholes. Thereafter, the leakage tests shall be made on sections of approved lengths of completed pipeline, which in no case shall exceed 1,000 feet.
- b. Each Section shall be tested upon its completion.
- c. The pipeline will be subject to testing for infiltration or exfiltration.
- d. The pipeline shall satisfactorily pass the leakage test with no material except the gasket in the joint spaces. Caulking of joints shall not be permitted.
- e. Tests shall be made under the supervision of the Superintendent. The allowable infiltration or exfiltration shall be 200 gallons per inch of diameter per day per mile of sewer.
- f. Test sewer using low pressure air as follows:
 1. Plug ends of section to be tested.
 2. Supply air slowly to the pipe to be tested until the air pressure inside the pipe is 4.0 psi greater than the average back pressure of any groundwater submerging the pipe.
 3. Disconnect air supply and also allow a minimum of 4 minutes for stabilization of pressure.
 4. Following stabilization period measure drop in pressure over a six minute period.
 5. Acceptable drop: Not more than 1 psi.

Section 6. All manholes shall satisfy the requirements of a leakage test before they are accepted by the Town. The leakage test shall be as follows:

- a. Tests must be observed and certified by the Superintendent. Manholes must be complete except for shelf and invert brickwork. Plug all pipes and other openings in the manhole prior to test.

- b. Infiltration test manholes with groundwater table above highest joint. Manhole passes infiltration if there is no visible leakage into manhole.
- c. For exfiltration test of manholes:
 - 1. Plug pipes into and out of MH and secure plugs.
 - 2. Lower groundwater table (GWT) to below HM. Maintain GWT at this level throughout test. Provide means of determining FWT level at any time throughout test.
 - 3. Fill MH with water to top of cone.
 - 4. Allow a period of time for absorption (determined by Contractor).
 - 5. Refill top of cone.
 - 6. Determine volume of leakage in an 8 hour (min) test period and calculate rate.
 - 7. Acceptable leakage rate: Not more than 1 gallon per vertical foot per 24 hours.

Section 7. All sewer extensions constructed at the property owner's or developer's expense, after final approval and acceptance by the Engineer, shall become the property of the Town and shall thereafter be maintained by the Town. Said sewers, after their acceptance by the Town, shall be guaranteed against defects in materials or workmanship for twelve (12) months. The guarantee shall be in a form provided for by the Town. At the sole discretion of the Town, a maintenance bond or certified check may be demanded as part of the guarantee.

ARTICLE IX

Protection from damage

- Section 1. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision may be subject to arrest under the charge of criminal mischief as set forth in Maine Revised Statutes Annotated, Title 17-A, Chapter 33, Section 806.

ARTICLE X

Powers and Authority of Inspectors

- Section 1. The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this Sewer Use Ordinance.
- Section 2. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater facilities. The industry may request that such information be kept confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- Section 3. While performing the necessary work on private properties referred to in Article X, Section 1, above, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Town employees and the Town shall indemnify the company against loss or damage to his property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article VII, Section 8.
- Section 4. The Superintendent and other duly authorized employees or agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE XI

Penalties

- Section 1. Any person found to be violating any provision of this Sewer Use Ordinance except Article VIII, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- Section 2. Any person who shall continue any violation beyond the time limit provided for in Article XI, Section 1, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$100.00 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- Section 3. Any person violating any of the provisions of this Sewer Use Ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such offense.
- Section 4. Notwithstanding any of the foregoing provisions, the Superintendent may institute any appropriate action including injunction or other proceedings to prevent, restrain, or abate violations hereof.

ARTICLE XII

Sewer Use Charges

- Section 1. The source of a portion of the revenues for retiring debt services, capital expenditures, and operation and maintenance of the wastewater treatment facilities shall be a Sewer Use Charge assigned to owners of property located within the limits of the Town whose residence or place of business is connected to the public sewer system.
- Section 2. Sewer Use Charge rates shall be determined by the Selectmen on a year to year basis. In general, charges will be calculated on a general use basis as established by the Town. The Sewer Use Charge will be computed and billed at regular intervals throughout each calendar year, as established by the Selectmen.
- Section 3. The Sewer Use Charge assigned to any property owner who contributes a significant quantity of industrial wastes to the public sewers, or who contributes a combination of sewage and industrial wastes to the public sewers, shall be determined on a special rate structure based on water consumption where possible or as set by the Town.
- The property owners to be charged in this manner will be determined by the Town on a year to year basis.
- Section 4. A special Sewer Use Charge shall be assigned to any industrial firm or organization who, by virtue of the volume, strength or unusual characteristic of their waste alone, would overload or upset the capacity or efficiency of the wastewater treatment facilities or any part thereof if such waste entered the public sewer, or whose waste disposal situation is such that it would be in the public interest to waive the requirements of Article XII. The Selectmen, after appropriate study, and advice from the Engineer, shall assign a Special Sewer Use Charge to the industrial firm by separate agreement with said firm. The applicable portions of the preceding sections, as well as the equitable rights of the public shall be the basis for such an arrangement.
- Section 5. The Town reserves the right, from time to time, to change Sewer Use Charges originally or previously assigned to any property owner.
- Section 6. All property owners who are outside the Town's limit who, by their own request, are served by sanitary sewers must pay a sewer use charge established by the Town.

Section 7. All bills are due and payable upon presentation. A late-payment charge will be made on any unpaid balance outstanding after 30 days from the billing date. Interest shall be charged on delinquent accounts at the same rate as charged by the town of North Haven for delinquent municipal taxes.

