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ANIMAL CONTROL ORDINANCE

OF

NORTH BERWICK, MAINE

MARCH 12, 1988

Cheryl D. Wentworth
Gretchen G. Shufelt
Board of Selectmen
North Berwick, Maine

Attest: Janet E. Belmain

A true copy of an ordinance entitled "Animal Control Ordinance of North Berwick" as certified to me by the municipal officers of North Berwick on the 29th day of February, 1988.

Janet E. Belmain
Janet E. Belmain
Town Clerk
North Berwick, Maine

ANIMAL CONTROL ORDINANCE

PURPOSE: The purpose of this ordinance is to require that all animals in the Town of North Berwick be kept under the control of their owners at all times so that they will not injure persons, damage property or create a nuisance.

CONSTRUCTION: The provisions which apply to the owners of an animal apply equally to any person having its custody or possession.

DEFINITIONS: 1) "OWNER" = any person, firm, organization, partnership, association or corporation which owns, possesses, or has custody of an animal.

2) "At Large" = any animal off the premises of the owner and not under the control of any person by means of personal presence and detention as will reasonably control the conduct of said animal.

3)"DANGEROUS DOG" = a dog which has bitten a person who was not a trespasser on the owner's premises at the time of the incident; or a dog which causes a reasonable person, acting in a peaceable manner outside the owner's premises, to be put in apprehension of eminent bodily harm.

4) "LAW ENFORCEMENT OFFICER" = any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this state or municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes, or is limited to specific crimes.

5) "MUNICIPALITY" = a city, town or plantation.

6) "NUISANCE" = the causing of unreasonable noise, litter, or other property damage; the chasing of automobiles, motorcycles, bicycles, or other vehicles; and the entry on to school grounds while school is in session.

7) " LEASH " = a hand held device no longer than 6' in length.

8) "PACK" = a dog in the company of three or more other dogs.

1.1 Animals creating a nuisance by noise: Anyone owning, possessing or harboring any animal which barks, howls or makes other sounds common to its species, continuously for 20 minutes or intermittently for one hour or more shall be deemed to constitute a nuisance.
EXCEPTIONS: dogs barking at trespassers or threatening trespasser on private property which dog is situated; or any legitimate cause for provication.

1.2 Running at large prohibited: It is unlawful for any animal, licensed or unlicensed, to run at large except when used for hunting. (Chapter 719§3911) Any stray or abandoned animal roaming at large shall be impounded by the Animal Control Officer and taken to a shelter or returned to its natural habitat. Any dog leaving the property of its owner or custodian must be on a leash of suitable strength or must be under the supervision and verbal control of its master. Any animal in violation may be impounded by the Animal Control Officer. Any animal so impounded may be destroyed if it is not claimed within 14 days following impoundment.

1.3 Confinement of certain dogs: Dogs of fierce, dangerous or vicious propensities or in heat shall be properly confined or tied by the owner in a reasonable manner to prevent harm to the public. If the owners of fierce, dangerous or vicious dogs or dogs in heat are found in violation of this section, such dogs shall be impounded and not released except on the approval of the Animal Control Officer, the Police Chief or a Police Officer and only if all provisions of Section 1.7 have been met.

1.4 License Required: All dogs kept, harbored or maintained by their respective owners in the Town of North Berwick shall be licensed and tagged in accordance with the appropriate laws of the State of Maine. M.R.S.A.§3921

1.5 Licensing Fees: Beginning January 1st and no later than April 1st all dogs over the age of 6 months must be licensed in the Town of North Berwick by registering the dog(s) at the Town Clerk's office. Proof of a rabies vaccination must be shown current to getting a license.

1.6 Registry and Notification of Impoundment: When impounding any animal, the Animal Control Officer or Police Officer shall at the time of such impoundment, list number and description of violation(s), make a complete registry of the date of impoundment, breed, color, sex, and general condition of the animal as can be reasonably ascertained, and if licensed or unlicensed, and the name of the owner or keeper if known, on a registry form. A copy of this form shall be furnished to the pound-master together with written instructions setting forth conditions under which the animal may be released. When any animal is impounded under the provisions of this article, the person who has control of the impounding shall, when possible, contact the owner within 48 hours, post in a public place in the community a description of the animal and its place of impoundment. If the owner does not claim said animal, then the animal shelter shall dispose of the animal by sale or otherwise in a proper and humane manner consistent with applicable state laws.

1.7 Impoundment Fees: Owners may reclaim their animal by first properly licensing, if applicable, according to Town

regulation, and by paying to the Town the following:

1) First Offense = $ 10.00
   Second Offense = 15.00
   Additional Offense = 25.00

2) Shelter costs at a rate of $5.00 per day.

