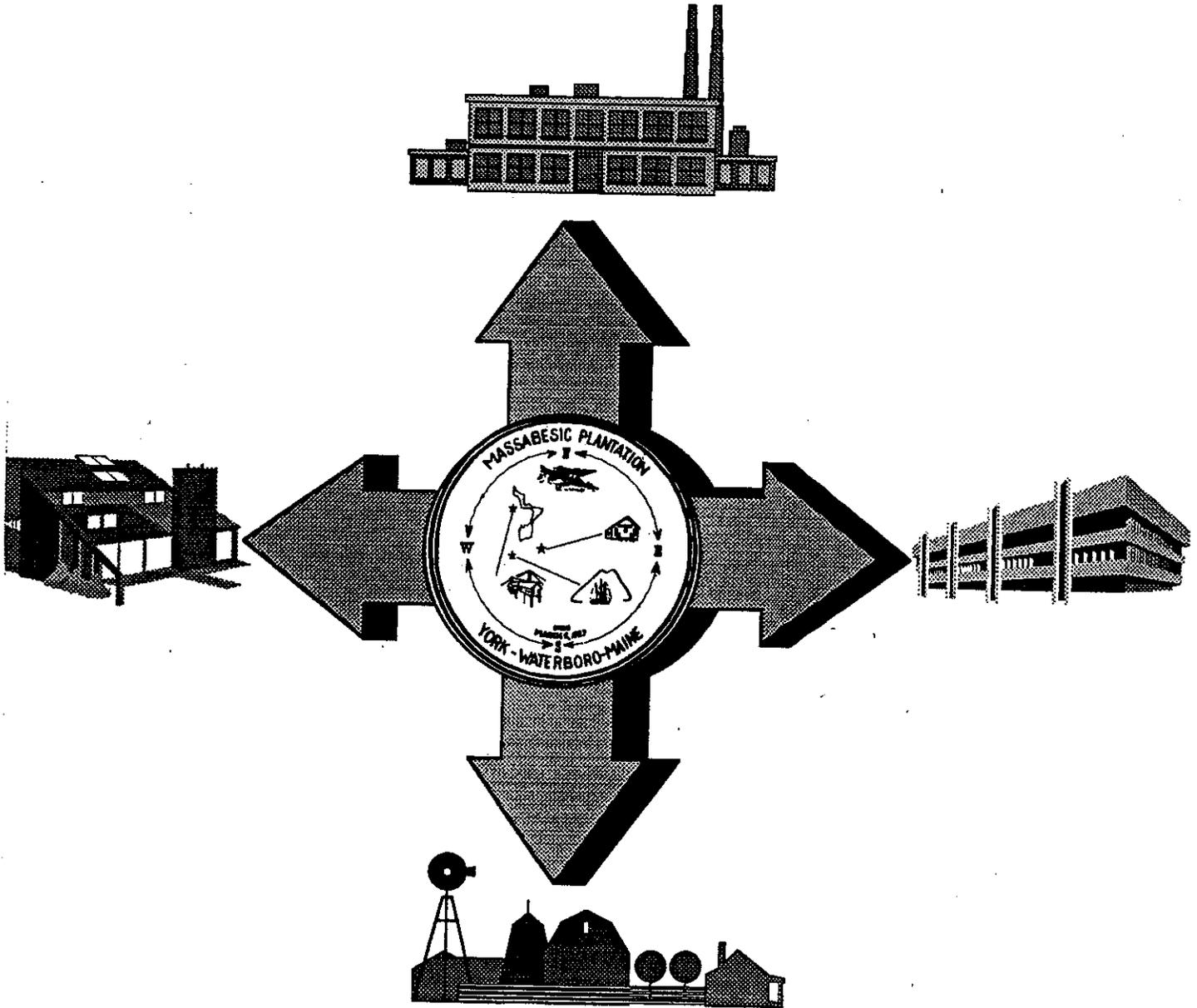


# TOWN OF WATERBORO ZONING ORDINANCE

Price \$8.00



Enacted March 12, 1977

Amended through June 24, 2016

Enacted March 12, 1977

Amendment Dates

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## **ARTICLE 1 INTRODUCTION**

**Section 1.01 Statutory Authority** -This ordinance is enacted pursuant to the authority granted in 30-A M.R.S.A. §4352 and the Home Rule powers granted in Article VIII-A of the Maine Constitution implemented by legislation contained in 30-A M.R.S.A. §4352. Therefore, the citizens of Waterboro do enact and ordain as follows (Amended 05/16/2016):

**Section 1.02 Purpose** -The purpose of this ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of the Town of Waterboro.

**Section 1.03 Intent**- It is the intent of this ordinance to regulate and restrict the use of all lands, waters, and structures; regulate and restrict lot coverage, population distribution and density, and the size and locations of all structures so as to: lessen congestion on and promote the safety and efficiency of streets and highways; secure safety from fire, flooding, and other dangers; provide adequate light, air, water supply, sanitation, drainage, and access to roads and waterbodies; avoid undue population concentrations; facilitate the adequate provision at reasonable costs of public facilities and utilities; stabilize and protect existing public and private property and the value inherent therein; insure the appropriate use of land and the conservation of natural resources; preserve and promote the historic character and beauty of the town. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

**Section 1.04 Underlying Assumptions and Premises** -Existing natural phenomena within the Town of Waterboro, the geographic size of Waterboro, the present and foreseeable population of Waterboro, and the actions of governmental agencies outside of Waterboro give rise to a series of conditions, assumptions, and premises upon which this ordinance is predicated. They include: existing major roads and highways, which are largely funded and maintained by county and state highway departments, will remain unchanged--major extensions, resurfacing, or widening are not anticipated in the short run (5-10 years); public water supply, which does not now exist, is, because of the prohibitive cost involved, also unlikely in the short run; public sewage collection and storm water drainage systems, which also do not now exist, are, because of the prohibitive cost involved, unlikely even in the long run (20-30 years); public school construction, expansion, and location is not controlled exclusively by the Town of Waterboro but by the State Department of Education and School Administration District 57 which presently includes Waterboro and 5 adjacent municipalities--no major organizational changes in SAD 57 or capital construction projects are anticipated in the short run; higher density residential and mixed use districts must have proximity to essential public facilities and both public and private services (schools, roads, police and fire protection, utilities, shops); districts which permit only lower density development either lack this necessary proximity or have other physical limitations involving soils, slope, drainage, suitability for subsurface waste water disposal etc.

## **ARTICLE 2 GENERAL PROVISIONS**

**Section 2.01 Jurisdiction** - The jurisdiction of this ordinance shall include all lands and water within the corporate limits of the Town of Waterboro as shown on the official zoning map (see Section 3.02 of this ordinance) which is on file in the Town Clerk's office.

**Section 2.02 Actions Requiring Compliance** -The use of land, water, or structures and the location, erection, movement, reconstruction, extension, enlargement, conversion, or structural alteration of structures or parts thereof shall hereafter be in conformance with the provisions of this ordinance.

**Section 2.03 Building, Occupancy and Change of Use Permits Required** (Amended 06/41994) - A building permit, designed to insure compliance with state law, this ordinance, other local land use ordinances or regulations, and conditions (if any) attached to an approved project, must be obtained from the Code Enforcement Officer prior to constructing, locating, erecting, moving, reconstructing, extending, enlarging, converting, or structurally altering any permanent or temporary structure or use. A building permit shall be granted or denied by the Code Enforcement Officer as promptly as possible but within seven (7) days of receipt of a completed application. A building permit shall expire one (1) year from the date of its issue unless substantial work (actual construction) has commenced. Work commenced must be completed within two (2) years. A building permit shall not be valid for a longer period of time but may be reissued for an additional two (2) years if the nature of the project has been more or less continuous. (Amended 03/7/2006 by board of selectmen vote).

Plans and permits: Inground swimming pools or appurtenances thereto shall not be constructed, installed, enlarged or altered until plans have been submitted and a permit has been obtained from the Code Enforcement Officer. The approval of all local, county and state authorities having jurisdiction over swimming pools shall be obtained before applying to the Code Enforcement Officer for a permit. Certified copies of these approvals shall be filed as part of the supporting data for the application for the permit. All construction of pools to conform with current edition of building code. (Amended 03/12/1988, 04/27/2002).

An occupancy permit must be obtained from the Code Enforcement Officer prior to actually using or occupying a land area or a permanent or temporary structure upon which work contemplated in a building permit has been completed. An occupancy permit shall be granted or denied as promptly as possible after a physical inspection of the structure and project site by the Code Enforcement Officer but within three (3) days of receipt of a completed application.

The Code Enforcement Officer shall be notified of any change in use of building or premises, and a permit shall be secured for such change. (Amended 06/241994).

**Section 2.04 Uses and Activities Which Do Not Require a Building or Occupancy Permit -**

A building and/or occupancy permit is not required in any of the following circumstances provided that the improvement does not give rise to a violation of state law, this ordinance, other local land use ordinances or regulations, and conditions (if any) attached to an approved project:

- where construction of a permitted accessory structure occupying less than one hundred (100) sq. ft. of ground or floor space and costing less than one thousand dollars (\$1,000) for improvement, or alteration of any existing permitted structure involving less than one hundred (100 sq. ft. of ground or floor space and costing less than one thousand dollars (\$1,000) is contemplated; where repairs not involving a change in use or an increase in the area of any permitted structure (including accessory structures) are contemplated except when in the Shoreland Zone; (Amended 03/11/00, 04/27/2002).
- where a change from one permitted use to another permitted use or from a nonconforming use to a permitted use is contemplated and the costs involved are less than one thousand dollars (\$1,000);
- where erection of a sign not requiring a permit (see Section 6.02) is contemplated; and
- fences and/or walls.

**Section 2.05 Duties of Code Enforcement Officer** -The Code Enforcement Officer shall receive and process all applications for building and occupancy permits. When and if necessary, the Code Enforcement Officer shall refer the applicant to the Zoning Board of Appeals, the Planning Board or the Selectmen of the Town of Waterboro for such review, approval, and action by these bodies as state statute and this ordinance require. Applications for required permits shall be deemed complete only after required reviews, approvals and actions by the above bodies are completed.

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

Decisions of the Code Enforcement Officer with respect to the granting or denial of a building or occupancy permit may be appealed to the Zoning Board of Appeals of the Town of Waterboro within thirty (30) days of the decision by the applicant or by an aggrieved party. The Board of Appeals may affirm the decision of the Code Enforcement Officer, remand the decision with instructions to reconsider the issue, or modify the decision for reasons which must be set forth. (see Section 10.01). (Amended 03/8/1986, 04/26/2003).

The Code Enforcement Officer may on his own and shall upon complaint investigate to insure that state law, this ordinance, other local land use ordinances or regulations, or conditions (if any) attached to an approved project are not being violated. Upon finding a violation of any statute, ordinance, regulation, or condition outlined above, the Code Enforcement Officer shall notify the violator of such fact and simultaneously issue a code enforcement order to the violator requiring immediate compliance with the particular provisions of law involved. The failure to comply with a code enforcement order will subject the violator to penalties, further orders, and possible legal action as outlined in Sections 12.02 and 12.03.

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

**Section 2.06 Site Restrictions** - All lots shall abut upon an existing or proposed road which meets all municipal and other applicable governmental regulations and standards or, if landlocked, shall have a legally recorded access right-of-way, of no less than fifty (50) feet in width, to a public or private road. All lots, with the exception of landlocked lots, shall have a minimum road and/or water frontage of one hundred (100) feet in the Village zone, one hundred (100) feet in the Village/Residential zone except on cul-de-sacs where fifty (50) feet will be required, one hundred fifty (150) feet in the Residential and the Agriculture/Residential and General Purpose zones and two hundred (200) feet in the Forest-Agriculture and Conservation zones. Situations involving or utilizing cul-de-sacs, curvilinear streets, cluster design or planned unit design permitted by the Subdivision Regulations or this Ordinance (see Sections 8.02 and 8.03) when the Planning Board determines that these frontage requirements are not practical it may approve frontage reductions of up to fifty (50) percent. (Amended 03/11/1989, 3/11/00 and 04/26/2003).

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

**Section 2.07 Use Restrictions** - In each zoning district the only uses permitted are those specified as primary uses or conditional uses and those natural and usual accessory uses and structures which enable or facilitate necessary repair, storage, parking, gardening, recreational activity, the non-commercial keeping of animals, and similar undertakings incidental to a primary or conditional use. In addition, all conditional uses in any zoning district and their accessory uses and structures are subject to Planning Board review and approval (See Article 4).

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

**Section 2.08 Size Reductions or Increases** - (Amended 03/12/1988, 03/11/1989, 09/25/1990, 11/12/1996, 03/11/2000, 05/13/2016). If an existing lot of record does not comply with the minimum lot size requirements of the zone which it is located the following shall apply to all setbacks:

1. Yard Requirements
  - a. Rear: There shall be behind every building a rear yard having a minimum depth of the established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot, whichever is less.
  - b. Side: There shall be a minimum distance of the side yard setback established by the zone in which the property is located between any building and the side property line or the side yard setback shall be ten feet and increased one foot for every five feet or part thereof increase in the street frontage over 50 feet to a maximum side yard setback as found in Section 3.03 for the zone in which the property is located.
  - c. Front: There shall be in front of every building a front yard having a minimum depth of the setback established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot whichever is less.
2. Land Takings – Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback, or lot that is reduced below the minimum dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property line as it was located prior to the eminent domain action or the conveyance for a public purpose.
3. Non-Conforming Residential Structure Expansions – A legal non-conforming residential building may not be enlarged beyond the size permitted by dimensional regulations for buildings in said district except that an existing non-conforming building line parallel to the property line may be extended, but in no case shall the yard setback requirement for said addition be reduced to less than five feet.
4. Non-Conforming Non-Residential Structures – An existing lawfully non-conforming, non-residential building or structure may be extended or enlarged, provided that it satisfies the following criteria:
  - a. Any enlargement shall only be used to accommodate the needs of the existing use or different conforming use proposed to occupy the entire structure as outlined by the applicant.
  - b. An enlargement which purpose is to provide for additional floor space as a result of the addition of a new business under separate ownership shall not be allowed.

5. Shoreland Zoning Standards – None of the above standards shall apply within the shoreland zone. All setbacks as determined in the Shoreland Zoning Ordinance Article 7 of the Zoning Ordinance. (Amended 06/24/2016).

**Section 2.09 Applications** - To facilitate the expeditious carrying out of any and all of the responsibilities outlined in this ordinance, the Code Enforcement Officer, the Planning Board, and the Zoning Board of Appeals are respectively authorized to prepare and publish such application forms and procedures as they think necessary. Application forms should elicit as much or all of the information which the officer or board will require from the applicant. Forms should be clearly labeled, simple in format and as concise as possible. If an application form is not completely filled out or if the circumstances of a particular case require it, the officer or board may request such additional information as is necessary to allow full review and evaluation of the pending issue. Applications for Code Enforcement Officer or board action shall not be deemed complete until all information which has been validly requested has been furnished. All completed application forms and supporting materials are public records which shall be kept on file in the Code Enforcement Office and which may be inspected by any member of the public at reasonable times. (Amended 3/11/2000).

Applications for Code Enforcement Officer or board action may not be made by any party other than the owner of record or the lessee of the land which will be directly affected by the requested action or by an option or contract to purchase such land.

**Section 2.10 Site Plan Review** - Site Plan Review and Approval by the Planning Board shall be required before issuance of a building permit or certificate of occupancy for any non-residential building or structure, expansion of a non-residential building or structure, mobile home park or multi-family residences with more than two dwelling units as provided in the Town of Waterboro Site Plan Review Ordinance Adopted June 28, 1988. (Amended 04/26/2003).

Site Plan Review and Approval shall not be required:

1. To change a use permitted by the zoning ordinance to another permitted use, in an existing structure, provided;
  - a. The change does not increase the requirements for off-street parking, as provided by the Zoning Ordinance for the Town of Waterboro; and
  - b. The floor area devoted to the proposed use is equal to or no more than that devoted to the existing use; and
  - c. No structural changes are proposed for the existing building; and
  - d. No changes are proposed for the site on which the existing building is located.
2. For single family dwellings and accessory facilities.

3. For multi-family dwellings of no more than two dwelling units and their accessory facilities.
4. Any development reviewed by Planning Board as a residential subdivision. (Amended 04/27/2002).

## ARTICLE 3 ZONING DISTRICTS

**Section 3.01 General** - For the purpose of this ordinance the Town of Waterboro is divided into the following zoning districts; a Village district (V); a Village/Residential district (VR); an Agriculture-Residential district (AR); a Forest-Agriculture district (FA); a Conservation district (C), and a General Purpose (GP) district. In addition to these districts, the Town of Waterboro also has two (2) overlay districts; the Shoreland Overlay Districts divided into five (5) sub-districts: Resource protection, Limited Residential, Limited Commercial, Stream Protection and General Development District as described in section 7.01; and the Well-Head Protection Districts divided into three (3) sub-districts: District #1, District #2 and District #3 described in section 7.06. (Amended 06/3/1995, 03/11/2000, 06/24/2000, 04/27/2002, 04/26/2003).

**Section 3.02 Zoning Map** - The boundaries of these zones are established by the enactment or later amendment of this Ordinance and are as shown on the Official Zoning Map of the Town of Waterboro, dated February 7, 1977; the Town of Waterboro Wellhead Protection Zone Map; and on the 1970 Town Tax Maps. The Official Zoning Maps are integral parts of this certified copy of the zoning ordinance (maps and text) shall be available to the public at all times in the Town Clerk's Office. The February 7, 1977, and as further Amended from time to time, zoning map was drafted so that the zoning district boundaries followed property lines as depicted on the 1970 tax maps. It should be interpreted accordingly. (Amended 03/11/1989, 03/11/2000, 04/26/2003).

### Section 3.03 Summary of Dimensional Regulations Contained in Article 3

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

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

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

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

A. On lots two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion.

B. On lots larger than two acres, the applicable district regulations shall be followed in the portion of the lot located in that district. (Amended 04/26/2003).

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

One (1) standard size entry deck (4' x 4') and steps are exempt from the sideline setback in all districts with the exception of the Village Residential Zone if approved. (Amended 03/11/2000).

Accessory structures which may be constructed without first obtaining a building permit (see sections 2.03 and 2.04) are not required to meet setback requirements. No more than two sheds which do not meet setback requirements may be constructed on any lot. Above ground swimming pools and tents used for temporary habitation are not required to meet setback requirements.