(Amended Town Meeting March 11, 2000)

Section 8. There shall be a lien to secure the payment of sewer charges and interest legally assessed on real estate within the Town, which shall take precedence over all other claims. The Treasurer of the Town shall have the authority and power to sue for and collect the sewer charges and interest.

(Amended Town Meeting March 6, 1989)

Article XII-A

For purposes of assessments and fees concerning construction of sewers and drains and extensions of sewers, the Town has adopted the provisions of Title 30-M.R.S.A.sec 3441-3445: those provisions shall be incorporated into this Ordinance and shall determine procedures for assessments and fees for the construction of sewers and drains and extensions of sewers.

(Added Special Town Meeting July 26, 2000)

ARTICLE XIII

License

- Section 1. If, in the opinion of the Town, the work performed by any contractor, property owner, or developer working within the Town violates any provisions of this sewer use ordinance, or if any work is, in the opinion of the Town or its Engineer, sub-standard, the Town may disapprove existing work or any future work in the Town.

ARTICLE XIV

Validity

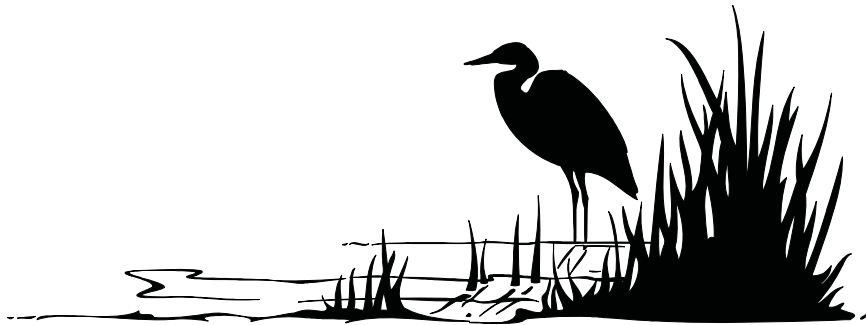
- Section 1. All ordinances or parts thereof in conflict with this Sewer Use Ordinance are hereby repealed.
- Section 2. The invalidity of any section, clause, sentence, or provision of this Sewer Use Ordinance shall not affect the validity of any other part of this Sewer Use Ordinance which can be given effect without such invalid part or parts.

ARTICLE XV

Sewer Use Ordinance in Force

- Section 1. This Sewer Use Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.
- Section 2. Passed and adopted by the voters of the Town of North Haven, State of Maine, on the 9th day of June, 1987.
- Section 3. Amended by the voters of the Town of North Haven, State of Maine, on the 6th day of March, 1989.
- Section 4. Amended by the voters of the Town of North Haven, State of Maine, on March 11, 2000.
- Section 5. Amended by the voters of the Town of North Haven, State of Maine, on July 26, 2000.
- Section 6. Amended by vote of the Board of Selectmen, Town of North Haven, Maine on September 25, 2001.
- Section 7. Amended by the voters of the Town of North Haven, State of Maine, on June 26, 2007.

**Subdivision Ordinance
FOR
NORTH HAVEN, MAINE**



EFFECTIVE DATE: JANUARY 8, 2013

Art. 1	Purposes and Statutory Review Criteria	
1.1	Purposes	1
1.2	Statutory Review Criteria	1
Art.2	Authority and Administration	
2.1	Authority	5
2.2	Administration	5
2.3	Amendments	5
Art. 3	Definitions	6
Art. 4	Administrative Procedure	10
Art. 5	Sketch Plan Meeting and Site Inspection	
5.1	Purpose	11
5.2	Sketch Plan Meeting Procedure	11
5.3	Contour Interval and On-Site Inspection	12
5.4	Rights Not Vested	12
5.5	Establishment of File	12
Art. 6	Preliminary Plan Application	
6.1	Procedure	13
6.2	Mandatory Submission for Preliminary Plan	15
Art. 7	Final Plan Application	
7.1	Procedure	20
7.2	Mandatory Submissions	22
7.3	Required Submissions for which a Waiver May be Granted	24
7.4	Final Approval and Filing	25
Art. 8	Revisions to Approved Plans	
8.1	Procedure	27
8.2	Submissions	27
8.3	Scope of Review	27
Art. 9	Inspections and Enforcement	
9.1	Inspection of Required Improvements	28
9.2	Violations and Enforcement	29
Art. 10	Performance and Design Standards	
10.1	Basic Subdivision Layout	31
10.2	Sufficient Water	32
10.3	Erosion and Sedimentation and Impact on Water Bodies	34
10.4	Sewage Disposal	35
10.5	Solid Waste	36
10.6	Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline	36
10.7	Conformance with Zoning Ordinances and Other Land Use Ordinances	41

10.8	Financial and Technical Capacity	41
10.9	Impact on Ground Water Quality of Quantity	42
10.10	Floodplain Management	43
10.11	Identification of Freshwater Wetlands, Rivers, Streams or Brooks	44
10.12	Stormwater Management	44
10.13	Cluster Developments	45
10.14	Compliance with Timber Harvesting Rules	47
10.15	Traffic Conditions and Streets	48
10.16	Specific Access and Street Design Standards	50
Art. 11	Performance Guarantees	
11.1	Types of Guarantees	62
11.2	Contents of Guarantees	62
11.3	Escrow Account	62
11.4	Performance Bond	62
11.5	Letter of Credit	63
11.6	Phasing of Development	63
11.7	Release of Guarantee	63
11.8	Default	63
11.9	Improvements Guaranteed	63
Art. 12	Waivers	
12.1	Waivers of Certain Submission Requirements Authorized	64
12.2	Waivers of Certain Improvements Authorized	64
12.3	Waiver of Procedural Steps	64
12.4	Conditions for Waivers	65
12.5	Waivers to be Shown on Final Plan	65
Art. 13	Appeals	
13.1	Administrative Appeals	66
13.2	Variances	66
13.3	Appeal to Superior Court	67
13.4	Variances Recorded	67