3) Any additional costs incurred by the animal at the shelter prior to reclamation.

4) Fees must be paid and a receipt of same presented to the shelter prior to the release of an animal.

1.8 Disposition of dogs which have bitten persons: The owner of a dog who knows or has been advised that the dog has bitten a person shall confine the dog or have it confined by itself in a secure enclosure for at least 14 consecutive days and shall notify the Health Officer and the Animal Control Officer or Police Officer immediately of the time, place and reason for confinement. The owner shall not destroy the dog nor allow it to be destroyed.

1.9 Examination of confined dogs: The Health Officer shall have a dog, which has been confined because of having bitten a person, kept under observation for symptoms of rabies. At the end of the 14 day period of confinement, the Health Officer shall determine whether the dog is infected with rabies. Upon this determination, proper procedures shall take place in accordance with state law. All expenses incurred by the Town of North Berwick shall be paid for by the owner of the dog.

1.10 Violations: Any person found in violation of sections 1.1, 1.2 and 1.3 shall be subject to a fine of not less than $10.00 and not more than $100.00 for each offense. Any fine collected shall inure to the Town of North Berwick.

1.11 If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

TOWN OF NORTH BERWICK, MAINE
CATV ORDINANCE

Section I - ESTABLISHMENT AND PURPOSE

An ordinance provided for Town regulation and use of the community antenna television system including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto in the Town of North Berwick, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operation.

Section II. DEFINITIONS.

a) "C.A.T.V." shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services, but such terms shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.

b) "Cable Television Co." shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of North Berwick, sometimes hereinafter referred to as "the company".

c) "Town." shall mean the Town of North Berwick organized and existing under the laws in the State of Maine and the area within its territorial limits.

Section III. FRANCHISE REQUIRED.

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise is in full force and effect.

Section IV. FRANCHISE CONTRACT

The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Television Companies for the operation of a CATV system within the Town, including the granting of a franchise of franchises for the operation thereof for a period not to exceed Fifteen (15) years.

Applicants for a franchise shall pay a non-refundable filing fee to the Town of $100.00 to defray the cost of public notices, and advertising expenses relating to such application. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require; including but not limited to a general description of the applicant's proposed operation, a schedule of proposed changes, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed system and its proposed annual town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and Microwave service including that of its officers, management and staff to be associated with the proposed operation.

Said Franchise Contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the company and a public hearing thereon; with the right to appeal to the York County Superior Court under Rule 30-B of the Court Rules of Civil Procedure in accordance with due process.

Section V. PUBLIC HEARING.

Before authorizing the issuance of any such franchise contract or contracts, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a CATV system within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

Section VI. PERFORMANCE BOND & INSURANCE COVERAGE

Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount of $100,000.00 conditioned upon the faithful performance of said contract and full compliance with any laws, ordinances, or regulations governing said franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. Said performance bond shall be reduced to $50,000.00 upon the completion of the installation of said system as per said contract. The Board of Selectmen may opt to allow for a Corporate Guarantee in lieu of a Performance Bond and appropriately condition the Corporate Guarantee.

Section VII - CATV REGULATORY BOARD

The Board of Selectmen are hereby authorized to enter into an interlocal agreement with the Towns of Wells, Ogunquit and York for the purpose of establishing a CATV Regulatory Board.

MEMBERSHIP

The Board of Selectmen are hereby authorized to appoint two members to the CATV Regulatory Board from the Town of North Berwick. In addition, the Town Manager shall be an advisory member to the North Berwick delegates.

DUTIES OF THE BOARD

The CATV Regulatory Board shall have the following duties:

a) Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of the system, said rules and regulations being subject to the approval of the Selectmen of each Town which is the signatory to the interlocal agreement mentioned in the first paragraph hereof.

b) Make recommendations to the Cable Television Company concerning educational and local interest programming.

c) Resolve complaints, disputes, or disagreements between subscribers and the company.

d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiency in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties including the company, except such a decision or finding may be appealed to the Municipal Officers and/or to the York County Superior Court under said Rule 80-B.

e) Regulate rates and charges to subscribers of the Cable Television Company pursuant to such terms, conditions and criteria as are agreed upon the franchise agreement.

f) Shall prepare specifications for bids for CATV franchise and invite bids for said franchises. Upon receipt of bids, it shall study same and make recommendations on the awarding of a franchise, said recommendations being subject to the approval of each Selectmen of each Town which is the signatory to the interlocal agreement mentioned in the first paragraph hereof.

g) After the awarding of the franchise, shall negotiate the franchise agreement between the company and the municipalities who are signatories to the interlocal agreement as mentioned in the first paragraph above, said recommendations being subject to the final and full approval of each municipality.