When the Zoning Ordinance was first enacted in March, 1977, the following highways were considered State-Aid:

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

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

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

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

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

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

### **Section 3.04 Village District (V)**

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

The minimum lot size in the **village district** is 20,000 sq. ft. or 40,000 sq. ft. depending on the land use. No principal or accessory structure may be placed within twenty (20) feet of any side or rear lot line. Such structures must be set back twenty-five (25) feet from the front lot line of a 20,000 sq. ft. lot, fifty (50) feet from the front lot line of a 40,000 sq. ft. lot and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, and similar facilities may be placed on the shore subject to the provisions in Article 7. No principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 for minimum lot width and frontage requirements.

#### Subsection 3.04.01 Primary Uses and Structures

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

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

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

1. Single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
2. Home occupations and professional home offices in accordance with the performance standards of section 7.04. (Amended 04/27/2002).
3. Police and fire protection facilities.
4. Outdoor recreation facilities including ball fields, parks, picnic areas, tennis courts, but not golf courses or driving ranges.
5. Churches, public and private schools, and other public buildings or facilities.
6. Professional offices outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.)

7. All types of retail and service stores (repair shops, barbers, beauticians, cleaners, etc.) with more than one thousand (1000) sq. ft. of store area or that require more than one thousand (1000) gallons of water daily, including all drive-in facilities.
8. All types of wholesale, warehouse and bulk storage facilities.
9. Clubs, lodges, meeting halls.
10. Funeral homes.
11. Hospitals, nursing homes, sanitariums, etc.
12. Hotels, motels, inns providing overnight year-round, or seasonal accommodations, bar and food service.
13. Gas stations, machinery and vehicle sales, service, washing, repair facilities.
14. Restaurants, lounges, cafes with more than one thousand (1000) sq. ft. of customer service area or that require more than one thousand (1000) gallons of water daily.
15. Indoor recreation facilities including bowling alleys, skating rinks, swimming pools, etc.
16. Bank, insurance, real estate, stock brokerage, general business offices with more than one thousand (1000) sq. ft. of customer service and office area.
17. Trapping and fishing.
18. Antique Shops (Amended 06/24/2000).
19. Contractor Business (Amended 04/26/2003).

Subsection 3.04.02 Conditional Uses and Structures

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

1. Clustered single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft in the total parcel being developed.
2. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
3. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, and commercial activities or combinations of the above including bar and food service. Residential PUD's may not exceed one family unit for each 40,000 sq. ft. in the total parcel being developed.
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Cemeteries.
6. Processing facilities related to orchard and agricultural products, including poultry but excluding livestock.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of work area.
11. Bulk fuel oil, cement mixing, general construction tanks, trucks, equipment, and facilities in accordance with all local, state and federal regulations on parcels not less than five (5) acres in size. (Amended 04/27/2002).
12. Wheelchair ramps: Such ramps are exempt from the side, rear and front yard setbacks, but not from the shoreland setback. The Planning Board must determine that they meet the performance standards in Articles 4 and 7. (Amended 03/9/1991, Ratified 04/27/2002)

13. Mobile classrooms in conformance with Section 4.05. (Amended 03/11/2000).

Temporary uses and accessory uses and structures are permitted within the limits outlined in Section 2.07. (Amended 03/11/1989, Ratified 04/27/2002).

### **Section 3.05 Residential District (R)**

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

The minimum lot size in the **residential district** is 40,000 sq. ft. No principal or accessory structure may be placed within thirty-five (35) feet of any side or rear lot line. Such structures must be set back fifty (50) feet from the front lot line and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, and similar facilities may be placed on the shore subject to the provisions in Article 7. No principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 for minimum lot width and frontage requirements.

#### Subsection 3.05.01 Primary Uses and Structures

1. Single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
2. Mobile home parks as permitted under Article 7 Section 7.02 of this Zoning ordinance. (Amended 09/25/1990, Ratified 04/27/2002).
3. Single family camps.
4. Outdoor recreation facilities including ball fields, parks, picnic areas, beach areas, tennis courts, golf courses, driving ranges, etc.
5. Home occupations and professional home offices in accordance with the performance standards of section 7.04. ( Amended 04/27/2002).
6. Professional offices outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.)
7. Police and fire protection facilities.
8. Churches, public and private schools, and other public buildings or facilities.
9. Signs not requiring a permit and signs requiring a permit (see Article 6).
10. Trapping and fishing.
11. Antique Shops (Amended 06/24/2000).

Temporary uses, and accessory uses and structures are permitted within the limits outlined in Section 2.07. (Amended 03/11/1989 Ratified 04/27/2002).

### Subsection 3.05.02 Conditional Uses and Structures

1. Clustered single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
2. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
3. PUD's limited to residential. Residential PUD's may not exceed one family unit for each 40,000 sq. ft. in the total parcel being developed. (Amended 04/27/2002).
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Cemeteries.
6. Storage and selling of local farm, orchard, or forest products on parcels with direct access to a state aid highway.
7. Horticultural activities, including nurseries, greenhouses, and commercial sale of such products on parcels with direct access to a state aid highway.
8. Bed and Breakfast providing overnight, year round or seasonal accommodations.
9. Wheelchair ramps: Such ramps are exempt from the side, rear and front yard setbacks, but not from the shoreland setback. The Planning Board must determine that they meet the performance standard in Articles 4 and 7. (Amended 3/9/91, 04/27/2002).
10. Mobile classrooms in conformance with Section 4.05. (Amended 03/11/2000).
11. Up to two (2) horses for a minimum land tract of 10 acres and up to 19.99 acres and a maximum of four (4) horses on a minimum land tract of twenty (20) acres and larger (Amended 04/28/2015).

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989, 04/27/2002).

### **Section 3.06 Agriculture and Residential District (AR)**

Much of the land in this district is being used and in the foreseeable future will continue to be used as forest and farm land even though it is generally suitable for higher densities of development than presently exist. Land in this district has reasonable proximity to schools and other municipal services and is reasonably well served by utilities and all-weather roads. Though there is some variability, the soils, slope and topographic characteristics of land in this district are above average and are usually capable of sustaining subsurface waste water disposal systems and simultaneously providing adequate fresh water supplies. However, the process of transition from relatively un-intensive uses, primarily agricultural, to more intensive residential and commercial land use activities is in its early stages.

The minimum lot size in the **agriculture and residential district** is 80,000 sq. ft. No principal or accessory structure may be placed within thirty-five (35) feet of any side or rear lot line. Such structures must be set back seventy-five (75) feet from the front lot line and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, and similar facilities may be placed on the shore subject to the provisions in Article 7. Other than agricultural structures, no principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 minimum lot width and frontage requirements.

### Subsection 3.06.01 Primary Uses and Structures

1. Single through four family residences at no greater density than one family unit for each 80,000 sq. ft. in the total parcel being developed.
2. Single family camps.
3. Farming, grazing, poultry and livestock raising including farm residences.
4. Forestry.
5. Orchards.
6. Wildlife preserves including maintenance of nesting and breeding areas.
7. Fishing, trapping and hunting including maintenance of hatchery facilities.
8. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses, driving ranges, etc.
9. Soil and water conservation facilities.
10. Harvesting of wild crops, grasses, etc.
11. Horticultural activities including nurseries, greenhouses, and commercial sale of such products.
12. Storage and selling of local farm, orchard or forest products.
13. Commercial stables.
14. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
15. Police and fire protection facilities.
16. Churches, public and private schools and other public buildings or facilities.
17. Veterinary offices and facilities.
18. Antique shops.
19. Professional office outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.)
20. Clubs, lodges, meeting halls.
21. Funeral homes.
22. Signs not requiring a permit (see Sections 6.01 and 6.02).
23. Home Occupations in accordance with the performance standards of section 7.04. (Amended 06/24/2000, 04/27/2002).
24. Professional Home Offices (Amended 06/24/2000).
25. Contractor Business (Amended 04/26/2003).

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989, 04/27/2002).

### Subsection 3.06.02 Conditional Uses and Structures

1. Clustered and single through four family residences at no greater density than one family unit for each 80,000 sq. ft. in the total parcel being developed.
2. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
3. Commercial campgrounds including day and overnight facilities.
4. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Extraction of rock, sand and gravel, but not within five hundred (500) feet of any residence, camp or waterbody and provided a suitable restoration plan is prepared.

6. Cemeteries.
7. Marinas including sale of boat, bait and tackle supplies.
8. Processing facilities related to orchard and agricultural products, including poultry and livestock.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Junkyards, dumps, and solid waste disposal areas but not within five hundred (500) feet of any residence, camp, or waterbody, and only if appropriately screened.
11. PUD's limited to industrial and/or commercial activities on parcels not within five hundred (500) feet of a waterbody and with direct access to a state or federal aid highway. PUD's providing resort and recreational facilities including overnight, year-round, or seasonal accommodations, bar and food service. Notwithstanding the provisions in section 3.06 principal or accessory structures in all such developments shall not be built within one hundred and twenty five (125) feet of any side or rear lot line and must be set back one hundred and fifty (150) feet from the front lot line.
12. Expansions of Mobile Home parks in existence or under Planning Board review as of September 25, 1990 as permitted under Section 7.02 of this Ordinance. (Amended 09/25/1990, Ratified 04/27/2002).
13. Nursing homes, etc. on parcels with direct access to a state aid highway. (Amended 04/27/2002).
14. Signs requiring a permit.
15. Bed and Breakfasts providing overnight, year-round, or seasonal accommodations. (Amended 04/27/2002).
16. Machinery and vehicle sales, service, repair facilities with a total building area not to exceed five thousand (5,000) sq. ft. with direct access to a state aid highway. (Amended 04/27/2002).
17. Restaurants, lounges, cafes on parcels with direct access to a state aid highway.
18. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of building area on parcels with direct access to a state aid highway. (Amended 04/27/2002).
19. Daycare Facility and Home Day Care providers. All day care facilities will be required to construct a fence that the Planning Board deems suitable (see Articles 4.01, 4.02 and 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
20. Wheelchair ramps: Such ramps are exempt from the side, rear and front yard setbacks, but not from the shoreland setback. The Planning Board must determine that they meet the performance standard in Articles 4 and 7. (Amended 03/9/1991 and ratified 04/27/2002).
21. Private airplane runway strips. (Amended 06/5/1993 and ratified 04/27/2002).
22. Mobile classrooms in conformance with Section 4.05. (Amended 3/11/00)
23. Medical Marijuana Grow-Only Facility. (Amended 02/22/2011 by Selectmen vote).

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989, Ratified 04/27/2002).

### **Section 3.07 Forest and Agriculture District (FA)**

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

The minimum lot size in the **forest and agriculture district** is five (5) acres. No principal or accessory structure may be placed within fifty (50) feet of any side or rear lot line. Such structures must be set back one-hundred (100) feet from the front lot line and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, or similar facilities may be placed on the shore subject to the provisions in Article 7. Other than agricultural structures, no principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 for minimum lot width and frontage requirements.

#### Subsection 3.07.01 Primary Uses and Structures

1. Single family residences.
2. Single family camps.
3. Farming, grazing, poultry and livestock raising including farm residences.
4. Forestry.
5. Orchards. Wildlife preserves including maintenance of nesting and breeding areas.
6. Fishing, trapping and hunting including maintenance of hatchery facilities.
7. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses, driving ranges, etc.
8. Soil and water conservation facilities.
9. Harvesting of wild crops, grasses, etc.
10. Horticultural activities including nurseries, greenhouses & commercial sale of such products.
11. Storage and selling of local farm, orchard or forest products.
12. Commercial stables.
13. Churches.
14. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
15. Signs not requiring a permit (see Sections 6.01 and 6.02)
16. Home occupations and professional home offices in accordance with the performance standards of section 7.05. (Amended 04/27/2002).

Temporary uses and accessory structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989 and Ratified 04/27/2002).

### Subsection 3.07.02 Conditional Uses and Structures

1. Clustered single family residences.
2. Duplex residences and clustered duplex residences at no greater density than one dwelling unit for each 5 acres being developed. (Amended 03/11/1989, Ratified 04/27/2002)
3. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
4. Commercial campgrounds including day and overnight facilities.
5. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
6. Extraction of rock, sand, and gravel, but not within five hundred (500) feet of any residence, camp or waterbody and provided a suitable restoration plan is prepared.
7. Cemeteries.
8. Police and fire protection facilities.
9. Marinas including sale of boat, bait and tackle supplies.
10. Processing facilities related to orchard and agricultural products, including poultry and livestock.
11. Wood products processing facilities (sawmills, lumberyards, etc.)
12. Veterinary offices and facilities.
13. Wheelchair ramps: Such ramps are exempt from the side, rear and front yard setbacks, but not from the shoreland setback. The Planning Board must determine that they meet the performance standard in Articles 4 and 7. (Amended 03/9/1991 and ratified 04/27/2002).

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989, Ratified 04/27/2002).

### **Section 3.08 Conservation District (C)**

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

The minimum lot size in the **conservation district** is ten (10) acres. No principal or accessory structure may be placed within fifty (50) feet of any side or rear lot line. Such structures must be set back one hundred (100) feet from the front lot line and one hundred (100) feet from the normal high water mark of any lake, river, or stream except that docks, or similar facilities may be placed on the shore subject to the provisions in Article 7. Other than agricultural structures, no principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 for minimum lot width and frontage requirements.

#### Subsection 3.08.01 Primary Uses and Structures

1. Single family residences.
2. Single family camps.
3. Farming, grazing, poultry and livestock raising including farm residences.
4. Forestry.
5. Orchards.
6. Wildlife preserves including maintenance of breeding and nesting areas.
7. Fishing, trapping and hunting including maintenance of hatchery facilities.
8. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses driving ranges, etc.
9. Soil and water conservation facilities.
10. Signs not requiring a permit (see sections 6.01 and 6.02).
11. Harvesting of wild crops, grasses, etc.
12. Storage of local farm, orchard, or forest products.

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989 Ratified 04/27/2002).

#### Subsection 3.08.02 Conditional Uses and Structures

1. Clustered single family residences.
2. Duplex residences and clustered duplex residences at no greater density than one dwelling unit for each 5 acres in the total parcel being developed. (Amended 03/11/1989, Ratified 04/27/2002).
3. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
4. Horticultural activities including nurseries, greenhouses and commercial sale of such products.

5. Home occupations and professional home offices in accordance with the performance standards of section 7.05. (Amended 04/27/2002).
6. Commercial campgrounds including day and overnight facilities.
7. Selling of local farm, orchard or forest products.
8. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
9. Cemeteries.
10. Police and fire protection facilities.
11. Commercial stables.
12. Wheelchair ramps: Such ramps are exempt from the side, rear and front yard setbacks, but not from the shoreland setback. The Planning Board must determine that they meet the performance standard in Articles 4 and 7. (Amended 03/9/1991 and ratified 04/27/2002).

Temporary uses and accessory uses and structures are permitted within the limits outlined in section 2.07. (Amended 03/11/1989, Ratified 04/27/2002).

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

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

The minimum lot size in the **village residential** district is 20,000 square feet with the minimum lot width and frontage requirements of 100' except on cul-de-sacs where 50' will be required. No principal or accessory structure may be placed within twenty (20) feet of any side or rear lot line. Such structures must be set back forty (40) feet from any front yard and one hundred (100) feet from the normal high water mark of any lake, river or stream, except that docks or similar facilities may be placed on the shore subject to the provisions in Article 7. No principal or accessory structure may exceed thirty five (35) feet in height. See section 2.06 for minimum lot width and frontage requirements.

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

1. Single-family residences
2. Single-family camps
3. Signs not requiring a permit (see Sections 6.01 and 6.02)
4. Home Occupations in accordance with the performance standards of section 7.05. (Amended 04/27/2002).
5. Manufactured Homes
6. Yard & Garage Sales

### **Section 3.10 General Purpose Zone (GP)**

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

The minimum lot size in the General Purpose District (GP) is 40,000 sq. ft. depending on the lot being serviced by the public water system. If the lot is not serviced by public water the minimum lot size is 80,000 sq. ft. Any lots under 80,000 sq. ft. will be required to be serviced by public water supply. No principal or accessory structure may be placed within thirty-five (35) feet of any side or rear lot line. Such structures must be set back fifty (50) feet from the front lot line. No principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.06 for minimum lot width and frontage requirements. Abutting properties purchased that do not fall within the **General Purpose** (GP) District will retain their original zoning requirements. (Amended 04/26/2003).

#### Subsection 3.10.01 Primary Uses and Structures -

1. All types of retail shops and service stores (repair shops, barbers, beauticians, cleaners, etc.) one hundred thousand (100,000) square feet or less of store area.
2. Restaurants, lounges, cafes.
3. Bank, insurance, real estate, stock brokerage, general business offices.
4. Newspaper, radio, or television offices, studios, facilities.
5. Signs not requiring a permit and signs requiring a permit (see Article 6).
6. Single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
7. Home occupations and professional home offices in accordance with the performance standards of section 7.04. (Amended 04/27/2002).
8. Police and fire protection facilities.
9. Outdoor recreation facilities including ball fields, parks, picnic areas, tennis courts, golf courses and driving ranges.
10. Churches, public and private schools, and other public buildings or facilities.
11. Professional offices outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.).
12. All types of wholesale, warehouse and bulk storage facilities with (one hundred thousand ) 100,000 square feet of area or less.
13. Fabricating, manufacturing, light industrial activities and facilities with (one hundred thousand) 100,000 square feet of area or less.
14. Clubs, lodges, meeting halls.
15. Funeral homes.
16. Hospitals, nursing homes, sanitariums, etc.
17. Single-family camps.
18. Farming, grazing, poultry and livestock raising including farm residences.
19. Forestry.
20. Orchards.
21. Wildlife preserves including maintenance of nesting and breeding areas.
22. Fishing, trapping and hunting including maintenance of hatchery facilities.
23. Soil and water conservation facilities.

24. Harvesting of wild crops, grasses, etc.
25. Commercial stables.
26. Commercial breeding, raising, and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
27. Veterinary offices and facilities.
28. Antique shops.
29. Contractor Business (Amended 04/26/2003).