SUBDIVISION ORDINANCE TOWN OF NORTH HAVEN

ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

1.1 Purposes. The purposes of these regulations are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions,
- B. To assure new development in the Town of North Haven meets the goals and conforms to the policies of the North Haven Comprehensive Plan,
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of North Haven,
- D. To protect the environment and ensure environmental sustainability, and conserve the natural and cultural resources identified in the North Haven Comprehensive Plan as important to the community,
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures,
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality, and
- G. To promote the development of an economically sound and stable community.

1.2. Statutory Review Criteria: When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Ordinance and other sections of this Regulation have been met, before granting approval. The proposed project :

- A. Shall not result in undue water or air pollution. In making this determination, it shall at least consider:
 - 1. The elevation of the land above sea level and its relation to the flood plains,
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal,

3. The slope of the land and its effect on effluents,
 4. The proximity of streams for disposal of effluents, and
 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water resources available for the reasonably foreseeable needs of the subdivision,
 - C. Will not cause an unreasonable burden on an existing public water supply, if one is to be used,
 - D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results,
 - E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section; as amended for state criteria,
 - F. Will not cause an unreasonable burden on municipal services if they are utilized,
 - G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized,
 - H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline,
 - I. Will be in conformance with a duly adopted subdivision regulation or ordinance, Comprehensive Plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans,
 - J. That the proposed project will have adequate financial and technical capacity from the developer to meet the standards of this section,

- K. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water,
- L. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include as a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation,
- M. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district,
- N. Any stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9,
- O. Shall provide for adequate storm water management,
- P. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1,
- Q. The long-term cumulative effects of the proposed subdivision shall not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision,
- R. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the

Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

ARTICLE 2 - AUTHORITY AND ADMINISTRATION

2.1 Authority.

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of North Haven, Maine."

2.2 Administration.

- A. The Planning Board of the Town of North Haven, hereinafter called the Board, shall administer these ordinances.
- B. The provisions of this ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of North Haven, hereinafter called the Town.

2.3 Amendments.

- A. This ordinance may be amended by the Legislative Body of the Town of North Haven.
- B. A public hearing will be held prior to the adoption of any amendment. Notice of the hearing will be provided at least seven days in advance of the hearing.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations will have their customary dictionary meanings. More specifically, any word or term defined in the North Haven Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units that will meet the sales price and/or rental targets established by the Comprehensive Plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Buffer Area: A part of a property or an entire property that is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the Comprehensive Plan that identifies the projects for consideration or inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required by the zoning district in which the development is located in return for the provision of permanent open space. Also referred to as a "conservation subdivision" or "open space subdivision."

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use and enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, including outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations unless waived, after the applicant's written request, by a vote by the Board. The Board will issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction for buildings on those lots will not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction will be included in the total costs of proposed improvements.

Comprehensive Plan: A document and interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4,

including the strategies for an implementation program that are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources, or maintaining air or water quality; offered in exchange for cluster housing.

Density: The number of dwelling units per acre of land.

Developed Area: Any area on which a site improvement or change is made, including but not limited to buildings, landscaping, parking areas, utility infrastructure and streets.

Direct Watershed of Fresh Pond: That portion of the watershed which drains directly to the fresh pond without first passing through Fresh Pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the Comprehensive Plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor and hydrologist showing where the drainage divide lies.

Driveway: A vehicular accessway serving two lots or less.

Dwelling Unit: A room or suite of rooms used as a habitation that is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; including but not limited to single family houses, the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD5 and total suspended solids concentrations than domestic waste water.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas that are 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; and are not part of Fresh Pond, coastal wetlands, rivers, streams or brooks. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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 surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. Fresh Pond is North Haven's only great pond.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The

soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High Water Mark, Coastal Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

High Water Mark, Inland Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Article 10.

Net Residential Density: The average number of dwelling units per net residential acre.

New Structure or Structures: Includes any structure for which construction begins on or after July 1, 2012. The area included in the expansion of an existing structure is deemed to be a new structure.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of North Haven, previously defined as "the Board".

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Preliminary Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Reserved Affordable Housing: Affordable housing that is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 120% or less of the area median household income.

Rural District: As defined by the Land Use Ordinance of the Town of North Haven

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. North Haven has no streets considered arterial streets.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Private Right-of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

Subdivision means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or 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.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

2. The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision

This term has been defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended. A lot of 40 or more acres shall be counted as a lot for the purposes of this definition when the parcel of land being divided is located entirely outside any shoreland areas as defined in the Town of North Haven Shoreland Zoning Ordinance.

Tract or Parcel of Land: 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.

Usable Open Space: That portion of the common open space which, due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

Village District: As defined by the Land Use Ordinance of the Town of North Haven

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board will prepare a written agenda for each regularly scheduled meeting. The agenda will be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's written agenda.

ARTICLE 5

SKETCH PLAN MEETING AND SITE INSPECTION

5.1 Purpose.

The purpose of the Sketch Plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 Sketch Plan Meeting Procedure.

A. The applicant shall present the Preapplication Sketch Plan and make an oral presentation regarding the site and the proposed subdivision.

