

**C. Performance Standards for Chemical Storage**

1. New installation of underground storage tanks are prohibited within the Wellhead Protection Area.
2. All chemicals must be stored under cover and on an impervious surface, without floor drains.
3. Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.
4. Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.
5. Any above-ground piping must be designed to prevent line breakage due to collision.
6. All containers and piping must be constructed of corrosion resistant materials.
7. All containers must be clearly labeled with the chemical name and date of purchase.
8. A Spill Prevention, Control and Countermeasures Plan (SPCC) must be submitted to the CEO, Fire Department and the Water District.

**D. Performance Standards Chemical Spreading/Spraying**

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

9. Manures must be composted to Class "A" standards. Manure may be used within the WHPA, and must be applied in accordance with the nutrient management plan.
10. Residuals and manures shall not be applied over very shallow soils (less than 1 foot) or exposed bedrock.
11. Residuals and manure shall not be applied on frozen ground, or immediately before storm events.

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

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

**F. Performance Standards for Residential Storage and Handling of Petroleum Products**

1. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have permanently installed secondary containment equal to 110% of the liquid volume stored, be covered by a permanent roof and be on a surface with no floor drains.
2. Refueling must occur on a concrete pad or other impermeable surface.

**G. Performance Standards for Vehicular Parking and/or Storage**

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

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

1. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet; (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet
2. Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table.

3. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.
4. Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans.
5. All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
6. The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.
7. At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
8. Disused gravel pits within the Wellhead Protection District shall be reclaimed according to plans submitted to the Municipality.
9. Gravel mining activities in Wellhead Protection District must have emergency spill response plans.
10. Storage of fuels is prohibited within WHPA's.
11. Rock crushers are prohibited within WHPA's.
12. There shall be no overnight storage of vehicles within the WHPA's, unless parked over a secondary containment area.

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**I. Performance Standards for Wastewater and Solid Waste**

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

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**J. Performance Standards for Stormwater Management**

1. Stormwater management system must include treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater and mitigate potential temperature impacts. This shall be achieved by using one or more of the methods listed in this section to control

runoff from no less than 95% of the impervious area and no less than 80% of the developed area associated with a project that is impervious or landscaped. The Planning Board may, on a case-by-case basis, consider alternate treatment measures to those described in this section. An alternate treatment measure must provide at least as much pollutant removal as the measures described in this section and, unless otherwise approved by the Planning Board, as much channel protection and temperature control.

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

**K. Performance Standards for Road Maintenance**

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

**L. Performance Standards for Fill**

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

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Minimize use of salt in all cases.

Comment [SBK2]: Patti suggested that the Town speak w/DOT RE minimization of road salt but thought it was a liability to have it as a performance standard.

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

**Subsection 7.06.10. Control of Existing Threats**

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Comment [SBK3]: Work in progress: is the CEO authorized to bring someone from the WD on-site for the inspection?

**A. Inspection**

The CEO shall also have the right to inspect any property located in a Wellhead Protection Area, except building interiors, at reasonable hours, without landowner permission, as provided in 30-A MRSA section 4452, for the purpose of determining compliance with this ordinance or any permit issued hereunder. The Code Enforcement Officer may be accompanied by a representative of the Water District. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

**B. Monitoring**

Whenever the CEO finds that a use existing as of the date of adoption of this ordinance, including but not limited to uses of the types identified in Article III, Section 2 of this ordinance, is located within a Wellhead Protection Area designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the CEO may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing as provided in subsection (1) above. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the municipality or the Water District, provided that if such testing indicates that the use is found to cause or contribute to reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards at the Water District property line, the property owner shall reimburse the municipality or Water District for all expenses incurred for installation, testing and monitoring.

Comment [SBK4]: Patti noted that the PB has no enforcement authority.