#### Subsection 3.10.02 Conditional Uses and Structures

1. All types of retail shops and service stores (repair shops, barbers, beauticians, cleaners, etc.) with store area of more than one hundred thousand (100,000) square feet.
2. Clustered single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed where public water supply is available. If public water is not available the maximum density shall be 80,000 square feet per family unit.
3. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems suitable (see Article 4 Sections 4.01, 4.02, 4.03) to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002).
4. Mobile home parks at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
5. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, or combinations of the above including bar and food service. Residential PUD's may not exceed one family unit for each 40,000 sq. ft. in the total parcel being developed.
6. Communications poles, towers, lines, unmanned substations, etc.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.).
10. Fabricating, manufacturing, light industrial activities and facilities with more than (one hundred thousand) 100,000 square feet of area.
11. All types of wholesale, warehouse and bulk storage facilities with more than (one hundred thousand) 100,000 square feet of area.
12. Bulk fuel oil, gasoline storage, cement mixing, general construction tanks, trucks, equipment, and facilities on parcels not less than five (5) acres in size.
13. Commercial campgrounds including day and overnight facilities.
14. Marinas including sale of boat, bait, and tackle supplies.
15. PUD's limited to industrial and/or commercial activities on parcels not within five hundred (500) feet of a waterbody and with direct access to a state or federal aid highway. PUD's providing resort and recreational facilities including overnight, year-round, or seasonal accommodations, bar and food service. Notwithstanding the provisions in subsection 3.06.01 principal or accessory structures in all such developments shall not be built within one hundred and twenty-five (125) feet of any side or rear lot line and must be set back one hundred and fifty (150) feet from the front lot line. PUD's in this zone must provide a form of public water.

16. Machinery and vehicle sales, service, repair facilities with a total building area not to exceed five thousand (5,000) sq. ft. with direct access to a state aid highway. (Amended 09/4/2007).
17. Mobile classrooms in conformance with Section 4.05. (Amended 03/11/2000).
18. Medical Marijuana Grow-Only Facility. (Amended 2/22/11 by Selectmen vote).

Temporary uses; and accessory uses and structures are permitted within the limits outlined in section 2.07.

## ARTICLE 4 CONDITIONAL USES

**Section 4.01 General Requirements** - In all of the zoning districts created in Article 3, permitted uses are divided into primary uses, which may be undertaken forthwith and require only the issuance of a building and/or occupancy permit, and conditional uses which require Planning Board approval before they may be commenced (see Sections 3.04-3.08). Conditional use approval may not be unreasonably withheld by the Planning Board and requirements or findings in excess of those set forth in this ordinance may not be imposed, except in those extraordinary circumstances covered by Section 4.03. The Planning Board, subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses may not, however, allow a conditional use not expressly authorized by this ordinance – neither may the Selectmen or the Zoning Board of Appeals. Conditional uses which are not authorized and not similar in character to those which are permitted may be undertaken only if this ordinance is Amended as provided by law (see Section 13.04).

This application for conditional use approval must, at a minimum, contain all of the information required for the issuance of a building permit, a statement, and whatever supporting information may be necessary, to indicate that all of the conditions for approval imposed by this ordinance have been met, and such other information as the Planning Board may require to assist it in its decision making process. A conditional use shall be approved or disapproved by the Planning Board within thirty-one (31) days of receipt of a completed application. All decisions shall be promptly communicated to the applicant and the Code Enforcement Officer. An approval shall expire six (6) months from the date of its issue unless a building permit has been issued and substantial work (actual construction) has commenced. (see Section 2.03).

If the Planning Board feels it is necessary to either gather additional information, resolve conflicting information, or to inform the public, it may hold a hearing, pursuant to the provisions of Sections 13.07, before deciding an application to commence a conditional use. The Applicant is required to notify abutters of the property of the conditional use application no less than 10 days prior to the scheduled Planning Board meeting. This notice shall inform the abutters of the application for conditional use, the date and time of the meeting and that the abutters shall submit their concerns in writing to the planning board prior to the meeting date. The applicant shall provide the planning board proof of notice to abutters. This evidence can be by certified proof of mailing as provided by a post office listing the names of the abutters, the mailing addresses utilized for the notice, a copy of the notice sent and the date upon which the notice was mailed. (Amended 04/26/2003).

Planning Board approval or disapproval of an application to commence a conditional use must include a statement of reasons for the approval or disapproval. Decisions of the Planning Board, with respect to the approval or disapproval of a conditional use application, may be appealed to the Zoning Board of Appeals of the Town of Waterboro within thirty (30) days of the decision by the applicant or by an aggrieved party. (AMENDED 03/8/1986, 04/26/2003).

The commencement of a conditional use without Planning Board approval is a violation of this ordinance as is the subsequent violation of or failure to meet any general, specific, or special requirements upon which approval of the conditional use was predicated (see Section 12.02).

## **Section 4.02 Specific Requirements –**

In addition to findings that the general specific requirements for conditional use approval set out in the section permitting a particular conditional use in a particular district (see Sections 3.04 to 3.09) have been met, and that, where applicable, specifically articles 5, 6, 7 and 8, have also been met, the Planning Board must additionally find before a conditional use is approved that the proposed use in the specific location contemplated will be in harmony with the Town's Comprehensive Plan and existing subdivision regulations; provides safe and adequate access to the road system of the town; provides safe and adequate means for water supply, waste water disposal, and solid waste disposal; is capable of being reasonably served by schools, public utilities, public safety agencies, and other public agencies and service; provides an adequate and permanent natural buffer or artificial screen between itself and adjacent properties which are being used in alternative ways permitted by this ordinance; will not result in damage to waterbodies, marsh or other natural areas, scenic or historic areas; will be built on soil types which are suitable to the nature of the undertaking; has taken all reasonable steps to fit itself harmoniously into the existing environment which includes the natural environment and existing (if any) development; will not result in the unnecessary removal of natural vegetation, the permanent scarring of the land, or soil erosion; will not result in unreasonable noise levels, harmful air emissions, or offensive odors; is in possession of or in the process of obtaining (and ultimately does obtain) all required state permits and approvals. (Amended 03/11/2000).

**Section 4.03 Special Requirements (Conditions)** - If, in the contest of reviewing a particular conditional use application it becomes apparent to the Planning Board that the public's health, safety, or general welfare will be threatened, even though all of the required findings are made and all general and specific conditions for approval imposed by this ordinance and supporting regulations are met, the board is authorized to frame and impose additional special requirements (conditions) for approval. In such cases, the board in its decision must fully set forth the unforeseen circumstances, the need for and the underlying rationale of the attached special requirements (conditions). Use of the extraordinary power conferred by this section shall be kept to a minimum.

**Section 4.04 Special Requirements for Extraction Operation Approval** - An applicant for an extraction operation conditional use permit must obtain and submit a restoration/reclamation plan, erosion/sediment control plan, and Hydrogeological Study for review and approval by the Planning Board before conditional use approval of a new extraction operation can be granted. Extraction operations in existence and actual operation on March 11, 1989 cannot be expanded to encompass more than five (5) acres in area unless Planning Board approval of a suitable restoration/reclamation plan, erosion/sediment control plan and Hydrogeological Study is first obtained.

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

The conditional use application along with four (4) copies of the set of plans, which include (1) restoration/reclamation plan, (2) erosion/sediment control plan, and one (3) Hydrogeological Study shall be submitted to the Planning Office at least 14 working days prior to the applicant's initial appointment.

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

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

In addition, the Planning Board reserves the right to:

- 1) Hold a Public Hearing, pursuant to the provisions of Section 13.07, to either gather additional information, resolve conflicting information or to inform the public before deciding an application to commence an extraction operation.
- 2) Hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application for extraction operation is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for an extraction operation. (Amended 03/10/1990).

#### **Section 4.05 Mobile Classroom Regulations**

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

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

All classrooms must be equipped with:

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

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

## **ARTICLE 5 TRAFFIC, PARKING, ROAD ACCESS**

**Section 5.01 Traffic Visibility and Screening** - No fence or other structure, trees, shrubbery, material, vehicles or any other construction shall be placed or maintained even temporarily in any manner which impairs the visibility of the driver of any vehicle which in traveling on any roadway in the town, public or private, approaches within fifty (50) feet of the initial point of intersection with another public or private roadway.

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

All parking and loading areas including areas used for maneuvering and interior circulation, shall be set back at least twenty-five (25) feet from the roadway on which they front; and will maintain at least a ten (10) foot greenbelt on the side and rear property lines with the planning board having the authority to require the standard setback of the zone under extenuating circumstances. (Amended 04/27/2002).

**Section 5.02 Loading Area Requirements** - On every lot on which commercial, industrial or institutional activities are permitted and hereafter commenced, extended or enlarged a loading area with access to a public or private roadway shall be provided to avoid the loading, unloading or maneuvering of vehicles within the right-of-way of any public or private roadway. A loading area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All loading areas must have sufficient overhead clearance to accommodate tractor-trailer size vehicles.

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

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

**Section 5.03 Parking Area Requirements** - In all districts and in connection with every permanent or temporary use of land or structures commenced, extended or enlarged after the effective date of his ordinance, an adequate parking area with access to a public or private roadway in accordance with the provisions of this ordinance shall be provided on the same lot as the principal use or structure which gives rise to the need for parking space. In no case shall any part of the road right-of-way be used in providing such parking area. The parking of vehicles on or along roadways is permitted subject to restrictions deriving from applicable municipal and State regulations.

Except in the case of single and two-family dwellings, a single parking space, exclusive of the space needed within a parking area for driveway, turnaround and traffic circulation purposes shall be at least two hundred (200) sq. ft. A parking area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All parking areas must be graded and surfaced so as to be properly drained and dust free. Parking areas serving more than ten (10) vehicles must have the individual spaces and aisles marked.

Parking spaces shall be provided according to the following schedule:

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

- |     |                                                                       |                                                                                            |
|-----|-----------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| 8.  | Restaurants, bars, lounges, diners, cafes                             | 1 space for every 3 seats plus 1 space for every 3 employees                               |
| 9.  | Pre-school, Nursery and primary schools                               | 1 space for every 20 students plus 1 space for every 3 employees                           |
| 10. | Secondary and post-secondary schools                                  | 1 space for every 4 students plus 1 space for every 3 employees                            |
| 11. | Retail shops and service store, (cleaners, barbers, repair shops)     | 1 space for every 200 sq. ft. of store area plus 1 space for every 3 employees             |
| 12. | Wholesale, warehouse, manufacture, or processing facilities           | 5 spaces for visitors plus 1 space for every 3 employees                                   |
| 13. | Financial institutions, business, government, or professional offices | 1 space for every 200 sq. ft. of non-storage floor area plus 1 space for every 3 employees |

- |     |                                                                      |                                                                                                                                                                            |
|-----|----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14. | Fraternal organizations, clubs and lodges                            | 1 space for every 100 sq. ft. of non-storage floor area                                                                                                                    |
| 15. | Garages and filling stations                                         | 1 space for every 100 sq. ft. of non-storage work areas plus 1 space for every 3 employees                                                                                 |
| 16. | Fair grounds, amusement parks, ballparks, or recreational facilities | 1 space for every 4 seats or 1 space for every 500 sq. ft. of playing area or non-storage area open to the public, whichever requires the greater number of parking spaces |
| 17. | Drive-in facilities                                                  | 10 spaces for each teller, serving window or counter plus 1 space for every 3 employees                                                                                    |
| 18. | Marinas                                                              | 1 space for each boat dock or mooring space plus 1 space for every 3 employees                                                                                             |

19.	Agriculture or forestry activities (including farmstands)	3 spaces plus 1 space for each piece of vehicular equipment used in the operation and 1 space for every 3 employees
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Uses, activities, or facilities which arguably fit within more than one of the above categories will be considered in that category requiring the larger number of parking spaces. Uses, activities or facilities which combine several of the above undertakings must provide the total of the number of spaces which each undertaking on its own would require. Uses, activities, or facilities not specifically listed shall be placed in that category above which the Planning Board determines is most similar in character to the proposed undertaking.

**Section 5.04 Roadway Access** - No driveway shall be within fifty feet of any intersection of public or private roads. A loading or parking area shall not have more than two (2) access driveways to an abutting roadway. Property owners with driveways serving drive-in commercial enterprises or serving loading or parking areas designed for more than fifty (50) vehicles shall provide appropriate entrance and exit signs, stop signs at all points of egress from the loading or parking area, and may, if the Planning Board determines that the volume of traffic requires it, be required to provide a driveway divider, an adequate frontage road, an approach lane, or a turning lane to insure safe traffic flow on, onto, and off of abutting public or private roadways.

## ARTICLE 6 SIGNS

**Section 6.01 General Requirements** - All signs which are located, erected, moved, reconstructed, extended, enlarged or structurally altered after the effective date of this ordinance must be in compliance with the provisions of this ordinance though some signs are exempted from otherwise applicable permit requirements and accompanying regulations. (see Section 6.02). Signs placed in or on the windows of residences, stores, or other buildings are not regulated by this ordinance except that such signs may not be animated, and they may not utilize flashing lighting.

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

The owner of the land upon which a sign is located is responsible for its safe construction, installation, and maintenance. Unsafe damaged or deteriorated signs, signs in danger of falling, or signs not in compliance with the provisions of this ordinance are in violation of this ordinance. The Code Enforcement Officer shall order compliance with this ordinance which may include the repair, or removal of such signs. If compliance with his order is not achieved within the time period specified in the order, the Town in addition to the remedies provided in Sections 12.02 and 12.03 may repair or remove the violating sign and assess the costs to the landowner.

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

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

**Section 6.02 Signs Not Requiring a Permit** - Signs which do not require a permit may not exceed twenty (20) sq. ft. in size nor, including their supporting structure, may they exceed fifteen (15) feet in height. They are permitted in all of the zoning districts created by this ordinance. There may not be more than a total of two (2) of any such signs on any one lot or parcel of land. Except for official traffic control signs, they must directly relate to activities or beliefs of, or information about the land itself or the owner or lessee of the land upon which the signs are situated. Again excepting official traffic control signs, they must comply with the general requirements for all signs contained in Section 6.01. Signs not requiring a permit include:

1. Signs containing the house number, house name, street address, or name of the occupants of a house;
2. Real estate signs advertising the sale or lease of the property;

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

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

**Section 6.03 Signs Requiring a Permit** - All signs except those specifically exempted by the provisions of Sections 6.01 and 6.02 require a permit including those signs enumerated in Section 6.02 which are either larger in size than or exceed the number permitted by that section. A sign permit for purposes of this ordinance shall be deemed a type or subcategory of building permit--as such it will be issued by the Code Enforcement Officer subject to and in accordance with all of the provisions outlined in Sections 2.03 and 2.05. In addition the following regulations apply to signs requiring a permit:

1. All of the general requirements for signs contained in Section 6.01.
2. No sign requiring a permit may be located in either the (FA) or (C) district.
3. In all other districts a sign requiring a permit is either a primary or conditional use as specified (see Sections 3.04, 3.05, and 3.06).
4. No sign may exceed three hundred (300) Sq. ft. in size nor may a sign including its supporting structure exceed twenty-five (25) feet in height.

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

## **ARTICLE 7 PERFORMANCE STANDARDS**

### **Section 7.01 Development on Shorelands**

The purposes of this Section is to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in Shoreland areas. This Section has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

#### **Applicability**

This applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and within 100 feet, horizontal distance of the normal high-water line of a stream. This also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high-water line of a water body or within a wetland.

#### **Amendments**

Any amendments made to this Section, Section 7.01 Development on Shorelands, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted during the forty-five (45) day period shall be governed by that amendment, if such amendment is approved by the Commissioner.

#### **Land Use Requirements**

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

#### **Minimum Shoreland Frontage**

New lots adjacent to great ponds, rivers, and streams shall have a minimum shore frontage of 200 feet, exclusive of areas located within the Village District, as identified on the Waterboro Zoning Map.

## Districts and Official Shoreland Zoning Map

The areas to which this section of the ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is made part of the ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. Stream Protection
5. General development (Amended 05/13/2004)

### 1. Establishment Of Districts

#### A. Resource Protection District

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

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.
2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

#### B. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District.

C. Limited Commercial District

The limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

D. Stream Protection District

The Stream Protection District includes all land areas within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater body, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated Shoreland area is located within two-hundred and fifty (250) feet, horizontal distance of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland district associated with that water body or wetland.

E. General Development District

The General Development District includes the following types of areas:

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
  - a. Areas devoted to manufacturing, fabricating or other industrial activities; and
  - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities.
2. Areas otherwise discernable as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on the residential use. (Amended 05/13/2004)

**Table of Land Uses**

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

Key to Land Use Table:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Requires permit issued by the Planning Board

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

LC - Limited Commercial

LR - Limited Residential

SP - Stream Protection

GD - General Development

**TABLE 1. LAND USES IN THE SHORELAND ZONE DISTRICTS**

LAND USES	SP	RP	LR	LC	GD
1. Non-intrusive recreational uses not requiring structures such as hunting, fishing and hiking	YES	YES	YES	YES	YES
2. Motorized vehicular traffic on existing roads	YES	YES	YES	YES	YES
3. Forest Management activities except for timber harvesting	YES	YES	YES	YES	YES
4. Timber Harvesting	YES	CEO	YES	YES	YES
5. Clearing of vegetation for approved construction and other allowed uses	CEO	CEO	YES	YES	YES
6. Fire Protection activities	YES	YES	YES	YES	YES
7. Wildlife management activities	YES	YES	YES	YES	YES
8. Soil and water conservation practices	YES	YES	YES	YES	YES
9. Mineral exploration	NO	YES	YES	YES	YES
10. Mineral extraction including sand and gravel	NO	YES	YES	PB	PB
11. Surveying and resource analysis	YES	YES	YES	YES	YES
12. Emergency operations	YES	YES	YES	YES	YES
13. Agriculture	YES	YES	YES	YES	YES
14. Aquaculture	PB	PB	PB	YES	YES
15. Principal structures and uses:					
A. One and two family residential	PB	NO	CEO	CEO	CEO
B. Multi-unit residential	NO	NO	PB	PB	PB
C. Commercial	NO	NO	NO	PB	PB
D. Industrial	NO	NO	NO	NO	PB
E. Governmental and Institutional	NO	NO	NO	PB	PB
F. Small non-residential for educational, scientific or nature purposes	PB	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB	PB	CEO	CEO	YES
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland					
A. Temporary	YES	YES	YES	YES	YES
B. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	NO	LPI	LPI	LPI
19. Home Occupations	PB	NO	PB	CEO	YES
20. Private sewage disposal systems for allowed uses	LPI	NO	LPI	LPI	LPI
21. Essential services	PB	PB	PB	PB	PB
22. Service drops, as defined, to allowed uses	YES	YES	YES	YES	YES
23. Public and Private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	NO	NO	NO	PB	PB
26. Parking facilities	NO	NO	NO	PB	PB
27. Marinas	PB	NO	PB	PB	PB
28. Filling and earthmoving of <10 cubic yards	CEO	CEO	YES	YES	YES
29. Filling and earthmoving of >10 cubic yards	PB	PB	CEO	CEO	CEO
30. Signs	YES	YES	YES	YES	YES
31. Use similar to allowed uses	CEO	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring PB permit	PB	PB	PB	PB	PB

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

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation, or other materials;**
- B. Draining or otherwise dewatering;**
- C. Filling, including adding sand or other material to a sand dune; or**
- D. Any construction or alteration of any permanent structure.**

## 2. Principal and Accessory Structures

- A. All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of all water bodies, including great ponds classified GPA, rivers that flow to great ponds classified GPA, tributary streams or the upland edge of a wetland.