B. Sketch Plan Submissions: Nine (9) copies of the Sketch Plan and all supporting materials must be submitted 30 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The Sketch Plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by:

1. A Sketch Plan Application form, and a Sketch Plan Application fee as set by a fee schedule established by the Board of Selectmen,
2. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size,
3. A copy of that portion of the Knox County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
4. A written project narrative as described above.

C. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests will be postponed until the subsequent review of the full application.

D. The date of the on-site inspection will be selected.

5.3 Contour Interval and On-Site Inspection.

Within thirty days of the Sketch Plan meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged." The Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground disguising ground contours and water bodies; or if there is perceived danger to the inspectors (for example, deer rifle hunting season). On-site inspections will be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes will be taken in the same manner as for regular meetings.

5.4 Rights not Vested.

The Sketch Plan meeting, the submittal or review of the Sketch Plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

5.5 Establishment of File.

Following the Sketch Plan meeting the Board will establish a file for the proposed subdivision. All correspondence and submissions regarding the Sketch Plan meeting and application will be maintained in the file.

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

6.1 Procedure.

A. Within six months after the on-site inspection by the Board and receipt of comments, the applicant shall submit an application for approval of a Preliminary Plan at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus accommodation of any recommendations made by the Board.

B. All applications for the Preliminary Plan shall be accompanied by a nonrefundable application fee based on a fee schedule established by the Board of Selectmen, payable by check to the Town. In addition, the applicant shall pay an escrow fee, based on a fee schedule established by the Board of Selectmen, per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the this ordinance and the Land Use Ordinance. If the balance in this special account is drawn down by 75%, the Board will notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board will continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the Final Plan application by the Board shall be returned to the applicant.

C. The Board will not review any Preliminary Plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board will reschedule review of the application at its next regular meeting.

D. Within three days of the receipt of the Preliminary Plan application, the Board, or its designee, will:

1. Issue a dated receipt to the applicant.
2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.

E. Within thirty days of the receipt of the Preliminary Plan application, the Board will determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board will notify the applicant of the specific additional material needed to complete the application.

F. Upon determination that a complete application has been submitted for review, the Board will notify the applicant in writing. The Board will also notify the Road Commissioner, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any single family, multifamily, commercial or industrial buildings. The Board will request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision

G. The Board will hold a public hearing within thirty days of determining that it has received a complete application, and will publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the Town at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing will be posted in at least three prominent places within the Town at least seven days prior to the hearing. A copy of the notice will be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

H. Within thirty days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board will make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan application. The Board will specify in writing its findings of facts and reasons for any conditions or denial.

I. When granting approval to a Preliminary Plan, the Board will 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 the Board finds may be waived without jeopardy to the public health, safety, and general welfare, and
3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.

J. Approval of a Preliminary Plan will not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require that additional information be submitted and changes in the Plan be made as a result of further study of the proposed subdivision or as a result of new information received.

6.2 Mandatory Submissions for Preliminary Plan.

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Board, pursuant to Article 12. Nine (9) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

A. Application Form: Nine (9) copies of the application form and any accompanying information.

B. Location Map: The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the Town. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision,
2. Locations and names of existing and proposed streets,
3. Boundaries and designations of zoning districts,
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary Plan. The Preliminary Plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. The application materials for Preliminary Plan approval shall include the following information:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers,
2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest,
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including

all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401,

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property,

5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision,

6. An indication of the type of sewage disposal to be used in the subdivision.

a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Town sewer department stating the district has the capacity to collect and treat the waste water shall be provided.

b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

7. An indication of the type of water supply system(s) to be used in the subdivision.

a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.

8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.

10. A delineation of all wetland areas, regardless of size. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. The application shall indicate if any area of the subdivision is in the direct watershed of Fresh Pond,

11. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision,
12. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided,
13. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision,
14. The width and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision,
15. The proposed lot lines with approximate dimensions and lot areas,
16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication,
17. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management,
18. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation,
19. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the Plan,
20. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project, or by a town-wide natural features survey, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation,
21. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan or by the Maine

Historic Preservation Commission, or by a town-wide survey as sensitive or likely to contain such sites.

D. Required Submissions for which a Waiver May be Granted. The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. Nine (9) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. A high-intensity soil survey by a registered soil scientist.
2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
3. A Hydrogeologic assessment.
 - a. A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and/or any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or the subdivision has an average density of more than one dwelling unit per 100,000 square feet.
 - b. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases include but are not limited to extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 10.9 below.
4. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip

generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

5. Traffic Impact Analysis. For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- E. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

ARTICLE 7 - FINAL PLAN APPLICATION

7.1 Procedure.

A. Within six months after the approval of the Preliminary Plan, the applicant shall submit 9 copies of an application for approval of the Final Plan with all supporting materials, at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.

1. If an applicant cannot submit the Final Plan within six months, due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the Final Plan and in pursuing approval of the Plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

B. All applications for Final Plan approval for a major subdivision shall be accompanied by a nonrefundable application fee based on a fee schedule established by the Board of Selectmen, payable by check to the municipality. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for Final Plan approval, along with any supporting materials, pursuant to the procedures of section 6 1. B.

C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act.
2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
3. Maine Department of Human Services, if the applicant proposes to provide a public water system.

4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit
 7. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.
- D. If the Preliminary Plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, or identified by a town-wide survey, in accordance with Section 6.2.C.23, the applicant shall submit a copy of the Plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the Final Plan application.
- E. Written approval of any proposed street names from the Town of North Haven E911 Addressing Officer.
- F. The Board shall not review any Final Plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- G. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
- H. Within thirty days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- I. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall determine whether to hold a public hearing on the Final Plan application.
- J. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within

the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

K. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in Article 11.

L. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

7.2 Mandatory Submissions.

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the Plan for endorsement by the Board. One reproducible, stable-based transparency of the Recording Plan to be recorded at the Registry of Deeds, and 9 full sized paper copies of all the Final Plan sheets and any supporting documents shall be submitted, in addition to an electronic copy of the application to the Town of North Haven.

The Final Plan shall include or be accompanied by the following mandatory submissions of information:

A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.

B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.

C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.

D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.

E. An indication of the type of water supply system(s) to be used in the subdivision.

F. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.

G. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.

H. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.

I. The date the plan was prepared, north point, graphic map scale.

J. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.

K. The location of any zoning boundaries affecting the subdivision.

L. If different than those submitted with the Preliminary Plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

M. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

N. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.

O. Street plans, meeting the requirements of Section 10.15.

P. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the Comprehensive Plan, or Capital Improvements Program, if any.

Q. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

R. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

S. The location and method of disposal for land clearing and construction debris.

7.3 Required Submissions for which a Waiver May be Granted.

The Final Plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:

A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of Fresh Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of Fresh Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

C. If any portion of the proposed subdivision is in the direct watershed of Fresh Pond, and meets the criteria of section 10.12.D, the following shall be submitted or indicated on the plan:

1. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering

calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.

2. A long-term maintenance plan for all phosphorus control measures.
3. The contour lines shown on the plan shall be at an interval of no less than five feet.
4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

7.4 Final Approval and Filing.

A. No Plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.

B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed Plan shall be retained by the Board as part of its permanent records. One copy of the signed Plan shall be forwarded to the tax assessor. One copy of the signed Plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the Plan is approved and signed by the Board shall become null and void.

C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised Final Plan is first submitted and the Board approves any modifications, in accordance with Article 8. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be

considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

E. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Except in the case of a Phased Development Plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE 8 - REVISIONS TO APPROVED PLANS

8.1 Procedure.

An applicant for a revision to a previously approved Plan shall, at least 30 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Preliminary Plan approval shall be followed. If the revision involves only modifications of the approved Plan, without the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed.

8.2 Submissions.

The applicant shall submit a copy of the approved Plan as well as 9 copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded Plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original Plan is recorded at the Registry of Deeds.

8.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the Plan which are proposed to be changed.

ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

9.1 Inspection of Required Improvements.

A. At least 30 days prior to commencing construction of required improvements, the subdivider or builder shall:

1. Notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the Plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved Plans, beginning with the issuance of a cease and desist and the accrual of fines following.

C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 8.

D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear

adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monumentation shown on the Plan has been installed.

F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations and is in compliance with the town's road requirements. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

9.2 Violations and Enforcement.

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.

B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Plan approved as provided in these regulations and recorded in the Registry of Deeds.

F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1, section 2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

10.1 Basic Subdivision Layout

- | | | |
|----|--------------------|-----------|
| A. | Utility/Pedestrian | Easements |
|----|--------------------|-----------|
- Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards for pathways below. Maintenance obligations of the easement shall be included in the written description of the easement.
- B. Lots
1. Wherever possible, side lot lines shall be perpendicular to the street.
 2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.
 3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
 4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If

any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

5. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

C. Utilities.

The board may require underground utilities

D. Survey

Monuments

All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable (stone or precast cement) monumentation, as required by the Maine Board of Registration of Land Surveyors.

10.2 Sufficient Water.

A. Water Supply.

1. Any subdivision within the area designated in the Comprehensive Plan for future public water supply service shall make provisions for connection to the public system. A proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary in order to facilitate connection.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief. Fire

hydrants connected to a public water supply system shall be located no further than 500 feet from any building.

3. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - i The board shall require a hydrology study to be conducted at the cost of the applicant.
 - ii. Wells shall not be constructed within 50 feet of the traveled way of any street, if located downhill from the street, or within 25 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas 200 feet removed from water wells for dwellings.
 - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - d. In areas where the Planning Board has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities.
 - i. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
 - ii. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the Fire Chief.

- iii. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary.
- iv. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.
- v. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the Fire Chief has indicated in writing that alternate methods of fire protection are available.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

10.3 Erosion and Sedimentation and Impact on Water Bodies

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

10.4 Sewage Disposal

A. Public System.

1. Any subdivision within the area designated in the Comprehensive Plan for future public sewage disposal service shall be connected to the public system.
2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

B. Private Systems.

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules.
 - b. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the

disposal area. The reserve area shall be shown on the plan and restricted in the deed so as not to be built upon.

- c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

10.5 Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

10.6 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the Comprehensive Plan.
2. Except in areas of the municipality designated by the Comprehensive Plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.
4. Unless located in areas designated as a growth area in the Comprehensive Plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets. Earth berms may be used unless they would block a scenic view from a public right-of-way. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees

shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

5. When a proposed subdivision contains a ridge line identified by the Planning Board as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

B. Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the Comprehensive Plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.