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**C. Enforcement**

If any use causes or contributes to a reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards at the Water District property line, the CEO may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

## ARTICLE 12 FEES, VIOLATIONS, ENFORCEMENT

**Section 12.01 Permit and Review Fees** - All persons developing or requires the issuance of a permit and/or the review and approval of either the Planning Board, the Zoning Board of Appeals, or the Selectmen, shall pay a fee for such permit and/or review process to the Town Treasurer according to the following schedule. These fees shall be used to defray the costs of administering and enforcing the provisions of this ordinance and must accompany the application for the permit or approval being requested. In cases where more than one permit or approval is sought or required, fees are cumulative.

Building Permit	Fee shall not be less than \$25.00 in any case except there shall be no fee if estimated cost does not exceed \$1,000.00 (see Section 2.03) otherwise \$4.00 per \$1,000.00 estimated cost for residential building. New commercial buildings including multi family residential (3 or more units) including additions, but not alterations \$6.00 per \$1,000.00 per estimated cost. (AMENDED 3-12-88, 4/27/02)
Occupancy Permit	\$10.00 (see Section 2.03)
Change of Use Permit	\$10.00 (see Section 2.03)
Sign Permit	\$25.00 (see Section 6.03)
Conditional use review	\$100.00(see Article 4) (Amended 4/27/02)
Special structures	\$50.00 (see Section 8.01)height modification request
Cluster development	\$100.00 plus \$25.00 for each review residential, commercial or industrial unit in the development. (see Section 8.03)
Planned unit	\$100.00 plus \$25.00 for each development review residential, commercial, or industrial unit in the development. (see Section 8.02)
Variance Request	\$100.00 (see Section 2.08 and 10.04) (AMENDED 3-9-91)

Temporary use review	\$50.00 (see Section 2.07)
Permit to convert	\$50.00 (Title 30 3223 Paragraph 3) from seasonal use to year round use
Review on Non-conforming lots	\$25.00 (see Section 2.08)
Administrative Appeal	\$100.00 (AMENDED 3/9/91)
Site Plan Review	\$200.00 (Amended 4/27/02)
e-Inspection fee	\$25.00 (Amended 9/30/03)

Request to undertake uses not presently permitted by this ordinance but similar to those which are permitted \$50.00 (see Section 2.07) Fees received under this Article will be used by Code Enforcement Officer, Site Review Committee (if established) and the Planning Board towards operational funds. (AMENDED 3-11-89) All fees received from a Variance request of Administrative Appeal shall be used by the Zoning Board of Appeals towards operational costs. (AMENDED 3-9-91)

Privately sponsored request to amend this ordinance \$100.00 (see Sections 2.07 and 13.04)

**Section 12.02 Violations, Fines** - Persons who have not adhered to the provisions of state law, this ordinance, other local land use ordinances or regulations, or the plans, specifications, or conditions upon which required permits and approvals were sought and obtained are in violation of this ordinance. Violations shall be noted initially by the Code Enforcement Officer's issuance of a code enforcement order (see Section 2.05). Such orders are to be complied with immediately. Violators are subject to fines which shall not exceed \$50.00 for each day of violation.

A violation which consists of the commencement of development activity or the use of land, water, or structures without applying for or before obtaining all of the permits and approvals which this ordinance requires will also subject the violator to the payment of fees double in amount to those established in Section 12.01 violators who have not applied for required permits and approvals must do so.

**Section 12.03 Selectmen Orders, Enforcement** - The Selectmen acting upon the recommendation of the Code Enforcement Officer, Planning Board, or the Zoning Board of Appeals may protect the public interest and the reasonable expectations of private landowners by ordering violators to cease and/ to remove any violating activity, use or structure and, if necessary, they may order the restoration of conditions in existence prior to the violation.

If fees or double fees are not paid or if a Code Enforcement Order, or an order of the Selectmen is not complied with, the town may bring whatever legal, equitable, or injunctive action is necessary to compel the payment of established fees and to seek the imposition of appropriate fines as well as compliance with its orders. The costs of such proceedings shall also be imposed on the violator.