In addition:

1. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
3. The first floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
4. The total area of all structures, parking lots and other non-vegetated surfaces, within the Shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland zone, including land area previously developed.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

### B. Non-conforming Structures

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

Further Limitations:

- a) After January 1, 1989 if any portion of a structure is less than the required setback from the high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 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 complete 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.
- 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 that 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 size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the 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 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.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

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.

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, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

**3. Piers, Docks, Wharfs, Bridges And Other Structures And Uses Extending Over Or Beyond The Normal High-Water Line Of A Water Body Or Within A Wetland.**

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with existing developed or natural beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. Pier, dock, and boat mooring facilities must not be constructed in a manner or location which causes erosion or poses a threat to beach, bathing, or fish spawning areas. (Amended 07/22/2014).
- E. No new structure shall be built on, over or abutting a wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- F. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.

#### **4. Individual Private Campsites**

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

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

#### **5. Commercial And Industrial Uses**

The following new commercial and industrial uses are prohibited within the Shoreland zone adjacent to the great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms.
- e. Commercial painting, wood preserving, and furniture stripping
- f. Dry cleaning establishments
- g. Electronic circuit assembly
- h. Laundromats, unless connected to a sanitary sewer
- i. Metal plating, finishing, or polishing
- j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- k. Photographic processing
- l. Printing

## **6. Storm Water Runoff**

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

## **7. Essential Services**

- A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B. The installation of essential services is not permitted in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists.

Where permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

## **8. Mineral Exploration And Extraction**

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

Mineral extraction may be permitted under the following conditions:

- A. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph D below.
- B. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the of any ground area disturbed by such extraction on land sloping toward the water shall be closer to the high water mark than the following:

Average slope of land Between Exposed Mineral Soil and Normal High Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and Normal High Water Mark (Feet along surface of the Ground)
0-30	100
40	105
50	125
60	145
70	165

Extraction operations shall not be permitted within one hundred fifty (150) feet of any property line, without written permission of the owner of such adjacent property. If written permission of the abutter is obtained, a buffer strip of no less than 25 feet may be allowed. These buffer requirements may be waived with the abutters permission if the abutting property is in use as an extraction operation.

- C. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than one hundred (100) feet and screened from the river by existing vegetation and must conform to the slope table in paragraph 2.
- D. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - 1. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, Title 38, Maine Revised Statutes Annotated, Section 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

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

## 9. Agriculture

- A. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
- B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within one hundred (100) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance all manure storage areas within the Shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.

- C. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

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

## 10. Timber Harvesting

- A. Within the strip of land extending 75 feet inland from the normal high-water line in a Shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
- B. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

- i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
  - ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
2. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
  3. Timber harvesting equipment shall not use stream channels as travel routes except when:
    - i. Surface waters are frozen; and
    - ii. The activity will not result in any ground disturbance.
  4. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
  5. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
  6. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided,

however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

## **11. Clearing Of Vegetation For Development**

- A. Within a Shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

- B. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

1. 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. However, a footpath not to exceed ten (10) 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 a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six (6) feet.
2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a 25-foot by 25-foot square (625 square feet) area.

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

3. In order to protect water quality and wildlife habitat, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a. above.
4. Pruning of tree branches, on the bottom 1/3 of the tree permitted.
5. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- C. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten(10) year period, selective cutting of not more than forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but no limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development District.

- D. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- E. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

## **12. Erosion And Sedimentation Control**

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan.

The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and revegetation of disturbed soil.
  2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  3. Permanent stabilization structures such as retaining walls or rip rap.
- B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
  - C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
  - D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip rap, sod, seed, and mulch, or other

effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

### **13. Water Quality**

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

### **14. Roads and Driveways**

New roads, driveways, parking areas, and campsites within commercial campgrounds in designated shoreland areas shall set back a minimum of 100 feet from the normal high water line of great ponds, and 75 feet from river, stream, tributary streams, and the upland edge of freshwater wetlands unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

This section shall not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located near to the shoreline due to an operational necessity. (Amended 06/3/1995).

## **Section 7.02 Mobilehome Park Development:**

### **A. Authority and Purpose**

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

(2) The purpose of this section shall be to accommodate the creation and expansion of mobile home park development in a manner that will encourage and provide for the:

- a) Preservation of open space;
- b) Creation of recreation areas;
- c) Preservation of environmentally sensitive areas;
- d) Preservation of natural features;
- e) Promotion of a more efficient use of the land through the use of smaller networks of utilities and streets; and
- f) Creation of Affordable housing units.

### **B. Performance Standards**

All proposed mobile home park developments shall meet the following general requirements:

(1) Affordability -The developer of the proposed mobile home park shall submit evidence, and the Planning Board shall determine, that the sales and/or rents of at least 50% of the manufactured housing units or lots within the proposed mobile home park can be afforded by households at or below 80% of the Town's median household income (per figures published by the National Planning Data Corporation). In making a determination on the affordability of the units, the Planning Board shall find that "shelter expenses" do not exceed 30% of the 80% median household income figure. Shelter expenses shall include the following: mortgage and/or rental costs, taxes, homeowners/tenant insurance and utilities. Future sales and rents will be maintained at the rate approved by the Planning Board for at least 5 years after project completion and release of the performance guarantee, unless Planning Board approval of a modified rate is obtained.

(2) Location

a) Permitted Zones A mobile home park is permitted only in the following zoning districts:  
1) Residential

b) Prohibited Overlay Zones No part of a mobile home park development shall be located in the Shoreland Area Overlay Zone.

c) No more than 20% of a mobile home park shall consist of very poorly drained soils.

(3) Ownership- The applicant must demonstrate to the Planning Board that he/she has sufficient right, title and interest in the site of the mobile home park to control and complete its development as approved.

(4) Permitted Uses The use of land in a mobile home park development shall be for a single family residential uses only. Each manufactured housing unit shall be used exclusively for single family residential use only.

(5) Density The overall area of a mobile home park shall be no less than the combined area of the individual lots as permitted pursuant to 7.02 B(6)a. of this ordinance plus:

- a) The area located within the full width of the right-of-way of any proposed public or private street;
- b) The area required for buffer strips pursuant to 7.02 C(6);
- c) The area required for open space and storage pursuant to 7.02 B (7) which combined areas shall be no less than 10% of the combined areas of the individual lots;

Any mobile home park site which is divided by an existing road, water body, or similar physical condition which interrupts the continuity of the site, must independently meet the density requirements of this section for each of the portions so divided.

(6) Lot Size, Width and Setbacks - The dimensional requirements for individual lots within a mobile home park shall be as follows:

a.) Lots served by individual subsurface sewage disposal system:

- Minimum lot area . . . . . **20,000 sq. ft.**
- Minimum lot width. . . . . **100 ft.**
- Minimum setback (front, side, & rear) **Current Zoning**

b) Lots served by central subsurface wastewater disposal system:

- Minimum lot area . . . . . **12,000 sq. ft. with overall density of 20,000 sq. ft.**
- Minimum lot width. . . . . **75 ft.**
- Minimum setbacks . . . . . **20 ft.**

c) All structures in a mobile home park located adjacent to a public road shall be set back from the public road at least a distance equal to the setback requirements for other residential developments in the zone.

d) All buildings on the lot, including accessory buildings and structures, shall not cover more than 50% of the lot area.

(7) Open Space

- a) An area of no less than 10% of the total area devoted to individual lots shall be set aside for open space. Such space shall be suitable for use as storage and recreation for park residents. Parking space, driveways, streets and buffer areas shall not be used to meet the 10% open space requirement.
- b) At least 50% of the required open space shall consist of land that is suitable for active recreation and storage.
- c) The developer shall submit, as part of his/her application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation and storage.

(8) Alternative Site Design Approach

The Planning Board, upon finding that the proposed mobile home park plan meets the minimum requirements of Section 7.02 B (5), (6), and (7) of this ordinance, may permit submission of an alternative mobile home park lot layout and design which utilizes a more creative and environmentally sensitive site design approach. Such alternative mobile home park design shall meet the following standards:

- a) such alternative layout shall create more usable private yard areas and open space areas,
- b) such alternative layout shall avoid uniform setbacks,
- c) the minimum front yard setback, as outlined in Section 7.02B (6), shall be maintained,
- d) spacing between manufactured housing units shall be at least 20 feet, and
- e) the park design shall meet all of the Design Standards listed below.

C. Design Standards

Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Town of Waterboro Subdivision Regulations, the provisions of this section shall prevail.

(1) Manufactured Housing Unit Design

All manufactured housing units shall be designed to have a permanent foundation, "pitched, shingled roof", with overhang and exterior siding that is residential in appearance as herein defined.

(2) Road Design, Circulation and Traffic Impacts

All streets, roads, access drives and parking areas shall be designed to conform to reasonable safety standards. The road network shall provide for vehicular and pedestrian safety, emergency access, delivery and collection services and snow storage.

Street within a park shall be designed by a professional engineer, registered in the State of Maine.

- a) Streets which the applicant proposed to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Town of Waterboro Street Design and Construction Standards Ordinance.
- b) Streets which the applicant proposed to remain private ways shall meet the following geometric standards:
  - (i) Minimum right-of-way width: 23 feet.
  - (ii) Minimum width of traveled way: 20 feet.
- c) Any mobile home park expected to generate average daily traffic of 200 trips per day (40 units) or more, shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- d) No individual lot within a park shall have direct vehicular access onto an existing public street.
- e) The intersection of any street within a park and the existing public street shall meet the following standards:
  - (i) Angle of intersection - The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
  - (ii) Maximum Grade within 75 feet of Intersection The maximum permissible grade within 75 feet of intersection shall be 2%.
  - (iii) Minimum Sight Distance - A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distance shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of the object 4 1/4 feet.
  - (iv) Distance from other intersections - The centerline of any street within a park intersection and existing public street shall be no less than 125 feet from the centerline of any other street intersecting with that public street.
- f) The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers.

If the park is projected to generate more than 400 trips per day (80 units), the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

(3) Utilities

Utilities may be located anywhere within the mobile home park development except that transformer boxes, meters, pumping stations, and other components of the utility system which may be located above ground shall not be located as not to be unsightly or hazardous to the public and shall be landscaped and buffered.

(4) Utilization of Parcel

The plan for the development shall reflect the natural capabilities of the site to support development. Buildings and support facilities shall be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas such as wetlands, steep slopes, floodplains and unique natural features shall be included as part of the open space area. Natural drainage areas shall be preserved to the maximum extent.

(5) Relationship of Residences to Open Spaces

The dwelling units and other improvements shall be located so that each unit has direct access to the open space and/or recreational facilities. The open space shall be located to enhance the living environment of each unit in the development.

(6) Landscaped Buffer

A strip of land not less than twenty-five (25) feet and not more than fifty (50) feet in width adjacent to any right-of-way and running along said right-of-way may be required to be set aside as a green belt, and the developer shall submit provisions for maintaining this area. (A conservation easement may be conveyed to the Town of Waterboro over said strip.) Said green belt shall be shown on the Preliminary and Final Plans.

For the purposes of this section, the definition of a greenbelt shall be identical to that defined in the Town of Waterboro Land Subdivision Regulations under section 8.8.

(7) Storage

At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

(8) Pedestrian Circulation

The development plan shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The pedestrian access may be located either in the street right-of-way or outside the right-of-way in common open space. The system shall be designed to link residential units with recreation facilities, school bus stops

and existing sidewalks in the neighborhoods. Pedestrian ways may take the form of sidewalks or walking paths.

(9) Parking

Two (2) off-street parking spaces shall be provided for each dwelling unit.

(10) Landscape and Buffer Plan

The development plan shall provide for adequate landscaping within the interior of the site and within the buffer areas of the project. The Planning Board shall require a landscape plan which includes a plant listing of size and location. The approved landscaping plan shall be considered an integral part of the Planning Board approval of the mobile home park development and the obligation to maintain the landscaping, including the replacement of any dead plant materials within one growing season, shall continue after approval.

(11) Vehicular Access to Units

All vehicular access to buildings and sites shall be from a street within the development and not from an existing public road.

(12) Unified Ownership

No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board and meeting the appropriate lot size, lot width, setback and other requirements of the new use. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.

(a) The land within the park shall remain in a unified owner-ship and the individual ownership of lots or portions of lots shall not be transferred.

(b) No dwelling unit other than a manufactured housing unit shall be located within the park.

D. Approval Standard

(1) Approval Criteria

Prior to approving the mobile home park, the Planning Board shall find that:

(i) The plan is acceptable pursuant to this Section of the Zoning Ordinance and to the Town's Subdivision Regulations and is in accordance with state statute governing subdivision review, except for those standards which are in conflict with Maine's Mobile Home Park Law;

(ii) The plan protects environmentally sensitive areas;

(iii) The plan makes optimal utilization of site features by placing the buildings and lots in those areas of the site most suitable for development and protects natural drainage features and scenic resources;

(iv) The plan provides for the permanent preservation and maintenance of open space areas; and

(v) The plan creates a relationship between the developed portions of the site and the open spaces which benefits all units in the project.

## (2) Approval Procedure

The Planning Board shall follow the approval procedures set forth in the Town of Waterboro Subdivision Regulations and any additional procedures required by this ordinance.

## (3) Supplemental Submission Requirements

In addition to the materials required to be submitted under the Town's Subdivision Regulations, the following additional information shall be submitted to the Planning Board:

To be submitted with preliminary plan application:

- (a) A detailed soil erosion and sedimentation plan.
- (b) A site inventory plan identifying the major development opportunities, constraints and natural features of the site. This plan shall identify natural drainage features, environmentally sensitive areas, prime development areas, scenic vistas, soils, woodlands, general vegetation and other significant manmade and natural features of the site.
- (c) A detailed site plan showing the mobile home park lots and the footprint and location of all buildings and structures, recreation facilities and service facilities.
- (d) A detailed landscaping plan showing the location, size and type of all landscaping proposed to be installed and areas to be left in their natural state.
- (e) The open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that the open space shall be permanently maintained as open space and that there shall be no division of open space.
- (f) In the case where an "alternative site design approach" is proposed, the applicant shall submit both conventional park design which meets the conventional mobile home park zoning standards of Section 7.02 B, and a plan showing the alternative approach desired.
- (g) Evidence that Section 7.02 B (1) affordability has been met.

To be submitted with final plan application:

- (h) Legal documents relating to the ownership, use, management and maintenance of all mobile home park facilities, including open space, recreation facilities, utilities, roads and parking areas and structures. Legal documents shall also restrict sites from being sold to individuals unless the use of the property as a mobile home park is discontinued or abandoned and an alternative use is approved pursuant to ordinances and laws then in effect.
- (i) A copy of the proposed park rules and regulations.

E. Filing of Approved Plan

The approved plan for mobile home park development, including any legal documents relating to the ownership and management of common facilities, shall be filed by the applicant in the York County Registry of Deeds within 90 days of Planning Board approval, unless the filing period is extended by the Planning Board upon written request for extension made before the expiration of the 90 days. If the plan is not so recorded, Planning Board approval shall expire, without prejudice to the resubmission of the plan.

F. Development According to Approved Plan

All development activities, including site work, clearing, construction of buildings and utilities and landscaping shall be in accordance with the approved plan.

G. Amendment

No variation from or modification of the approved plan (including the addition of any structures not approved as part of the park plan) shall be allowed unless first reviewed by the Planning Board under this section and approved as an amendment to the originally approved plan.

H. Effective Date

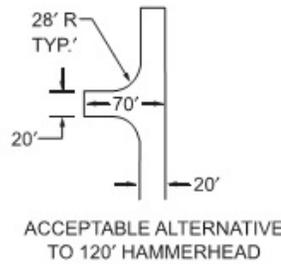
**The effective date of this amendment shall be September 25, 1990.**

**Section 7.03 Campground Developments** (Amended 09/25/1990; 06/24/2016).

All campgrounds shall comply with state licensing procedures and regulations for campgrounds. (M.R.S.A. 10-144 Ch.25).

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

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



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

Campgrounds must provide a safe and reliable water supply for each recreational vehicle and camping space at a rate of no less than fifty (50) gallons per day for each recreational vehicle and campground space. Campgrounds must provide an internal sewage collection system to which all suitable equipped recreational vehicles and any other toilet, washing or shower facilities in the park or campground shall be connected. A waste water treatment and sewage disposal system (dump station) approved by the State of Maine Department of Environmental Protection and Department of Human Services may also be provided. All waste water collection and disposal, must meet state and town plumbing codes and be installed and maintained by the campground operator.

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

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

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

**Section 7.04 Home Occupations** (Amended 09/25/1990 & 03/8/1997).

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

- A.** The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit and shall not alter the residential character of the property from its principal use as a residence.
- B.** The Home Occupation or professional activity shall be carried on wholly within the principal and/or accessory structure. No equipment or materials used in a home occupation may be stored or stacked out of doors.
- C.** No mechanical, electrical, or other equipment which produces a nuisance, noise, vibrations, smoke, dust odors, magnetic interference or electrical disturbance to the exterior of the building inconsistent with a residential neighborhood may be used.
- D.** In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.
- E.** One sign, no larger than nine (9) square feet including supporting structure, (excluding post) may be erected on the premises. No illumination of signs after 9:00 p.m.

**Section 7.05 Wheelchair Ramp Which Does Not Meet Town Setback Requirements**

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

**Section 7.06 Well-Head Protection District WHPD**(AMENDED 06/5/1993, Amended by Selectmen vote 08/23/2011)

**Subsection 7.06.01 General** - The purpose of this district is to establish a protection district for wells intended to serve potable water on a town or regional scale. The creation of the Wellhead District is intended to protect the quality and quantity of the present and future water resources of the communal potable water systems, by regulating activities and land use practices within the well recharge area. This protection is vital to preserving the health, safety, and general welfare of the households serviced by potable water systems and the other residents of the Town.