5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
6. Reserved open space land may be dedicated to the municipality.
7. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the Comprehensive Plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project or the Comprehensive Plan as:
 - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. Critical spawning and nursery areas for Atlantic sea run salmon or other anadromous fish as defined by the Maine Department of Inland Fisheries and Wildlife;
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
3. Or other important habitat areas identified in the Comprehensive Plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project; or any such area identified by the town;

The applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

D. Protection of Important Shoreland Areas.

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included as open space with provisions made for continued public access.
2. Within areas subject to the state mandated shoreland zone, within a strip of land extending 250 feet inland from the normal high-water line of Fresh Pond or any tributary to Fresh Pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes, and deeds to any lots which include any such land, shall contain the following restrictions:
 - a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
 - b. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown.
 - c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to Fresh Pond, or a tributary to Fresh Pond, the width of the foot path shall be limited to six feet.
 - d. In order to protect water quality and wildlife habitat adjacent to Fresh Pond, and tributaries to Fresh Pond, existing vegetation under three feet in height and other ground cover shall not be

removed, except to provide for a footpath or other permitted uses as described above.

- e. Pruning of tree branches, on the bottom third of the tree is permitted.
- 3. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to 250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

E. Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

1. All open space common land, facilities and property shall be owned by:

- a. The owners of the lots or dwelling units by means of a lot owners' association; or
- b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition
- c. The Town of North Haven

2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the subdivision, there shall be a conservation easement deeded a land trust or other conservation organization.

3. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate:

- a. It shall not be used for future building lots; and
- b. Which portions of the open space, if any, may be dedicated for acceptance by a land trust or similar conservation organization.

4. The Final Plan application shall include the following:

- a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
5. In combination, the documents referenced in paragraph D above shall provide for the following.
- a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
 - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
 - d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

10.7 Conformance with Zoning Ordinance and Other Land Use Ordinances.

All lots, other than those found within cluster developments approved pursuant to section 10. 13, shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use ordinances.

10.8 Financial and Technical Capacity.

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. The applicant shall provide a letter of credit to the Board. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.
3. The applicant shall provide a *curriculum vitae* with references to the Board for all contractors and consultants.

10.9 Impact on Ground Water Quality or Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen and salinization concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from

potential contamination sources, whichever is a shortest distance.

- f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

10.10 Floodplain Management.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 2009 *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* published by the United States Army Corps of Engineers, or any subsequent Delineation Manual. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

10.12 Stormwater Management

A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.

B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.

C. For subdivisions outside of the watershed of Fresh Pond, that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which incorporates Low Impact Development techniques on each individual lot, as described in the Maine Low Impact Development Ordinance (midcoastplanning.org).

D. For subdivisions within the watershed of Fresh Pond, the Resource Protection Ordinance applies.

E. The Planning Board shall require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a

“Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

Downstream Analysis Methodology

The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

10.13 Cluster Developments

A. Purpose, Mandate for Clustering.

1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.
2. Subdivisions proposed in the Village district, containing 5 lots or units or more, may include a cluster and a traditional development plan. Subdivisions proposed in the rural or shoreland districts, containing 5 lots or units or more, shall include both a cluster and a traditional development plan. The Planning Board shall review both plans and determine which is the more appropriate for the site.

B. Basic Standards for Cluster Developments.

1. Cluster developments shall meet all requirements of these regulations.

2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The Planning Board shall allow lots within cluster developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations in section 4 below.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage as determined in section 5 shall be divided by the minimum lot size in the district, as required by the zoning ordinance. No building in the cluster development shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
5. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
 - a. 15% of the area of the lot to account for roads and parking.
 - b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - i. slopes greater than 20%.
 - ii. wetland soils.
 - iii. Portions of the lot subject to rights of way.
 - iv. Portions of the lot located in the resource protection zone.
 - v. Portions of the lot covered by surface waters.
 - vi. Portions of the lot utilized for storm water management facilities.
6. Unless a community sewage collection and treatment system is provided, no lot or area of occupation, in the case of a condominium, shall be smaller in area than 20,000 square feet.

7. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. However, at least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested or open wetlands of any size.
8. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
9. The distance between buildings shall not be less than 20 feet.
10. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
11. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning ordinance.
12. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
13. The common open space shall owned and managed according to the standards of 10.6.E.
14. The subdivider shall be responsible for the maintenance of the common open space and the other common facilities, until 4/5ths of the lots or units are sold. The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.

10.14 Compliance with Timber Harvesting Rules.

The Board shall require the applicant to provide certification by a licensed forester to demonstrate that they are in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the

Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

10.15 Traffic Conditions and Streets.

A. General Standards

The proposed subdivision shall meet the following general transportation performance standards:

1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

B. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid road shall meet the minimum access permitting requirements of the Maine Department of Transportation "Highway Driveway and Entrance Rules". The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. The current roads of North Haven are at Level of Service A.

2. As all the intersections on North Haven are unsignalized, the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

C. General Internal Subdivision Street Standards

1. All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.
2. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Road Commissioner, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways, transportation demand management techniques, and traffic controls within existing public streets.
3. Street Names, Signs and Lighting: Streets which join and 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. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board.
4. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure

necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed and seeded.

10.16 Specific Access and Street Design Standards.

A. Access Control.

1. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.
2. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematic, the Board may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic.
4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
5. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
 - a. the external street is not paved; or

- b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
6. Minimum Sight Distance Standards: Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 10.15-1 shall apply.

TABLE 10.16-1

Minimum Sight Distance Standards for Subdivision Accesses			
Posted Speed	Sight Distance Standard Vehicles	Sight Distance Large Vehicles	Mobility Sight Distance
(MPH)	(Feet)	(Feet)	(Feet)
20	155	230	Not applicable
25	200	300	Not applicable
30	250	375	Not applicable
35	305	455	Not applicable
40	360	540	580

On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 10.16-1 shall apply.

7. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be defined by the latest edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers. The following traffic volume standards shall apply to the design of subdivision accesses connecting to external streets:
- a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.
 - b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during the peak hour.
 - c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.

8. Basic Access Design Standards for Low and Medium Volume Accesses: the following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:

TABLE 10.16-2

Access Design Standards for Low and Medium Volume Accesses			
<i>Basic Standards</i>		<i>Low Volume</i> (feet)	<i>Medium Volume</i> (feet)
Minimum Access Width:*			
	Majority Passenger Vehicles	14	22
	>30% Large Vehicles	30	30
Minimum Curb Radius:			
	Majority Passenger Vehicles	10	15
	>30% Large Vehicles	15	15
Minimum Corner Clearance to: **			
	Unsignalized Intersection	75	100
Minimum Access Spacing***	MPH of External Road		
	35 or less	No requirement	No Requirement
	40	175	175

*Minimum widths for low or medium volume accesses shall be either the minimum cross section width of the internal subdivision street

** Minimum corner clearance shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of an external street excluding radii.

***Minimum access spacing shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of a neighboring access excluding radii.

9. Additional Access Requirements for Medium Volume Accesses: In addition to the basic access standards outlined in 10.16-2., medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following standards:

- a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 10.16-2. if a larger design radius is needed to accommodate a larger design vehicle.

- b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.
- c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of 9 feet from the traveled way of the external road.
- d. The Board shall determine if one two-way or two one-way access(es) will be required for the proposed subdivision. If a one-way system is required and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise all one way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the Board shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least 12 feet.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals

no more than five feet. The plans shall include the following information:

- i. Date, scale, and north point, indicating magnetic or true.
 - ii. Intersections of the proposed street with existing streets.
 - iii. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, and clear zone.
 - iv. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - v. Complete curve data shall be indicated for all horizontal and vertical curves.
 - vi. Turning radii at all intersections.
 - vii. Centerline gradients.
 - ix. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Plans for streets shall be sent to the consulting project engineer for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
- e. Private Roads: The following standards shall apply to all proposed private roads:
- i. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
 - ii. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
 - iii. The Board may approve a reduction of the right of way easement for private roads to a minimum of 30 feet in land use density areas designated as “Rural”
 - iv. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system.

- v. All private roads shall have adequate provisions for drainage and stormwater runoff as provided in Section 10.12.
- vi. The following words shall appear on the recorded plan:
“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, unless they meet all municipal street design and construction standards.”
- vii. A road maintenance agreement, prepared by the Town Attorney shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be

included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

- e. The design standards of Table 10.16-3 shall be compatible with the traffic volume access thresholds referenced in Section 10.16.1.A.7. In addition, the street design standards shall be compatible with the estimated Average Daily Traffic expected to occur on the internal subdivision street, and the land use type and lot density allowed in the land use zone. The following land use density pattern requirements shall be required for the following land use zones.
 - i. Land use density patterns that are Rural (R) shall apply to the Rural district.
 - ii. Land use density patterns that are Village (V) shall apply to the village district
 - iii. Land use density patterns that are Commercial (C) shall apply to the Commercial District if the proposed development will contain commercial or industrial uses.
- f. The Board shall have authority to increase the minimum standards in Table 10.16-3, if the Board approves a road design that will accommodate travel speeds greater than 30 mph.

TABLE 10.16-3

Table 10.16-3 Street Design Guidelines

Traffic Volume Level	1-50 ADT			50-100 ADT		
Density Pattern	R	V/U	I/C	R	V/U	I/C
Minimum Right of Way	40'	40'	40'	40'	40'	50'
Minimum Traveled Way Width	14'	16'	16'	18'	18'	24'
Minimum Shoulder Width each side*	0'	0'	4'	0'	1'	2'
Clear Zone Width (each side)	7'	7'	7'	7'	7'	7'
Minimum Vertical Clearance	14'	14'	14'	14'	14'	14'
Minimum Grade	.5%	.5%	.5%	.5%	.5%	.5%
Maximum Grade***	8%	8%	5%	8%	8%	5%
Minimum Centerline Radius****	100'	100'	350'	100'	100'	350'
Roadway Crown Asphalt Surface	.25"/ft	25"/ft	25"/ft	25"/ft	25"/ft	25"/ft
Roadway Crown Aggregate Surface	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A
Minimum Internal Sight Distance	155'	155'	230'	155'	155'	230'
Minimum Internal Spacing Standards*****	25'	25'	40'	25'	25'	40'

Minimum Internal Access to Street Corner Clearance*****	30'	30'	75'	30'	30'	75'
--	-----	-----	-----	-----	-----	-----

*The Board may require an increase in shoulder width for stormwater management purposes or road stabilization

**The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders

*** Maximum grade may be exceeded for a length of 30'

**** Super-elevation is not recommended for any subdivision street unless recommended by Road Commissioner or Town-hired consultant.

***** Internal spacing distances are measured from the edge of one internal subdivision access to another, excluding curb radii.

***** Internal access to street corner clearances are measured from the edge of an internal subdivision access to an intersecting public road, excluding curb radii

g. On Street Parking: The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking. The Board may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 1 foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones. Paved shoulder widths for low and medium volume streets in Village (V) designated zones shall be a minimum of 2 feet on either side of the traveled way.

k. The centerline of the roadway shall be the centerline of the right-of-way.

h. Construction of Dead End Streets shall not be allowed

3. Street Construction Standards.

a. The minimum thickness of material after compaction shall meet the specifications in Table 10.16-4.