**Section 12.04 Performance Bonds** - The Planning Board may require any person undertaking development activity or the use of land, water, or structures in a manner which pursuant to this ordinance requires Planning Board review and approval to post a performance bond equal to twenty-five (25) percent of the estimated cost of the project to insure that all work will be undertaken in accordance with the plans, specifications, or conditions upon which the approval was sought and obtained. The bond shall be payable to the Town of Waterboro and shall be forfeit if the Code Enforcement Officer properly refuses to enforcement order (see Section 2.05) after finding that the plans, specifications or conditions upon which the approval was predicated were not complies with. A performance bond requirement will end upon the issuance by the Code Enforcement Officer of an occupancy permit indicating that work contemplated in a building permit has been completed satisfactorily.

## ARTICLE 14 DEFINITIONS

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**Section 14.01 General** - In reading and interpreting this ordinance the following definition rules apply:

- words used or defined in one tense or form shall include other tenses and derivative forms;
- words in the singular number shall include the plural number, and words in the plural number shall include the singular;
- the masculine gender shall include the feminine and the feminine gender shall include the masculine;
- the words "shall" and "must" are mandatory;
- the words "may" and "should" are permissive;
- the word "person" includes individuals, firms, corporations, associations, and other similar entities;
- the words "town" or "municipality" mean the Town of Waterboro;
- the term "municipal officers" covers elected, appointed, and employed personnel acting as provided by law within the Town of Waterboro.

### **Section 14.02 Words and Terms Defined**

**ACCESSORY USE OR STRUCTURE:** A use or structure necessary, customary, incidental, and subordinate to a permitted use or structure and located on the same lot or parcel as the permitted use or structure, often associated with repair, storage, parking, gardening, recreational activities, keeping of pets, etc.

#### **ADULT BUSINESS:**

i. Any business, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities.

ii. Any business utilizing a "viewing booth" to display by audio or visual reproduction, projection or other means, any materials which depict or describe specified sexual activities.

iii. Any business which provides massage for consideration:

iv. Any business which presents as entertainment, or for the purpose of attracting customers, nude or semi-nude dancing or entertainment, meaning that the entertainers or other persons employed in the business expose any thereof in such a fashion that any of those parts of the body are not covered by a fully opaque cloth or textile.

As used in this definition of Adult Business, these terms have the following meaning:

**SPECIFIED SEXUAL ACTIVITIES:**

- (1) Human genitals in the state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**SUBSTANTIAL OR SIGNIFICANT PORTION:**

Twenty-five percent (25%) or more of the floor area of the unit of occupancy in which the business is located is used to display, shelve or store such materials or devices. As applied to a business which exhibits or displays films, videos or similar visual reproductions for viewing by patrons on the premises, "substantial or significant portion" means that, in any single day, 50% or more of the total display or exhibition time is devoted to such materials.(AMENDED 6-5-93)

**AGGRIEVED PERSON:** A party to a proceeding or a person whose interests are damaged or adversely affected by a decision, an action, or the failure to act of another person or a governmental body.

**AGRICULTURAL USES:** Included the widest range of crop, grass, and grain production; poultry and egg raising; cattle, hog, sheep, horse, and goat production; agriculture; viticulture; and the utilization of land for pasturage purposes. **The term shall also include greenhouse, orchards, nurseries, and versions thereof, but shall not include home gardens.**

**ALTERATION:** Any change, addition, demolition, extension, or renovation of a structure. In the case of land it involves the clearing, filling, grading, replanting, and/or recontouring of the natural landscape.

**AMENDMENT:** The addition of new material to, or the correction or change of an enactment of the governing body of the town, which new material, correction, or change must be enacted by the governing body in the manner prescribed for the passage of the original enactment.

**APARTMENT CONVERSIONS:** The conversion of an existing dwelling and/or accessory building to the dwelling into a total of no more than three units per lot for lots existing prior to the adoption of this subsection (6/4/94), provided the density requirements of 4.05 is met. For the purposes of the section, the conversion of a structure shall mean the division of the existing structure into individual dwelling units.

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