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

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

**Subsection 7.06.02 Permitted Uses and Structures** - Any permitted uses and structures allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), subject to the provisions of Section 7.06.

**Subsection 7.06.03. Establishment of Zones**

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

A. Zone 1: Immediate Recharge Area

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

B. Zone 2: Primary Recharge Area

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

C. Land Use Table

Any proposed land use listed below is subject to the requirements of this section and applicable performance standards. This section excludes residential activities except in instances that meet applicable performance standard thresholds or where specific reference is made to residential activity.

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Agricultural chemical spreading or spraying	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Agricultural use of residuals	N	PB	Chemical Spreading/Spraying
Agriculture	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Animal husbandry	N	PB	Chemical Storage Wastewater and Solid Waste
Auto parts/supply	N	PB	Chemical Storage
Auto repair/body shop	N	PB	Chemical Use Chemical Storage
Beauty parlor	N	PB	Chemical Use Wastewater and Solid Waste
Boat builders, refinisher, maintenance	N	PB	Chemical Storage Chemical Use
Bulk Fuel Oil Storage >275 gallons	N	PB	Chemical Storage
Car wash	N	PB	Chemical Use Wastewater and Solid Waste
Commercial vehicular storage or parking; maintenance and refueling of vehicles and equipment <sup>1</sup>	N	PB	Vehicular Use and Storage
Concrete, asphalt, tar, coal company	N	PB	Chemical Storage Chemical Use
Dry cleaner	N	PB	Chemical Storage Chemical Use
Essential operations of the Water District	Y	Y	
Furniture stripper	N	PB	Chemical Storage Chemical use
Golf course	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Graveyard/cemetery	N	PB	Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer application <sup>2</sup>	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer dealer	N	PB	Chemical Storage
Hoop houses and greenhouses	N	PB	Chemical Use Chemical Spreading/Spraying
Junk or salvage yard	N	PB	Wastewater and Solid Waste Chemical Storage
Laundromat	N	PB	Chemical Use Wastewater and Solid Waste
Machine shop	N	PB	Chemical Storage Chemical Use
Medical, dental, veterinarian office	N	PB	Wastewater and Solid Waste
Mining (Sand & Gravel, Rock)	N	PB	Mining
Mortuary/funeral parlor	N	PB	Chemical Storage Chemical Use
Multi-unit/family housing	N	PB	Wastewater and Solid Waste
Municipal wastewater treatment plant	N	PB	Wastewater and Solid Waste
Nursery or garden shop	N	PB	Chemical Use Chemical Spreading/Spraying
Oil pipeline	N	PB	Chemical Use Chemical Spreading /Spraying
Painters, finishers	N	N	Chemical Use
Parking lot	N	PB	Stormwater Road maintenance
Photo processor	N	PB	Chemical storage Chemical use
Printer	N	PB	Chemical storage Chemical use
Railroad yard or line	N	PB	Chemical storage Chemical use
Recycling or processing center (other than beverages)	N	PB	Chemical storage Chemical use Wastewater and Solid Waste Storm water

Land Use	Zone 1	Zone 2	Applicable Performance Standards
			Fill
Research laboratory	N	PB	Chemical storage Chemical use Wastewater and Solid Waste
Rust proofer	N	PB	Chemical storage Chemical use Wastewater and solid waste
Salt pile or sand and salt pile (uncovered)	N	PB	Chemical storage
Septic system New >1,000 gpd New <1,000 gpd Replacement < 1,000 gpd	N N CEO <sup>3</sup>	N CEO <sup>3</sup> CEO <sup>3</sup>	Wastewater and solid waste
Sewer lines	PB	PB	Waste water Solid waste
Small engine repair shop	N	PB	Chemical use
Storm water impoundment or run-off area	N	PB	Storm water Road maintenance
Utility Transmission Lines	PB	PB	Chemical Spreading/Spraying
Wastewater treatment plant, discharge	N	PB	Wastewater and solid waste
Notes	<p><sup>1</sup> – Short-term overnight parking may be allowed in connection with other activities receiving a CEO or PB permit. For example, short-term overnight parking of construction vehicles on new permitted construction projects.</p> <p><sup>2</sup> – Unless a greater public health concern warrants pesticide application. For example, Browntail Moth control.</p> <p><sup>3</sup> – With notification made to the appropriate public water supplier(s): the Waterboro Water District and/or the Lake Arrowhead Association Department of Public Works.</p>		

Land use key

Y= permitted

N= not permitted

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

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

**Subsection 7.06.04 Conditional Uses** - Any conditional uses allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), and not specifically prohibited in subsection 7.06.03, shall be conditional uses in this district and subject to Planning Board review pursuant to Article 4 of this Ordinance.

**Subsection 7.06.05 Conflict** - If the provisions of this Article conflict with other requirements in this zoning ordinance, or with requirements found in other ordinances of the Town of Waterboro, the stricter requirements shall govern.

**Subsection 7.06.06 Lot Specifications**

**A. Minimum Lot Size**

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

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

**B. Maximum Lot Coverage**

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

Zone	Maximum lot Coverage
1	30%
2	50%

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

**Subsection 7.06.07. Application Requirements**

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

**A. All Applications**

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

**B. Independent Review and Advice**

1. Professional Services

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

2. Additional Studies

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

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

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

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

- a. Type and volume of chemical compounds handled and/or stored.
- b. Site plan showing all storage, handling and use areas for raw materials and wastes.
- c. For outside areas, details to contain spills including:
  - i. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
  - ii. provisions to collect chemicals should they enter the drainage system;
  - iii. provisions to segregate underground systems to insure that there are no cross connections;
  - iv. provisions to prevent accidental containment breach by collisions;

- v. statement of emergency measures which can be implemented for surface drainage systems;
- d. For inside areas, details to contain spill including the:
  - i. design of dikes around rooms;
  - ii. the location of floor drains and floor drains outlets;
  - iii. the location of separators, holding tanks and/or drain outlets;
  - iv. the specific location and design of underground storage structures;
  - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
- e. A spill prevention and control and countermeasure (SPCC) plan detailing:
  - i. materials and equipment to be available;
  - ii. a training plan and schedule;
  - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
  - iv. an inspection schedule.
- f. A report by an industrial engineer or other competent professional detailing:
  - i. steps which have been taken to reduce the use of hazardous material;
  - ii. actions which have been taken to control the amount of wastes generated;
  - iii. any reports to provide information on the design theory or methodology for the above features.

## **2. Agricultural chemical use, storage and handling**

- a. Type and volume of chemical compounds handled and/or stored.
- b. Intended use.
- c. An Integrated Pest Management Plan.
- d. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
- e. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
- f. Detailed report on type of chemical applied and rate of application.
- g. Site plan showing all storage, handling and use areas for raw materials and wastes.
- h. For outside storage, details to contain spills including:
  - i. drainage and contour information to prevent the flow of runoff from entering;
  - ii. the storage area and which keep leaks or spills from flowing off site;
  - iii. provisions to collect chemicals should they enter the drainage system;
  - iv. provisions to segregate underground systems to insure that there are no cross connections;
  - v. provisions to prevent accidental containment breach by collisions;
  - vi. statement of emergency measures which can be implemented for surface drainage systems.
- i. For inside storage, details to contain spill including the:
  - i. design of dikes around rooms;
  - ii. the location of floor drains and floor drains outlets;
  - iii. the location of separators, holding tanks and/or drain outlets;
  - iv. the specific location and design of underground storage structures;
  - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
- j. A spill prevention and control and countermeasure (SPCC) plan detailing:

- i. materials and equipment to be available;
  - ii. a training plan and schedule;
  - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
  - iv. an inspection schedule.
- k. A report by an industrial engineer or other competent professional detailing:
  - i. steps which have been taken to reduce the use of hazardous material;
  - ii. actions which have been taken to control the amount of wastes generated;
  - iii. any reports to provide information on the design theory or methodology for the above features.

### **3. Vehicular use and storage**

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

### **4. Mining (Sand, Gravel and Rock )**

- a. A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.
- b. A detailed report by a Maine Certified Geologist with experience in hydrogeology attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.

### **5. Subsurface injection**

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

### **6. Stormwater Management**

- a. Narrative describing site layout, and on-site and off-site watershed hydrology, including all new and existing buildings and facilities, which may be affected by the site runoff. Provide total amount of impervious area created by the project.
- b. Drainage plans showing all topographic features, such as buildings and other facilities, drainageways, cover types, roads, drainage easements and subcatchment boundaries for pre-construction and post-construction conditions must be shown on the plan. Show all hydrologic flow lines and hydrologic soil groups boundaries on a plan and identify each subcatchment, reach and pond consistent with the runoff model. For post construction conditions, show all new stormwater management structures and changed to the hydrologic condition.

- c. Stormwater runoff calculations for measured designed to meet the standards listed in Section 5(G).
- d. Designs, construction details and technical specifications for each stormwater management measure that will be constructed, installed or managed on the site.

**7. Utility Corridors**

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

**Subsection 7.06.08 . Performance Standards**

**A. General Provisions**

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

**B. Performance Standards for Chemical Use**

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

**C. Performance Standards for Chemical Storage**

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

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

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

composted residual or a residual not meeting the Class "A" pathogen reduction standard should not be spread within the WHPD.

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

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

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

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

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

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

1. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 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 WHPD.
11. Rock crushers are prohibited within WHPD.
12. There shall be no overnight storage of vehicles within the WHPD unless parked over a secondary containment area.

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

1. Municipal wastewater disposal facilities, chemical waste disposal sites of any kind, spreading of biosolids and incinerator ash except Class "A" residuals as described in Section 7.06.08 of this Ordinance, solid waste landfills, log storage yards and lumber yards, and other direct discharges shall be prohibited in WHPD.
2. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 800 gallons of sewage, a hydrogeologic analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.
3. Sewer pipes shall be gasketed when buried within Zone 1 of the WHPD.

**I. Performance Standards for Stormwater Management**

1. Stormwater management system must include treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from

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

- a. *Wetpond with detention above the permanent pool.* A stormwater management system using detention to control runoff must detain, above a wetpond's permanent pool, a runoff volume equal to 1.0 inch times the 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.

**J. Performance Standards for Road Maintenance**

1. Cover all sand, salt or sand/salt piles with a roofed structure capable of preventing both contact with water and leaching of salt into groundwater. Tarps are not an acceptable means to cover a sand, salt or sand/salt pile.

2. Prohibit snow dumps and/ or snow storage in all wellhead protection areas.

**K. Performance Standards for Fill**

1. Use only inert material (loam, sand, gravel, clay, rocks, bricks or concrete).
2. Use only clean fill (no non-natural odors, no staining, and not originating at a known spill site).
3. Implement erosion and sedimentation control measures.

**Subsection 7.06.09. Control of Existing Threats**

**A. Inspection**

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

**B. Monitoring**

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

**C. Enforcement**

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

**Section 7.07 Adult Businesses** (Amended 06/5/1993).

- 1) Planning Board may impose reasonable time, place, and manner restrictions on the operation of so-called "Adult Businesses".
- 2) Planning Board review under this Ordinance shall be limited to the impacts and effects of the proposed use as determined by applying the conditional use standards. The Planning Board shall not deny approval for the proposed use on the basis of the content of the materials sold, rented, exhibited or displayed and shall not restrict or limit the content of such materials. Notwithstanding anything to the contrary in the Waterboro Zoning Ordinance. Planning Board decisions under this Ordinance shall not be appealed to the Waterboro Board of Appeals. Any appeals under this Ordinance may be taken directly to the Superior Court pursuant to M.R. Civ. P. 80B.
- 3) No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the Adult Business is located
- 4) No Adult Business shall be located in any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:
  - i. occupied by a residence, school, park, playground, church or public building,
  - ii. located in a residential zone, or
  - iii. occupied by another adult business.

**7.08 Special Requirements for Apartment Conversions**

Apartment Conversions shall be subject to all requirements of Article 4. Expansion of the structure for conversion purposes shall be allowed only if the following criteria are met: 1) the existing square footage of the house, accessory structure, and expansion will not cover in excess of 50% of the entire lot, and 2) the minimum lot size requirement is met. In reviewing the Apartment Conversion, the Applicant must meet the following density requirements of each zoning district:

Density Requirements:

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

### **7.09 Special Requirements for Office/Office Complex**

In addition to the conditional use requirements of Article 4, the following performance standards shall be used by the Planning Board in reviewing Office/Office Complexes.

Setbacks:

All applicable setbacks as outlined in each zoning district must be met.

Building Height:

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

Density Requirements:

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

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

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

Hydrogeological Study:

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

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

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

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

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

Maximum Lot Coverage:

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

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

Should the applicants project exceed the 50% lot coverage limit, then the area requirements shall be increased by 10,000 sq. ft. intervals until the criteria is met or the project shall be reduced in scope and size.

Parking:

The proposed project shall conform to all the requirements outlined in Article 5 of this ordinance. The Parking area shall provide sufficient maneuvering area to permit vehicles to turn around precluding the need to back out onto any roadway.

Landscape Buffer:

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

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

No building or structure shall be constructed or placed on or under any portion of the buffer strip with the exception of a sign.

## **ARTICLE 8 MODIFICATIONS FOR SPECIAL STRUCTURES, PLANNED UNIT DEVELOPMENT, AND CLUSTER DEVELOPMENT**

**Section 8.01 Modifications for Special Structures** - Provisions of this ordinance are not generally contemplated or encouraged but nonetheless permitted in circumstances which involve nonconformance (see Article 9), planned unit development (see Section 8.02), cluster development (see Section 8.03), otherwise unusable substandard lots (see Sections 2.08 and 9.05), and where the requirements for the issuance of a variance are met (see Section 10.04). (Amended 06/24/2016).

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

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

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

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

## **Section 8.02 Planned Unit Development**

**Subsection 8.02.01 General** - Planned unit developments involving residential, commercial, or industrial activities or combinations of the above activities are permitted by this ordinance. All PUD's are conditional uses--as such they are subject to all of the requirements and approval procedures of Article 4 except that the time provisions of section 4.01 are extended to sixty (60) days. The type and location of a PUD is established by Sections 3.04-3.08 of this ordinance. A PUD may not be undertaken on any parcel of land smaller than ten (10) acres in size which parcel must be owned or under the control of a single developer. A PUD may not increase the overall density of development permitted in the particular district in which it is located and at a minimum it must comply with the substantive provisions of Articles 5,6, and 7. However, all layout, dimensional, and area requirements imposed by this ordinance or the town's regulations may be altered without restriction except height limitations. The latter may be increased only in accordance with the provisions of section 8.01 of this ordinance.

**Subsection 8.02.02 Purpose and Intent of PUD's** - PUD's are intended:

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

**Subsection 8.02.03 Control of Common Space, Open Area, and Common Facilities** - Common space, common facilities and open areas whether owned by the public through dedication and acceptance or retained in private ownership (or both) are essential and major elements of a PUD which are related to effect the long-term value of the individual units in the development. The Planning Board in reviewing a PUD may not accept proposed dedications of common space or open area but shall refer such proposals for public ownership along with its recommendations to the Selectmen. Though formal acceptance of land proposed to be dedicated may be deferred until all project approvals have been obtained, the Selectmen within thirty-one (31) days of such a referral must indicate by a binding vote their intent to accept land proposed to be dedicated or their refusal to accept such land.

Common space and open areas and any common facilities located on such which are retained in private ownership must be held in a manner that legally binds the developer or an owner's association to continuously and permanently have responsibility for operating, maintaining, conserving, improving, and generally caring for these common spaces, open areas, and facilities. A legally enforceable technique for financing these responsibilities must also be created and imposed on the developer and/or subsequent owners or lessees of property within a PUD. The rights and duties of all parties (including the Town of Waterboro) to enforce any and all agreements touching upon these matters shall be established by covenants which if a PUD is approved shall be recorded prior to the sale of lease of any property within a PUD.

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

**Subsection 8.02.04 Review and Approval** - The Planning Board in the context of reviewing PUD proposals and in the interests of efficiency shall simultaneously conduct the subdivision review required by 30-A M.R.S.A. §§4401-4408, and locally adopted subdivision regulations. A PUD authorized by this ordinance and capable of being bound by any substantive subdivision regulations intended to be applied to conventional development activities. (Amended 05/13/2016).

The Planning Board shall approve a proposed PUD if it finds that all of the requirements for a conditional use approval (see Article 4, particularly Section 4.02), are met, if all of the substantive requirements set forth in this section are met, if the outlined purposes for which PUD's are created are substantially met, and if the provisions for dealing with common space, common facilities, and open areas are completely adequate, protecting both present and future interests of the town and subsequent owners or lessees of property within a PUD.

The Planning Board is specifically encouraged to utilize the bonding provisions authorized in Section 12.04 of this ordinance to ensure compliance with plans, specifications, and conditions upon which a PUD approval was sought and obtained.

**Section 8.03 Cluster Development** - The clustering of residential housing units is permitted by this ordinance. Clustered housing developments are a conditional use in all zoning districts (see Sections 3.04-3.08)--as such they are subject to all of the requirements and approval procedures of Article 4 except that the time provisions of Section 4.01 are extended to sixty (60) days. The clustering of housing units may be undertaken on any size parcel of land which is owned or under the control of a single developer. The overall density of housing permitted in a particular district and at a minimum cluster developments must comply with the substantive provisions of Article 5, 6, and 7 and the height limitations imposed in each district. However, all layout, dimensional, and area requirements imposed by this ordinance or the town's subdivision regulations may be altered without restriction.

Cluster developments though usually more limited in scale and scope than PUD's (see Subsection 8.02.02). All of the provisions for the control of common space, open space, and

common facilities in PUD's outlined in Subsection 8.02.03 shall apply to common space, open areas, and common facilities created by clustering development. For purposes of this section, wherever the phrase PUD appears in Subsection 8.02.03 the phrase "cluster development" shall be used instead. Finally, the review and approval procedures and standards designed for PUD's and set forth in Subsection 8.02.04 shall also apply to cluster developments. For purposes of this section, wherever the phrase PUD appears in Subsection 8.02.04 the phrase "cluster development" shall be used instead.