TABLE 10.16-4

Table 10.16-4
Minimum Pavement Materials Thicknesses

Street Materials	Thickness Standards
Aggregate Subbase Course (Max. sized stone 6")	
Without base gravel	18"
With base gravel	15"

Crushed Aggregate Base Course (if necessary)	3"
Hot Bituminous Pavement	
Total Thickness	3"
Surface Course	1 ¼"
Base Course	1 ¾"
Surface Gravel (if permissible)	3"

b. Preparation.

- i. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
- ii. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
- iii. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
- iv. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

- i. Bases/Subbase.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.16-5.

Table 10.16-5

Table 10.16-5
Aggregate Subbase Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
¼ inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.16-6.

Table 10.16-6

Table 10.16-6
Base Course Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
½ inch	45-70%
¼"	30-55%
No.40	0-20%
No. 200	0-5%

- (c) Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.
- ii. Pavement Joints: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
- iii. Pavements.
 - (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.
 - (b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.
- iv. Surface Gravel: The Board may approve an aggregate road base for any internal subdivision public street in which zoning requires a minimum of one dwelling unit per 7 acres, or any private way with a maximum estimated Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.16-7.

Table 10.16-7

Table 10.16-7
Surface Gravel Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
2 inch	95-100%
½ inch	30-65%
No. 200	7-12%

ARTICLE 11 - PERFORMANCE GUARANTEES

11.1 Types of Guarantees.

With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

11.2 Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

11.3 Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

11.4 Performance Bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the

municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

11.5 Letter of Credit.

An irrevocable letter of credit from a bank or other lending institution with offices in the region, shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

11.6 Phasing of Development.

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

11.7 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

11.8 Default.

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

11.9 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

ARTICLE 12 - WAIVERS

12.1 Waivers of Certain Submission Requirements Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, for example for sustainable or affordable housing, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

12.2 Waivers of Certain Improvements Authorized.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

12.3 Waiver of Procedural Steps

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

No new streets are proposed;

No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;"

The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by sections 6 or 7; and

The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

12.4 Conditions for Waivers.

Waivers may only be granted in accordance with Article 12. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

12.5 Waivers To Be Shown On Final Plan.

When the Board grants a waiver to any of the improvements required by these regulations, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - APPEALS

13.1 Administrative Appeals

The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement officer or the Planning Board in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.

13.2

Variances

The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

A. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance or by any other North Haven ordinance.

B. The Board of Appeals shall not grant a variance unless it finds that:

1. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
2. The strict application of the terms of this Ordinance would result in an undue hardship.

The term "undue hardship" shall mean all of the following:

- a. 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 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.

C. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living or regularly visits the property. The Board of Appeals shall restrict any variance granted under this Sub-Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability.

D. The Board of Appeals may grant a variance to a property owner from a setback requirement only when strict application of this ordinance to the petitioner and the petitioner's property would cause undue hardship. A variance under this section may no

exceed 20% of setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:

1. The need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;
2. The granting of a variance will not alter the essential character of the locality;
3. The hardship is not the result of action taken by the applicant or a prior owner;
4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

13.3 Appeal to Superior Court

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

13.4 Variances Recorded

If the Board of Appeals grants a variance under this Ordinance, the final plan, to be recorded at the Registry of Deeds, shall indicate the variance(s) granted and the date on which they were granted. A variance is not valid until recorded as provided in this ordinance. The date of the final written approval shall be the date stated on the written approval.

Conditional Use Regulation for Small Wind Turbines

Purpose: The intent of the Section is to regulate the placement, construction, and modification of small wind energy systems while allowing the safe, effective, and efficient use of this technology.

Site Requirements:

1. Small wind energy systems shall be considered conditional uses in the Rural District. Small wind energy systems shall be considered conditional uses in the Shoreland Protection and Resource Protection providing all criteria are met within those zoning ordinances.
2. The tower height for small wind energy systems shall not exceed a maximum height of 70 feet.
3. In the case where a lattice type tower is used, the base will be fenced for safety.

Setback requirements:

Small wind energy systems shall be set back a distance equal to 150 percent of the height of the tower and blade length from roads, easements, adjoining property lines and any habitable structure.

Sound Requirements:

An automatic braking, governing or feathering system shall be required to prevent uncontrolled rotation.

Prior to approval, the applicant shall provide documentation from the manufacturer that the wind energy system will not produce noise levels in excess of the following standards, as measured at the closest property line.

Ambient reading without wind tower maximum **Permitted** reading with wind tower

<u>45</u>	<u>55</u>
<u>50</u>	<u>56</u>
<u>55</u>	<u>61</u>
<u>60</u>	<u>62</u>
<u>65</u>	<u>66</u>

Upon complaint of an abutter, ambient and maximum permitted decibel measurements shall be performed by an agent designated by the Planning Board. The report shall be submitted to the Planning Board for review. The fee for this service shall be paid by the complainant unless the maximum permitted decibel level has been exceeded in which case the owner of the system shall pay the fee.

If the maximum decibel readings are exceeded, the installation shall be considered a nuisance and must be corrected within 90 days from notification of the violation and if the violation cannot be corrected, the wind energy system shall be removed or relocated.

The following definitions will be added to Part 1, Section 1.5 of the Zoning ordinance for the Town of North Haven, Maine

Small Wind Energy System: A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 20 kW and which is intended to primarily reduce on-site consumption of utility power.

System Height: The tower height plus the blade radius from the hub.

Tower: The structure on which the wind energy system is mounted.

Tower Height: The height above grade of the fixed portion of a tower, excluding the wind turbine.

Turbine: The parts of the wind system including the blades, generator and tail.