## **ARTICLE 9 NONCONFORMANCE**

**Section 9.01 Existing Nonconformance Uses and Structures** -This ordinance reflects the best judgment of the Town of Waterboro with respect to land use and is designed to both guide and bind all development activities, uses of land, and the construction, enlargement or renovation of all structures. However, those uses and structures, including accessory uses and structures, which do not conform to the provisions of this ordinance but which are in actual existence at the time of enactment of this ordinance, may be continued. But because nonconformance is inconsistent with the intent and objective, the creation or expansion of nonconforming activities is not encouraged.

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

An existing nonconforming use or structure may not be physically moved to an alternative location where it will still be nonconforming--relocations must be undertaken in a manner that conforms to the provisions of this ordinance. An existing nonconforming use or structure at a particular site may not give way to an alternative activity which will also be nonconforming--changes in the use of land or structures must be in conformance with the provisions of this ordinance (see Section 2.04)

**Section 9.02 Existing Uses and Structures Which Conform With This Ordinance** -Uses of land or structures, which on the date of enactment of this ordinance are in compliance with the provisions of this ordinance, may not subsequently be converted to uses which are not permitted by the provisions of this ordinance subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses. Nor may uses of land or structures, which on the date of enactment of this ordinance conform with the provisions of this ordinance, be subsequently expanded in a manner which gives rise to nonconformance unless such nonconformity is minor and meets all of the requirements for Section 2.08 and Article 10. Amended 06/24/2016.

**Section 9.03 Replacement and Maintenance** - A nonconforming use or structure which is damaged by fire, explosion, flood, or other calamity may be rebuilt or repaired provided the restoration is completed within two (2) years and does not entail an expansion of the nonconforming use or structure.

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

**Section 9.04 Abolishment and Transfer** - A nonconforming use of land or structure permitted pursuant to the provisions of Section 9.01 may not be resumed if such use is abandoned or discontinues in actual factor a period of twelve (12) months. In either circumstance the renewed use of such land or structure must be in conformance with the provisions of this ordinance. When and if a nonconforming use of land or structures is converted by the landowner or lessee to a permitted or conforming use of the land or structures, the former nonconforming activities may not thereafter be resumed.

The owner of property which is nonconforming by virtue of the enactment and provisions of this ordinance may nonetheless sell, lease, or otherwise grant the property including the nonconforming use rights created in Section 9.01 to any person subject only to the conveying laws of the State of Maine and, of course, the limitations on nonconformance imposed by this ordinance.

**Section 9.05 Existing Nonconforming Lots and Pending Applications for Building Permits** Nonconforming single lots of record on the date of enactment of this ordinance may be utilized as provided in Section 2.08. Two or more contiguous lots of record in common ownership at the time or since adoption or amendment of this ordinance shall be combined and treated as a single lot or parcel of land. If the dimensional or area requirements of the district in which the combined parcel is situated are not met, development shall be in conformance with the provisions of this ordinance. (Amended 04/26/2003).

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

**Section 9.06 Nuisance** - State law provides, 30-A M.R.S.A. §4302 that “Any property or use existing in violation of any municipal land use ordinance or regulation is a nuisance.” (Amended 05/13/2016). Nonconforming uses and activities which violate the provisions of this ordinance particularly Article 9, may pose unique problems and threaten both public and private interests. Accordingly, the Town of Waterboro in addition to the enforcement mechanisms available to it pursuant to Sections 12.02 and 12.03 of this ordinance may utilize any statutory provisions facilitating the abatement of nuisances or in the alternative the town may acquire such nuisances for purposes of demolition by either purchase or condemnation.

## **ARTICLE 10 ZONING BOARD OF APPEALS**

**Section 10.01 Establishment** - Pursuant to the provisions of 30-A M.R.S.A. §§2691 and 4353 a Zoning Board of Appeals is established for the Town of Waterboro to receive, hear, and decide appeals from interpretations of this ordinance and decisions of the officer (see Sections 2.05 and 13.02), the Planning Board and/or the Selectmen (see Sections 11.04 and 13.02), and all requests for variances within the limitations established by 30-A M.R.S.A. §4353(4). (Amended 05/13/2016; 06/24/2016).

**Section 10.02 Membership and Organization** - The board shall consist of seven (7) members appointed by the Selectmen of the Town of Waterboro to serve staggered five (5) year terms. Neither a Selectmen nor his spouse may be a member of the board. A member of the Board may be dismissed for cause by the Selectmen before the expiration of his term. Unexpired terms occasioned by resignation, death, moving from the town or other causes may be filled by the Selectmen. (Amended 05/10/1988).

The Board shall elect annually a chairman and a secretary from its membership. Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged. (see 30-A M.R.S.A. §2691). (Amended 005/13/2016).

**Section 10.03 Procedure** - The chairman shall call meetings of the Board to deal with Board business and pending appeals or requests for variances as necessary. The chairman shall also call meetings of the board when requested to do so by a majority of the Selectmen. A quorum of the Board necessary to conduct an official board meeting shall consist of at least three (3) members. Official action may be taken by a majority of those members present and voting on any issue but no motion receiving fewer than two (2) votes shall be deemed passed. The chairman shall preside at all meetings of the Board and be the official spokesman of the Board. The Code Enforcement Officer shall be present at all meetings and hearings of the Board to provide such information and technical assistance as the Board may require.

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

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

The Board may receive any oral and/or documentary evidence pertaining to a matter before it but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral and/or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of facts.

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

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

**Section 10.04 Duties** – The Board shall receive, hear, and decide all requests for variances (see Section 2.03). A variance shall be granted or denied within sixty (60) days of receipt of a completed request. A variance may be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant’s property would cause undue hardship as defined by state law, 30-A M.R.S.A. §4353 (Amended 05/13/2016):

**10.04.1 Variances for Undue Hardship.** Except as provided in section 10.04.2, a variance shall be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant’s property would cause undue hardship as defined by state law, 30-A M.R.S.A. §4353 (4) (Amended 05/13/2016):

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

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

1. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood; and
2. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties; and
3. The practical difficulty is not the result of action taken by the applicant or a prior owner; and
4. No other feasible alternative to a variance is available to the applicant; and
5. The granting of a variance will not unreasonably adversely affect the natural environment; and
6. The property is not located in whole or in part within the shoreland area as described in Title 38 MRSA s435.

As used in this subsection 10.04.2, “dimensional standards”: means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection 10.04.2, “practical difficulty” means that the strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the applicant.

### **10.04.3 Additional Variance Standards.**

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

**Section 10.05 Hearing and Parties** - All Board meetings at which appeals or requests for variances are heard, considered and decided are public hearing (see Section 13.07). Notice of a public hearing, shall be given at least seven (7) days prior to the hearing date by general advertisement to the public. At least ten (10) days prior to the date set for the Zoning Board of Appeals hearing on an appeal or a variance application the Zoning Board of Appeals shall cause written notice, by certified mail, of that hearing to (a) all property owners of record whose land abuts the property and the property directly across private way, State, or County Roads for which the variance is requested; (b) the person making the appeal; (c) the Planning Board; (d) the Code Enforcement Officer and (e) any other parties of record to the proceedings. The owners of property shall be considered to be those shown on the tax lists of the Town. Failure of any abutting property owner to receive notice shall not necessitate another hearing or invalidate the action of the Board. The mailed and published notices shall include the following information: (1) The name of the applicant; (2) A brief description of the property involved; (3) A brief statement of the nature and extent of the variance requested; (5) The time and place of the Board’s hearing on the variance. (Amended 03/12/1988).

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

**Section 10.06 Findings** - The denial of an appeal or of a variance request must include the reasons therefore--the failure to meet the requirements of this ordinance or state statutory requirements (see 30-A M.R.S.A. §4353 (Amended 05/13/2016)) or such other reasons as the Board may set forth in its statement of findings and conclusions (see Section 10.03). The sustaining of an appeal or the granting of a variance must also include a statement of findings

and conclusions which must specifically indicate all of the requirements of this ordinance as well as state statutory requirements have been met. When conditions are attached to the grant of a variance the need for and the underlying rationale of the attached conditions must be set forth. The denial or the sustaining of an appeal, the denial or the granting of a variance by the Board shall be deemed a final action or order thus enabling judicial review pursuant to the provisions of Sections 10.08 or 13.08 to be sought.

**Section 10.07 Decisions** - A copy of Board decisions on all appeals and variance requests shall be mailed or hand delivered to the appellant, the applicant, the Planning Board, the Code Enforcement officer, and the Selectmen within seven (7) days. A copy which will provide notice to the public, shall also be placed on file and available for inspection in the Municipal Clerk's office.

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

**Section 10.08 Judicial Review**

Section 10.08 Judicial Review – A request and hearing for reconsideration may be made to the Zoning Board of Appeals within thirty (30) days from any final order, relief, or denial by an aggrieved party in accordance with 30A M.R.S.A. §2691 and §4353 and Maine Civil Procedure, Rule 80B.

An appeal may be taken, within forty five (45) days after a Zoning Board of Appeals decision is rendered by an aggrieved party to Superior Court from any final order, relief or denial in accordance with 30-A M.R.S.A. §4353 and with Maine Rules of Civil Procedure, Rule 80B. (Amended 04/27/2002; 05/13/2016).

## ARTICLE 11 PLANNING BOARD

**Section 11.01 General** - In addition to the duties conferred to the Planning Board by the Town of Waterboro acting pursuant to 30-A M.R.S.A. §4351 or the Home Rule Powers (see Section 1.01), the provisions of this ordinance impose responsibilities on the Board which are essential to the effective implementation and carrying out of the intent and purpose of the ordinance. These include:

- reviewing and deciding with the Selectmen whether to permit or not allow uses presently not permitted by this ordinance but which are similar in character to uses which are permitted, see Section 207;
- reviewing and deciding whether to permit or not allow a temporary use and if allowed the extent, scope, and conditions (if any) of the temporary use, see Section 2.07;
- reviewing applications for building permits from owners of substandard sized lots to determine what (if any) conditions need to be attached to protect adjacent property owners and public interest, see Section 2.08;
- reviewing and ultimately approving or disapproving applications to commence a conditional use, see Article 4.
- reviewing parking space requirements and parking and loading area design plans, particularly the design of road and driveway intersections in drive-in commercial enterprises and large vehicle loading and parking areas to determine if special safety features are necessary, see Sections 5.03 and 5.04;
- reviewing and ultimately approving or disapproving proposed departures from the height requirements of this ordinance necessitated by the unique or special characteristics of the structure, see Section 8.01;
- reviewing and ultimately approving or disapproving applications to undertake a planned unit development or cluster development, see Sections 8.02 and 8.03;
- reviewing and forwarding a recommendation to the Selectmen as to whether common space and open area which a developer contemplates dedicating to the town as part of a PUD or cluster development proposal should be accepted, see Subsection 8.02.03 and Section 8.03;
- conducting a joint PUD or cluster development and subdivision review, see Subsection 8.02.04 and Section 8.03;
- participation in hearings held pursuant to requests for a variance, see Section 10.05;
- making recommendations with respect to the issuance of enforcement orders by the Selectmen, see Section 12.03;

- reviewing and ultimately deciding whether particular developers will be required to post performance bonds to insure compliance with the provisions of this ordinance and the plans, specifications, or conditions upon which required approvals and permits were sought and obtained, see Section 12.04;
- commenting and offering recommendations at the hearing which would be required if repeal of this ordinance was sought, see Section 13.05;
- conducting hearings in additions to those which are specifically required to facilitate carrying out any of the above responsibilities, see Sections 11.02 and 13.07;
- reviewing and ultimately approving or disapproving applications for site plan review, see the Town of Waterboro Site Plan Review Ordinance. (Amended 04/27/2002).

Finally the Planning Board shall be required no less frequently than every three (3) years to review this ordinance in light of new data and changing conditions within and outside of the town and to propose those amendments or refinements pursuant to the provisions of section 13.04 which will enable this ordinance to continue to be an effective device for carrying out the Town's Comprehensive Plan and the stated intent and purpose of the ordinance (see Sec. 1.02 & 1.03).

**Section 11.02 Hearings** - The Planning Board may hold a hearing, in addition to those specifically required by provisions of this ordinance, to facilitate carrying out any of its responsibilities as outlined in Section 11.01. In the calling and conduct of such hearings the Board shall follow the procedures set forth in Section 13.07. The Board also adopt rules which will assure fair and orderly procedures at such hearings.

**Section 11.03 Findings and Decisions** - All decisions of the Planning Board must be predicated on testimony received by the Board at hearings, planning data which it has gathered and which is available to the public, other facts, data, or information which are a matter of public record and information obtained from the applicant. When taking any final action the Board must issue a statement of its findings and conclusions which sets forth the reasons for and the rationale underlying the particular Board action. Board actions which are generally favorable to an applicant must specifically indicate that all of the requirements of state statute and this ordinance have been met. Board actions which are unfavorable to an applicant must specifically indicate how and in what way the applicant failed to comply with the requirements of state statute or this ordinance. When conditions are attached to any Board approval the factors establishing the need for and justifying the condition as framed must be indicated. A copy of all final board actions (decisions) shall be mailed or hand delivered to the party who requested the Board actions, the Code Enforcement Officer, and the Selectmen within seven (7) days. A copy which will provide notice to the public shall also be placed on file and be available for inspection in the Municipal Clerk's office.

**Section 11.04 Review** - Before judicial review may be sought pursuant to the provisions of Section 13.08, any decision, final action or failure to act of the Planning Board, including decisions which are to be made jointly by the Planning Board and the Selectmen (see Section 2.05), must be appealed within thirty (30) days to the Zoning Board of Appeals of the Town of

Waterboro by the applicant or an aggrieved party. The Zoning Board of Appeals may affirm the Planning Board, remand the issue with instructions which it had taken, or the Zoning Board of Appeals may modify Planning Board actions for reasons which must be set forth. (Amended 04/26/2003)

## ARTICLE 12 FEES, VIOLATIONS, ENFORCEMENT

**Section 12.01 Permit and Review Fees** - All persons developing or requiring 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 03/12/1988, 04/27/2002).
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 04/27/2002).
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	\$330.00 (see Section 10.04) (Amended 03/9/1991;

	06/24/2016)
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
Amended 06/24/2016.	
Administrative Appeal	\$330.00 (Amended 03/09/1991)
Site Plan Review	\$300.00(Amended 04/27/2002).
For additional site plan fees refer to the Site Plan Review Ordinance	
Re-Inspection fee	\$25.00 (Amended 09/30/2003)

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 03/11/1989). All fees received from a Variance request of Administrative Appeal shall be used by the Zoning Board of Appeals towards operational costs. (Amended 03/9/1991).

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 Guarantee: Value, Requirements and Conditions**

- a) A subdivider or applicant for site plan or other review requiring Planning Board approval shall file with the Planning Board at the time of approval of the final plan, a draft performance guarantee in the amount of one hundred and twenty-five percent (125%) of the estimated value of the required subdivision improvements. No work shall be undertaken, and no building permits shall be issued, until the final performance guarantee is provided to the Town.
- b) The performance guarantee shall be tendered in the form of a faithful performance bond, a letter of credit or a certified check running to the Town and issued by a bank or surety company acceptable to the Town of Waterboro.
- c) The conditions and amount of such a performance guarantee shall be determined by the Planning Board, with the recommendation of the Town Planner, Road Commissioner and consulting engineer as needed.
- d) The amount shall be equal to 125% of the total cost of furnishing, installing, connecting and completing all of the street grading, storm drainage, site improvements and public water infrastructure (as required). Additionally, if a cistern(s) is installed a mutually-agreed upon maintenance bond or other acceptable financial guarantee will be mandated as a condition of final approval.
- e) Performance guarantees shall be in effect for the duration of the secured project and until such time as the subject improvements have been proven complete and effective, as determined by the Planning Board.
- f) The maximum time period for the performance guarantee will be for a period of three (3) years beginning on the date of final approval by the Board. The Planning Board may approve a performance guarantee of a shorter duration upon evidence provided by the applicant that the shorter guarantee is appropriate.
- g) When the Planning Board has approved a performance guarantee in the form of a certified check, the Town Treasurer, shall deposit the same in a segregated account.
- h) The proceeds of the performance guarantee shall be used to finish the improvements indicated on the approved plan if the subdivider fails to complete those improvements within the specified time frame.
- i) A performance guarantee may be reduced after review and approval by the Planning Board, subject to the following:
  - 1) A reduction may be allowed by the Planning Board, provided that substantial improvements have been completed and inspected.
  - 2) The reduction in performance bonding shall be requested in writing by the applicant. Such a request shall be accompanied by a listing of subdivision/infrastructure improvements still to be completed and quoted estimates of the cost(s) for their completion.

- 3) The Town consulting engineer shall provide an opinion of the remaining work and estimated costs to determine the amount of the reduction. (Amended 01/17/2012).

**Section 12.05 Release of obligation required by performance guarantee.**

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

**Section 12.06 Extension of performance guarantee period.**

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

**Section 12.07 Record Management and Performance Guarantee Facilitation.**

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

## **ARTICLE 13 LEGAL STATUS**

**Section 13.01 Abrogation and Greater Restrictions** - It is not the intent of this ordinance to abrogate, repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions or agreements; or with state statutes, rules, regulations, or permits; or with other local ordinances or regulations. However, in all of the above situations where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

**Section 13.02 Interpretation** - Interpretations of words, phrases, or specific provisions of this ordinance leading to the granting or denial of a necessary permit, the approval or disapproval of any proposal, or any other action or refusal to act by the Code Enforcement Officer, the Planning Board, or the Selectmen of the town may be appealed to the Zoning Board of Appeals within thirty (30) days of the decision by an applicant or aggrieved party, or by any of the elected or appointed municipal officials or employees listed above. The Zoning Board of Appeals interpretation of any word, phrase, or provision of this ordinance called in question shall be final subject only to judicial review. (Amended 04/26/2003)

In judicial proceedings arising out of this ordinance and its application by the Town of Waterboro, it is the intent of the Town that the provisions of this ordinance be regarded as minimum requirements and that they be liberally construed in favor of the town so that the purposes and intentions (see Sections 1.02 and 1.03) of the ordinance may be achieved.

All persons interpreting words, phrases, or provisions of this ordinance shall be bound by the definitions set out in Article 14, by the normal and usual meanings of words and phrases in everyday speech and by the meaning to be drawn from the context in which a particular word, phrase, or provision is set. All interpretations must be in harmony with and seek to achieve the overall purpose and intent of the ordinance.

**Section 13.03 Severability** - If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

### **Section 13.04 Amendment** –

(a) Pursuant to the same authorities by which this ordinance is enacted (see section 1.01) the regulations, restrictions, and boundaries established by this ordinance may be changed, supplemented, or repealed. A proposal for such action except repeal of the entire ordinance, (see section 13.05) shall be referred to as a proposed amendment. A proposed amendment under this subsection may be offered by any person who owns land in Waterboro, any resident of the town, the Code Enforcement Officer, the Planning Board, and the Selectmen.

All proposed amendments shall be presented initially to the Selectmen who shall forward them to the Planning Board which shall within thirty (30) days review the proposal and forward a recommendation and the Planning Board's reasoning respecting the proposed amendment to the Selectmen. All proposed amendments shall be forwarded to the Town's Counsel who shall within thirty (30) days review the proposed amendment putting it in proper form and indicating the legal effect of the proposed amendment. If the Town's Counsel indicates that the proposed amendment is legally impermissible the Selectmen shall notify the author of the proposed

amendment of that fact and no further action respecting that proposed amendment need be taken. In all other cases the Selectmen shall within forty-five (45) days of initial receipt of a proposed amendment schedule a public hearing thereon giving at least seven (7) days general notice by publication to the date, time and place of such hearing and the complete text of the proposed amendment.

The Selectmen and all of the above individuals shall be deemed parties to the zoning amendment proceeding as well as any member of the public present at the public hearing who is recognized and participates by offering testimony with respect to the proposed amendment.

At hearings held on a proposed amendment to this Ordinance, all persons present must be given a full opportunity to be heard. The authors of the proposed amendment should explain and present the rationale of their proposal at the outset. The review, recommendation, and comments of the Planning Board, the Town's Counsel, and the Selectmen should then be presented. A question and answer period, if necessary, should follow. The comments of aggrieved persons should then be received.

After a public hearing the Board of Selectmen shall vote on the proposed amendment. The decision to make any amendment to the Zoning Ordinance, including conditional or contract rezoning, shall be wholly within the discretion of the Selectmen who may, at their option, decline, amend or adopt said proposal. Any amendment approved hereunder shall become effective as set forth in the Town Charter.

(b) Pursuant to 30-A M.R.S.A. § 4352(8), conditional or contract zoning is hereby authorized for development where, for reasons such as the unusual nature or unique location of the development proposed, the Board of Selectmen finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned; it should not be used to circumvent enforcement decisions of the Code Enforcement Officer or decisions of the Zoning Board of Appeals. All contract or conditional zoning under this section shall establish rezoned areas which are compatible with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan. A conditional or contract rezoning may be requested by the owner of the property for which the rezoning is sought or by someone who has a legal interest in the property.

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

- a). Limitations on the number and types of uses permitted;
- b). Restrictions on the scale and density of the development;
- c). Specifications for the design and layout of the buildings, structures, and other improvements;
- d). Schedules for commencement and completion of construction, including anticipated schedules (i.e. beginning and completion dates) for all construction phases;

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

A person wishing to propose contract zoning under this Section may, prior to filing an application, submit a conceptual sketch plan to the Planning Board together with a sketch plan review fee in such amount as the Board of Selectmen may from time to time establish by order. Such sketch plan review will not be binding on the applicant or the Planning Board, but is intended to permit informal evaluation of the proposed rezoning before formal application. The sketch plan review fee is non-refundable.

Any proposal to amend the official zoning map of the Town through the establishment of a conditional or contract rezoning shall be accompanied by a non-refundable fee in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish by order, which shall be paid at the time the request is filed with the Planning Board. Where an application seeks a contract rezoning, the applicant shall include draft contract language with its application. Such contract shall include, at a minimum, the proposed conditions of the rezoning, enforcement provisions and a map of the area for which the rezoning is requested.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the conditional or contract rezoning application, the following fees and deposit in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish by order shall be paid by the applicant to the Town at the time of filing the application for conditional or contract rezoning:

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

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

Notice shall also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at their last-known addresses as established by the Town's assessment records. Notice must also be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

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

No conditional or contract rezoning shall exempt the applicant from subsequent Site Plan review and/or Subdivision review by the Planning Board of the proposed development.  
(Amended 4-21-2007)

**Section 13.05 Repeal** - The repeal of any article, section, subsection, or provision of this ordinance may be accomplished pursuant to the amendment procedures set out in Section 13.04.  
(Amended 05/13/2016).

**Section 13.06 Effective Date** - This ordinance shall be in full force and have legal effect in the Town of Waterboro as of March 13, 1977. Amendments shall be in full force and have legal effect in the town as of the day following the date of their enactment. This ordinance and amendments thereto shall be deemed enacted at the time a majority of those present and voting cast affirmative votes at an annual or special town meeting, or when a majority of the valid ballots of the ordinance or amendment and in accordance with the rules of the meeting or election procedures being utilized (see MRSA tit. 30 ss2051-2067.)

This ordinance and amendments thereto may be repealed by similar voting procedures as those outlined for enactment, except of course, that those voting in the affirmative shall be voting in favor of repeal. however, the effective date of a successful vote to repeal this ordinance shall be sixty (60) days after the date on which the repeal vote was taken to allow the municipal officers sufficient time to take whatever steps are necessary to protect the public interest in light of the repeal of this ordinance.

**Section 13.07 Hearings** - In addition to the hearing requirements outlined in Sections 10.05, 13.04, and 13.05 the Code Enforcement Officer, Planning Board, or Selectmen may at any time conduct public hearings to receive testimony and gather information which will facilitate the discharge of any duty or responsibility imposed by this ordinance. Notice of any such hearings must set forth the date, time, place, and purpose of the hearing date to both the general public by publication and those who have a special interest in the particular issue being heard. The latter shall receive notice by mail and include those persons whose acts or failures to act give rise to

the hearing, the municipal officials or employees listed above, and any person whose property is likely to be affected by issues raised at such a hearing and decisions subsequently made with respect to those issues.

At hearings held pursuant to this section, a dated record should be kept of those present, the issues raised, the substance of testimony given, and actions (if any) taken. A summary of the facts, reasoning and rationale which underlies any action taken should also be set forth.

All hearings held pursuant to this section, as well as subsequent meetings of the respective officials or bodies listed above which are held to resolve issues raised at a hearing, shall be open to all members of the public.

**Section 13.08 Judicial Review** - In addition to the judicial review from Zoning Board of Appeals decisions provided in section 10.08 any person aggrieved by any provision of this ordinance interpretation of this ordinance, act or failure to act of the Code Enforcement Officer, Planning Board, or Selectmen undertaken in the course of administering pursuant to the Maine Rules of Civil Procedure (MRSA) tit. 14 as Amended). Such an action must be brought within thirty (30) days after the enactment of this ordinance, the enactment of amendments to this ordinance, or any final interpretation of provisions of this ordinance, order, action, or refusal to act of elected or appointed municipal officials or employees.

However, no action may be brought under this provision until appeal procedures before the Zoning Board of Appeals provided by this ordinance have been exhausted by the aggrieved person (see Article 10).

## **ARTICLE 14 DEFINITIONS**

**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 06/5/1993)

**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 greenhouses, orchards, nurseries, and versions thereof, but shall not include home gardens. (Amended 08/23/2011 by Selectmen vote)

**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.

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

**AQUACULTURE:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. (Amended 06/4/1994).

**AQUIFER**

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

**AVERAGE DEPTH OF A LOT**

Lot measurements mean the following measurements:

1. The depth of a lot shall be considered to be the uninterrupted distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear. (Amended 06/24/2016).
2. The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that the width between the side lot lines at their foremost points (where they intersect the street line) shall not be less than 80 percent of the required lot width except in the case of a lot on the turning circle of a cul-de-sac, where the 80 percent requirement shall not apply. (Amended 06/24/2016).

**BEST MANAGEMENT PRACTICE**

Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Departments of Agriculture, Environmental Protection, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J. (Amended 08/23/2011 by Selectmen vote).

**BOAT HOUSE:** A non-residential, non-commercial structure designed for the purpose of protecting or storing boats and boating equipment. A type of accessory structure.

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

**BUILDING PERMIT:** A certificate to be secured from the Code Enforcement Officer of the town by every person who, after the date of enactment of this ordinance, undertakes to erect or alter any building or structure or to change the present use of his land or of any building or structure on it, indicating that the person so acting, is in compliance with the provisions of all applicable state and local.

**BULK OIL, GASOLINE STORAGE, CEMENT MIXING, & GENERAL CONSTRUCTION FACILITIES:** Bulk Fuel Oil, Gasoline Storage, Cement Mixing General Construction Tanks, Trucks, Equipment and Facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on parcels not less than five (5) acres in size. (Amended 06/5/1993).

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

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

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

**CHEMICAL BULK STORAGE**

Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included. The allowed amounts of any storage shall be as established by the Superfund Amendments and Re-authorization Act (SARA), and any applicable regulations established by the U.S. Environmental Protection Agency. (Amended 08/23/2011 by Selectmen vote).

**CLEAR CUTTING:** The felling of all trees in a continuous area at one time.

**CLEARING:** The removal of naturally occurring objects, materials, trees or other vegetation for purposes of development.

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

**CODE ENFORCEMENT ORDER:** An order issued by the Code Enforcement Officer giving notice of a violation of provisions of this ordinance and directing the violator to cease such action. Failure to comply may lead to an enforcement action.

**CODE ENFORCEMENT OFFICER:** A person acting on the direction of the Selectmen and pursuant to the provisions of this ordinance charged with issuing building and occupancy permits and enforcing the provisions of this ordinance by the issuance of code enforcement orders to any person violating the ordinance.

**COMMERCIAL ANIMAL HUSBANDRY:** The keeping of more than 5 animal units (1 animal unit equals 1,000 pounds of live animal weight). (Amended 03/11/1989).

**COMMERCIAL BREEDING:** Breeding, raising, and care of dogs, cats, mink, rabbits, and other domesticated or fur bearing animals for Commercial purposes. (Amended 06/5/1993).

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

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

**CONDITIONAL USE:** A permitted use, but one which by its nature in a particular zoning district requires case by case determination to assure compliance with the provisions of this ordinance and avoidance of harm to public or private interests.

**CONFORMING USE OR STRUCTURE:** A use or structure which is in existence at the time a zoning ordinance is enacted or which is built or undertaken after enactment, which complies in all respects with the provisions of the enacted zoning ordinance.

**CONSTRUCTION/DEMOLITION:** Construction or demolition of facilities, buildings, etc. associated with the land uses or activities. (Amended 08/23/2011 by Selectmen vote)

**CONTRACTOR BUSINESS:** A business engaged in the provision of services off premises, but which has an office and equipment / materials stored on the premises. (Amended 04/26/2003).

**CONVENTIONAL DEVELOPMENT:** A term used to connote traditional patterns of design, building style and subdividing activity as distinguished from planned unit developments or cluster developments.

**CUL-DE-SAC:** A type of non-through street; one that does not connect with other segments of a public and/or private road network but ends in a turn-around.

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

**DENSITY OF DEVELOPMENT:** A way of expressing the relationship between people, their support facilities (houses, places of employment, municipal services) and land area. Density is often a function of land use choices--more intensive residential, commercial, or industrial land uses increase populations and the density of development in a given area. Less intensive agricultural, forestry, or open space uses tend to have the opposite effect.

**DEVELOPED AREA:** “Disturbed area” (see definition below) excluding areas that are returned to a condition with the same drainage patterns and vegetative cover type that existed prior to the

disturbance. An area is not considered developed if planting to restore the previous cover type and restoration of any altered drainage patterns occur within one calendar year of the disturbance. (Amended 08/2/20-11 by Selectmen vote).

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

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

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

**DRINKING WATER STANDARDS, PRIMARY AND SECONDARY:** Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Health and Human Services. (Amended 08/23/2011 by Selectmen vote)

**DRIVE-IN FACILITIES:** A store, eating establishment, or business institution which by design and physical arrangement primarily serves its patrons in parked automobiles, but not including automobile service stations.

**DWELLING:** A structure or part thereof equipped and used for permanent (as opposed to temporary or transient) living quarters for one or more families.

**EMERGENCY OPERATIONS:** Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury. (Amended 06/4/1994).

**ESSENTIAL SERVICES:** The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are associated with the furnishing of such services. (Amended 06/4/1994).

**ESTIMATED COST:** As it applies to building permits, the reasonable value of all services, labor or materials, use of scaffolding or other appliances and devices entering into and necessary to the

prosecution and completion of the work ready for occupancy; provided that the cost of excavation or grading, and of painting, decorating of other work that is merely for embellishment or not necessary for the safe and lawful use of the building or structure is not deemed a part of such estimated cost.

**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. (Amended 06/4/1994).

**EXPANSION OF MANUFACTURED HOUSING PARKS:** All Manufactured Housing Parks in existence or under Planning Board Review as of September 25, 1991 as permitted under Article 7 Section 7.02 of this Zoning Ordinance. (Amended 06/5/1993).

**FABRICATED, MANUFACTURED, LIGHT INDUSTRIAL:** Activities and Facilities with less than five thousand (5,000) sq. ft. of work area. (Amended 06/5/1993).

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

**FARMING:** Farming, grazing, poultry and livestock raising including farm residences. Harvesting of wild crops, grasses, etc. (Amended 06/5/1993).

**FLEA MARKET:** A shop or open market customarily involving table or space rented to vendors selling antiques, used and new household goods, curios, and the like. For the purpose of this ordinance, any Yard/Garage Sales conducted for more than 3 days during a weeks time period shall be defined as a Flea Market. "Flea Markets" as distinguished from Yard & Garage Sales, must require a Conditional Use Permit in all districts. (Amended 06/5/1993).

**FLOOR AREA:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks. (Amended 06/4/1994).

**FLOOR DRAIN:** An opening in the floor that leads to the ground Work sinks which lead to such drains are included in this definition. (Amended 08/23/2011 by Selectmen vote).

**FOREST MANAGEMENT:** Timber cruising and other forest evaluation activities, management planning activities, insect and disease control, pruning and other stand improvement, regeneration of forest stands, and other similar associated activities, but not the construction of roads or timber harvesting. (Amended 03/11/1989).

**FRESHWATER WETLAND:** Freshwater swamps, marshes, bogs and similar areas which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**FRONT YARD SETBACK:** The minimum horizontal distance from the edge of a public or private right-of-way to the nearest part of a structure. (Amended 06/4/1994).

**FUEL OIL DISTRIBUTOR, FUEL OIL STORAGE:** The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners. (Amended 08/23/2011 by Selectmen vote)

**GAS STATION, SERVICE STATION:** Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in a motor vehicle, regardless of any other business on the premises. (Amended 08/23/2011 by Selectmen vote)

**GENERAL BUSINESS OFFICES:** Business Offices such as but not limited to Banks, Insurance Brokers, Real Estate, Stock Brokerage i.e. with less than one thousand (1,000) sq. ft. of customer service and office area. (Amended 06/5/1993).

**GOVERNMENT FACILITIES:** Includes Municipal Office Buildings, Police Facilities, Fire Protection Facilities, Libraries and Rescue Facilities. (Amended 06/5/1993).

**GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this ordinance, where the artificially formed or increased inland body of water is completely surrounded by the land held by a single owner.

**GREENBELT:** For the purpose of these regulations, a “greenbelt” is defined as a strip of land vegetated with grass or other plant life maintained as open green space. Removal of dead trees, mowing of grass and pruning of other vegetation, to the extent appropriate for routine maintenance, are the only cutting permitted within a greenbelt area. The only construction permitted within a greenbelt is that necessarily related to the exercise or use of a utility easement and/or that necessarily related to a driveway. If another means of access to the property other than through the greenbelt is available, construction related to utility easements shall be the only permissible construction within the greenbelt boundaries. (Amended 04/27/2002).

**GROUNDWATER:** The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer. (Amended 08/23/2011 by Selectmen vote)

**HAMMERHEAD TURN:** A gravel area built entirely outside of the right of way a minimum of 75’ sq. for the purpose of vehicular maneuvering.

The area of the right of way adjacent to the hammerhead turn must consist of a 75' x 50' gravel area. The right of way must extend 75' beyond the hammerhead turn with a graveled area of 75' x 35'. The right of way with a hammerhead turn shall be built in compliance with the sketch to be provided by the Code Enforcement Office. (Amended 03/11/2000).

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

**HAZARDOUS WASTE:** Any substance (a) identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, (b), radioactive waste material including any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations; or (c) any substance listed in the Town of Waterboro Hazardous Waste Ordinance. (Amended 08/23/2011 by Selectmen vote)

**HOME AGRICULTURAL USES:** Agricultural uses, as defined by this ordinance, carried on by the permanent residents of a dwelling unit for their own personal household use and not for resale. (Amended 03/11/1989).

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

**HOME OCCUPATION:** A use that is clearly incidental and subordinate to the residential use of the property. A home occupation must conform to the standards set forth in Article 7.04 of this ordinance. (Amended 03/8/1997).

**HORTICULTURE ACTIVITIES:** Activities including but not limited to Nurseries, Greenhouses, and Commercial Sale of such products. (Amended 06/5/1993).

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

**INDOOR RECREATION:** Recreational Facilities including Bowling Alleys, Skating Rinks, Swimming Pools, etc. (Amended 06/5/1993).

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

**INSTITUTIONAL FACILITIES:** Includes but not limited to Hospitals, Nursing Homes, and Sanitariums, etc. (Amended 06/5/1993).

**INTEGRATED PEST MANAGEMENT PLAN (IPM):** Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of performance on an ongoing basis. (Amended by 08/23/2011 by Selectmen vote)

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

**JUNKYARDS:** A lot or parcel of land and/or a structure or a part of either, used for the purchase, collection, storage, recycling, or sale of wastewater, rags, scrap metal, or other discarded goods, materials, machinery, or vehicles. Said areas must not be located within five hundred (500) ft. of any residence, camp, or water body and must be appropriately screened. (Amended 06/5/1993).

**LANDFILL:** An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground. (Amended 08/23/2011 by Selectmen vote).

**LANDSCAPED AREA:** An area of land that has been disturbed and re-planted or covered with one or more of the following: lawn or other herbaceous plants, shrubs, trees or mulch; but including area that has reverted to natural, vegetated condition. (Amended 08/23/2011 by Selectmen vote).

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

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

**MARINA:** A boat basin that has docks, moorings, supplies, and other facilities for small boats, including the sale of boat, bait, and tackle supplies. (Amended 06/5/1993).

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

**MASSAGE:** Any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device performed by any person who is not a physician, surgeon, physician's assistant, nurse, chiropractor, physical therapist, barber, cosmetologist, beautician or other health or hygiene professional licensed by and practicing in accordance with the laws of the State of Maine. Massage does not include massage therapy as defined in 32 M.R.S.A. §14301(4). (Amended 06/5/1993).

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

**MEDICAL MARIJUANA GROW-ONLY FACILITY:** A facility that engages only in the growing and processing of medical marijuana in accordance with State law, but does not dispense marijuana. Processing of medical marijuana may include, but is not limited to, the preparation of tinctures, ointments, and food products containing medical marijuana. Medical Marijuana Grow-Only facilities shall require a conditional use application as set forth in Article 4 and most be located on Route 5 or Route 202 in the Agriculture and Residential (AR) Zone. (Amended 2-22/11 by Selectmen vote).

**MINERAL EXPLORATION:** Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition. (Amended 06/4/1994).

**MINING OR MINERAL EXTRACTION:** The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site. (Amended 08/23/2011 by Selectmen vote)

**MOBILE HOME PARK:** A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units. (Amended 09/25/1990).

**MOBILE HOME PARK LOT:** An area of land on which an individual manufactured housing unit is situated within a mobile home park and which is reserved for use by the occupants of that unit. The Planning Board shall require that all mobile home park lots are delineated on a mobile home park plan. (Amended 09/25/1990).

**MODIFICATIONS:** Are permitted departures for cause from the general and otherwise applicable provisions of this ordinance.

**MULTI-FAMILY DWELLING:** A dwelling designed for occupancy by two or more families.

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

**NORMAL HOUSEHOLD USE:** Use by the permanent residents of a dwelling unit incidental to and related to their residential use and occupation of that dwelling unit. (Amended 03/11/1989).

**NORMAL HIGH WATER MARK:** That point or elevation on the shore or bank of a waterbody where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. A series of such points along a shoreline determines the normal high water line.

**NUISANCE:** Is defined by 30-A M.R.S.A. §4302 as "any property or use existing in violation of any zoning ordinance." more generally, it is an action or the use of land or things by one person in a manner harmful or detrimental to the person, land, or things or another.

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

**OFFICE/OFFICE COMPLEX:** A building (new or existing) wherein services are performed involving predominantly administrative professional or clerical operations. Complex may consist of one or more professional offices. Examples of professional office include but are not limited to Banks, Insurance Brokers, Real Estate Brokers, Lawyers, Accountants, Doctors, and Dentists. (Amended 06/4/1994).

**OPEN SPACE:** Land that is free of buildings, other permanent structures and impervious areas. (Amended 08/23/2011 by Selectmen vote).

**OUTDOOR RECREATION:** Outdoor recreation activity operated by an entity other than a unit of government, whether operated for profit or not, including but not limited to golf courses, livery, and ski-tows, provided they fulfill State and Town public health requirements, but not including campgrounds, outdoor movies, and outdoor dine and dance facilities. In the Wellhead Protection District, outdoor recreation shall be limited to nonintensive recreational activities, that is, recreational activities that do not require structural components or substantial land alteration for participation, such as fishing, hiking and hunting. Recreational Facilities including Ball Fields, Parks, Picnic Areas, Tennis Courts, but not Golf Courses or Driving Ranges. (Amended 03/11/1989; 06/5/1993).

**PARK:** Land area set aside for public recreation, conservation, wildlife, or other similar purpose. (Amended 08/23/2011 by Selectmen vote).

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

**PERFORMANCE STANDARDS:** Legislatively determined minimum requirements for the undertaking of development activities usually predicated on objective medical, scientific, and engineering, criteria and designed to protect the public's health, safety, and general welfare.

**PERMANENT FOUNDATION:** Means the following:

- (1) A full, poured concrete or masonry foundation;
- (2) A poured concrete front wall or a mortared masonry wall, with or without a concrete floor;
- (3) A reinforced, floating concrete pad, if the pad is to be placed in soil rated with high potential for frost action in the Soil Interpretation Records of the U.S. Solid Conservation Service, the Code Enforcement Officer shall require a certification of its adequacy from a professional engineer, registered in the State of Maine, prior to the issuance of a building permit; or

- (4) Any permanent foundation which, pursuant to the building codes of the Town of Waterboro, is permitted for other types of single family dwellings. (Amended 09/25/1990).

**PERMITTED USES AND STRUCTURES:** A general category consisting of primary and conditional uses and structures. A use or structure not permitted in any zoning district may not be undertaken unless the Planning Board or Selectmen agree that it is similar in character to a permitted use or structure or unless the ordinance is amended.

**PESTICIDE, HERBICIDE BULK STORAGE:** Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included in this definition. (Amended 08/23/2011 by Selectmen vote).

**PITCHED, SHINGLED ROOF:** A roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excludes corrugated metal and other metallic roofing materials. (Amended 09/25/1990).

**PLANNED UNIT DEVELOPMENT** - In the context of this ordinance a development controlled by a single developer on a tract ten (10) acres or larger in size for residential, commercial, industrial (or any combination of the above) purposes. PUD's are undertaken in a manner that treats the developed area as an entirety to promote flexibility in design, architectural diversity the efficient use of land including the creation of common open space, a reduction in the size of road and utility systems, and the retention of the natural characteristics of the land. PUD's may not be used, however, to increase the overall density of development permitted in any zoning district. Residential PUD's may not exceed one family unit for the required density of the zoning district in the parcel being developed.

P.U.D.'s limited to industrial and/or commercial activities on parcels not within five hundred (500) feet of a water body and with direct access to a state or federal aid highway. PUD's providing resort and recreational facilities including overnight, year-round, or seasonal accommodations, bar and food service. Notwithstanding any provision in this ordinance to the contrary, principal or accessory structures in all such developments shall not be built within one hundred and twenty-five (125) feet of any side or rear lot line and must be set back one hundred and fifty (150) feet from the front lot line. (Amended 06/5/1993).

**PRIMARY USES AND STRUCTURES:** Are permitted uses and structures which in each zoning district are recognized as most highly compatible with existing development, the capacity of the land area to support further development, and the objectives of the comprehensive plan and this ordinance. They require only the issuance of building and occupancy permits before they may be commenced.

**PROCESSING FACILITIES RELATED TO FARMING I:** Processing Facilities related to Orchard and Agricultural Products, including Poultry but excluding Livestock. (Amended 06/5/1993).

**PROCESSING FACILITIES RELATED TO FARMING II:** Processing Facilities related to Orchard and Agricultural Products, including Poultry and Livestock.

**PROFESSIONAL HOME OCCUPATION AND OFFICES:** A professional activity (such as, but not limited to: doctor, dentist, lawyer, engineer, accountant, architect, real estate and stock broker) conducted for gain or support entirely within a residential building, or structure accessory thereto, which is carried on by a member of the family residing in the building, is incidental and secondary to the use of such building for dwelling purposes, and which does not change the essential residential character of such building. No more than twenty-five (25) percent of the floor space in any residential building (principal or accessory) may be given over to a professional home occupation or office.

**PUBLIC BUILDING:** A building owned, operated or funded in whole or in part by the Town of Waterboro which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations. (Amended 06/5/1993).

**PUBLIC FACILITIES:** Those activities, structures, and services usually provided by government such as, but not limited to, schools, police protection, fire protection, municipal offices, municipal dumps, etc... (Amended 06/5/1993).

**PUBLIC UTILITIES:** Utility or Communications poles, towers, lines, and unmanned substations, etc. (Amended 06/5/1993).

**Recreational Vehicle Accessory Enclosure:** A factory-manufactured rigid metal or vinyl enclosure, with dimensions not exceeding ten feet in width and the length of the recreational vehicle, and designed for use with recreational vehicles. The term shall not include decks, patios, awnings, awning tents, screen panels or unenclosed roof projections. (Amended 06/24/2016).

**RECREATIONAL VEHICLE OR CAMPER:** A vehicle type of structure designed to provide temporary (as opposed to permanent) living quarters for recreational, camping, or travel use which may have its own motive power or be mounted on or drawn by another vehicle, including any and all types of pick-up camper, travel trailer, tent trailer, or motorhome.

**RESOURCE EXTRACTION:** "Extraction of rock, sand and gravel, but not within 150 ft. from any property line or 100 ft. from any water body provided a suitable restoration and erosion/sediment control plan is prepared and approved by the Planning Board. If written permission of the abutter is obtained, a buffer strip of no less than 25 ft. may be allowed. These buffer requirements may be waived with the abutters permission if the abutting property is in use as an extraction operation.

**RESTAURANTS, LOUNGES, & CAFES I:** Restaurants, Lounges, Cafes with less than one thousand (1,000) sq. ft. of customer service area, except those requiring a daily water consumption in excess of one thousand (1,000) gallons. (Amended 06/5/1993).

**RESTAURANTS, LOUNGES, & CAFES II:** Restaurants, Lounges, Cafes with more than one thousand (1,000) sq. ft. of customer service area or that requires more than one thousand (1,000) gallons of daily water consumption. (Amended 06/5/1993).

**RETAIL SHOPS:** A store or shop engaged in the sale of commodities or goods to individual customers for personal use rather than for resale.

**RETAIL & SERVICE STORES I:** All types of Retail Shops and Stores with less than one thousand (1,000) sq. ft. of Store area, except shops or stores requiring daily water consumption in excess of one thousand (1,000) gallons. (Amended 06/5/1993).

**RETAIL & SERVICE STORES II:** All types of retail and service stores (Repair Shops Barbers, Beauticians, Cleaners, etc.) with more than one thousand (1,000) sq. ft. of Store area or that requires one thousand (1,000) gallons of daily water consumption, including all Drive-in Facilities. (Amended 06/5/1993).

**RIVER:** A free flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth. (Amended 06/4/1994).

**ROAD OR ROADWAY:** A public or private right-of-way intended to be used for the passage of persons and vehicles.

**PESTICIDE, HERBICIDE BULK STORAGE:** Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included in this definition. (Amended 08/23/2011 by Selectmen vote).

**PIERS, DOCKS, WHARFS, BRIDGES AND OTHER STRUCTURES AND USES  
EXTENDING OVER OR BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN  
A WETLAND -**

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months. (Amended 06/4/1994).

**SALT OR SAND/SALT PILES (UNCOVERED):** Storage of any amount of salt or sand/salt mix, for any purpose, without a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt. (Amended 08/23/2011 by Selectmen vote)

**SCHOOLS:** Public and Private Schools including all accessory structures and facilities. Includes Day-Care and Nursery Schools. (Amended 06/5/1993).

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

**SERVICE STORES:** An office, shop, or store providing personal, financial, technical, or repair services, assistance or advice to individual customers.

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

**SHORELAND:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within one hundred (100) feet of the normal high-water line of a stream.

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

**SLOPE:** The mathematical ratio of a change in elevation divided by the horizontal distance to produce that change, normally expressed as a percentage.

**SLUDGE:** Residual material produced by water or sewer treatment processes, industrial processes, or domestic septic tanks. (Amended 08/23/2011 by Selectmen vote).

**SLUDGE UTILIZATION:** The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge. (Amended 08/23/2011 by Selectmen vote).

**SNOW DUMP:** A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing operations. (Amended 08/23/2011 by Selectmen vote).

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

**SPCC PLAN:** Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations. (Amended 08/23/2011 by Selectmen vote).

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

**SPECIAL REQUIREMENTS:** Are really added conditions which the Planning Board may attach to a conditional use approval in circumstances where the failure to do so would result in harm to the public interest even though the applicant for a conditional use approval has met all of the general and specific requirements for that approval.

**SPECIALIZED MEDICAL CLINIC:** A facility that dispenses, acquires, possesses, cultivates, manufactures, delivers transfers, transports, sells or supplies methadone, medical marijuana or other medical drugs to patients. Such dispensary may also supply educational materials and provide to registered primary caregivers of those patients at the same facility. Ancillary or accessory uses for such a specialized medical clinic may include, but are not limited to,

counseling services associated with the medication conditions being treated, processing and cooking facilities for preparing the marijuana and other registered drugs. In all cases, accessory uses must remain secondary, individually and in aggregate, to the primary use. Specialized medical clinics shall require a conditional use application and site plan review as set forth in Articles 2 and 4 and must be located on Route 5 or Route 202 in the General Purpose Zone. (Amended 2/22/11 by Selectmen vote).

**STABLES:** A building for the shelter and feeding of domestic animals, especially horses and cattle. (Amended 06/5/1993).

**STANDARD SIZE ENTRY DECK:** A standard size entry deck will consist of a 4' x 4' platform with a maximum of 6 steps. (Amended 03/11/2000).

**STORMWATER DRAINAGE:** A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste. (Amended 08/23/2011 by Selectmen vote).

**STORMWATER IMPOUNDMENT:** Any structure designed and constructed to contain stormwater runoff. (Amended 08/23/2011 by Selectmen vote).

**STREAM:** A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area. (Amended 06/4/1994).

**STRUCTURE:** A man made construction or assemblage of materials having a more or less permanent location on ground or water such as, but not limited to, buildings, towers, masts, poles, booms, signs, sheds, carports, tents, equipment and machinery (including mobile homes and recreational vehicles when stationary). Above ground swimming pools should not be considered a structure therefore does not have to meet setback requirements. Tents intended for sleeping should not be considered a structure therefore does not have to meet setback requirements. (Amended 6/16/98).

**STRUCTURAL ALTERATION:** Involves changing, extending or relocating the bearing walls, columns, beams, or girders by which a structure is supported.

**SUBDIVIDING:** The process of converting relatively unintensively used for, agricultural, or open space land into smaller parcels or lots, suitable for more intensive uses involving residential, commercial, or industrial activities. Improvements, such as surveying, preparing a legal description, laying out of streets, and site preparation are often part of the process.

**SUBDIVISION :** A subdivision shall mean the division of a tract of parcel of land as defined in 30-A, M.R.S.A. §4401. (Amended 08/23/2011 by Selectmen vote).

**SUBSURFACE INJECTION** (see subsurface wastewater disposal) (Amended 08/23/2011 by Selectmen vote).

**SUBSURFACE WASTEWATER DISPOSAL SYSTEM**

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s) surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant. (Amended 08/23/2011 by Selectmen vote).

**SUBSTANDARD SIZED LOT:** As of the date of enactment of this ordinance it is a lot of record in any zoning district which does not meet the minimum lot size requirements for that district.

**SUBSTANTIAL WORK:** (actual construction) a term evidencing the point at which a nonconforming use status arises and/or that degree of reliance upon a building permit or variance sufficient to prevent its expiration for non-use. The point at which the planning and site preparation phase of a project gives way to actual construction aimed at bringing the contemplated structure or use into being.

**TEMPORARY USE OR STRUCTURE:** A use or structure not permitted by this ordinance but allowed to be undertaken for brief periods of time upon application to, and approval (with conditions, if necessary) by the Planning Board.

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

**TOPOGRAPHY:** A term referring to the general characteristics of the ground surface--flat, hilly, rugged, etc. also refers to physiographic features--steepness of slope, degree of relief, etc.

**TRANSFER STATION; RECYCLING FACILITY:** Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing. (Amended 08/23/2011 by Selectmen vote).

**UPLAND EDGE:** The boundary between upland and wetland. (Amended 06/4/1994).

**USES SIMILAR IN CHARACTER:** As distinguished from an expressly permitted use these are uses which are nonetheless common in most towns and which in size, type of activity, number of employees, social utility, use of public facilities and services are in almost all respects identical with a permitted use.

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

**UTILITY CORRIDOR:** Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc. (Amended 08/23/2011 by Selectmen vote)

**UNDERGROUND STORAGE TANK:** As defined by State of Maine regulations published by the Maine Department of Environmental Protection. (Amended 08/23/2011 by Selectmen vote)

**VARIANCE:** A permitted minor departure from the literal or strict application of the dimensional requirements of this ordinance which may be granted in circumstances where undue hardship would otherwise result, but only if the requirements of state statute 30-A M.R.S.A. §4353 and this ordinance (see section 10.04) are met. (Amended 05/13/2016).

**VOLUME OF A STRUCTURE:** The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof. (Amended 06/4/1994).

**WASTEWATER :** Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present. (Amended 08/23/2011 by Selectmen vote).

**WASTEWATER TREATMENT PLANT:** Any arrangement of devices and structures used for treating wastewater. (Amended 08/23/2011 by Selectmen vote).

**WATERBODY:** Any great ponds, rivers, or streams. (Amended 06/3/1996).

**WATERSHED:** Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas. (Amended 08/23/2011 by Selectmen vote).

**WATER TABLE:** The upper surface of the free groundwater in a zone of saturation. It generally follows the topography of the land, but it will fluctuate in its depth below the surface in accordance with the quantity of ground water and soil characteristics.

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

**WELLHEAD PROTECTION DISTRICT:** A zone, consisting of 2 districts, delineated according to Article III, Section 3.01 and 3.02 of this Ordinance. (Amended 08/23/2011 by Selectmen vote).

**WELL, ABANDONED:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period to two consecutive years. (Amended 08/23/2011 by Selectmen vote).

**WELL, EXISTING OR NEW:** A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater. (Amended 08/23/2011 by Selectmen vote)

**WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS:** Wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and

which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river. (Amended 06/4/1994).

**WHOLESALE & WAREHOUSE FACILITIES:** All types of Wholesale, Warehouse and Bulk Storage Facilities. (Amended 06/5/1993).

**WILDLIFE PRESERVE:** An area maintained for the protection of wildlife or natural resources, including maintenance of nesting and breeding areas. (Amended 06/5/1993).

**YARD & GARAGE SALE:** The occasional selling, offering for sale, trading, swapping, or otherwise bartering used or second-hand household goods from any residential premises.

There shall be no limit as to the number of Yard & Garage Sales a person has during the year. Yard & Garage sales can be conducted on a residential premise for no more than 3 days during a week time period.

At no time shall the proposed Yard & Garage Sale inhibit the flow of traffic. Persons holding a (sale) must provide sufficient parking so that all vehicles attracted to the sale are not parked within the right-of-way. (Amended 06/5/1993).

**YARD:** A required open space on a lot between a lot line and any structure which is unoccupied from grade level upward and except for vegetation.

**ZONING DISTRICT:** An area geographically defined by a zoning ordinance in which a category of uses may be carried on and structures built if stated regulatory requirements are met. Uniformity of treatment within a district is required, but the category of uses and the regulatory requirements imposed may vary from district to district within a town.

**ZONING MAP:** An integral part of the zoning ordinance upon which all of the zoning districts are fully and carefully delineated. It is to be kept on file available for public inspection in the Town Clerk's Office.