Section VIII - FRANCHISE CONTRACT CONTENTS

Each franchise contract between the Town and any Cable Television Company shall contain but is not limited to, the following provisions:

a) A statement of the area or areas to be served by the Cable Television Company;

b) A line extension policy;

c) A provision for renewal, the term of which may not exceed fifteen (15) years;

d) Procedures for the investigation and resolution of complaints by the Cable Television Company;

e) An agreement to comply with the requirements of 30-A MRSA section 3010 regarding Consumer rights and protection and any amendments thereto;

f) Any other terms and conditions that are in the best interest of the Town; and

g) Provide for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 and any amendments thereto.

Section IX - RULES, REGULATIONS AND PROCEDURES

The Municipal Officers of the Town of North Berwick shall:

a) Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of a CATV system;

b) Make recommendations to the Cable Television Company concerning educational and local interest programming;

c) Resolve complaints, disputes, or disagreements between subscribers and the Company;

d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of the system. The municipal officers decisions and findings shall be final and binding upon all parties including the Company, except such decision or finding may be appealed to the York County Superior Court under Rule 80-B;and

e) All such regulations, rules and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems.

Section X - COMPLIANCE WITH ALL LAWS

Cable Television Companies shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulation, ordinances, codes, and orders.

Section XI -SEVERABILITY

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

This Ordinance shall be effective on the date of its adoption by the Municipal Officers of the Town of North Berwick

COIN OPERATED AMUSEMENT DEVICE ORDINANCE

FOR THE TOWN OF NORTH BERWICK, MAINE

MARCH 13, 1982

SELECTMEN, NORTH BERWICK, MAINE

ATTEST:

TOWN CLERK

COIN OPERATED AMUSEMENT DEVICE ORDINANCE

FOR THE TOWN OF NORTH BERWICK, MAINE

Article I - ESTABLISHMENT

Pursuant to 8 M.R.S.A. Sec. 441, et. seq. the Town of North Berwick hereby ordains the following Coin Operated Amusement Device Ordinance for the purpose of regulating the location and operation of any such device in or on any premises or location within the Town of North Berwick.

Article II

A. Coin Operated Amusement Device Definitions

A coin operated amusement device shall include all of those machines whether mechanical or electronic which upon insertion of a coin, slug, token plate or disc may be operated by the public generally at a public premises for use as a game, entertainment or amusement, but not limited solely to musical entertainment, whether or not registering the score and which are operated for amusement only and do not dispense any form of playoff, prize or reward except free replays.

B. Good Moral Character

Proof of good moral character shall include general testimony of the applicant's reputation in the community and the results of a records check to be conducted by the Chief of Police and included in his report as required in Article IV. Such results shall be considered relevant only if they disclose a felony conviction within the last ten (10) years.

C. Effect on Neighboring Properties

The applicant shall establish that the location of a premise for the operation of coin operated amusement devices will not adversely affect the property values of other real property in the immediate vicinity of said premises. Any plans the applicants may have in regard to supervision of said premises to prevent vandalism and other potential property damage or personal injury to abuttors shall be considered in this regard.

D. Location

Coin operated amusement devices are restricted to commercial establishments in the commercial district only as defined in the North Berwick Zoning Ordinance.

E. Traffic Hazards

Traffic conditions on a public way adjacent to said premises shall be evaluated to insure that the location of said premises will not unnecessarily aggravate said

conditions, such evaluation shall be conducted by the Chief of Police in conjunction with the Department of Public Works.

F. General Health and Safety

The Code Enforcement Officer in conjunction with the Health Officer and Fire Chief shall inspect said premises and report on the general health and safety of the premises in regard to any violations or possible violations of the Building Code, Health Code, Fire Code or State Plumbing Code.

Article III - LICENSES

It shall be unlawful for any person, firm, corporation or association to keep for public patronage or to permit or allow the operation of any coin operated amusement device in or on any public premises or location under his or its charge, control or custody without having first obtained a license therefor from the Clerk of the Town of North Berwick. Said license shall be issued by the Clerk upon the payment of the annual fee of One Hundred Dollars ($100) for each machine located at said premises and said license shall expire on June 30 of each year.

Article IV - EXCEPTIONS AND CONDITIONS OF LICENSE

The Clerk shall not issue such license as stipulated in Article III hereof until authorized by the municipal officers following a public hearing on the establishment of said coin operated amusement device location. Such hearing shall be held within thirty (30) days of the receipt of such license application and authorization or denial by said officers shall be by written decision stating the reasons therefor. At the public hearing the municipal Officers shall receive testimony and take evidence as to the good moral character of the applicants as well as to such factors regarding the premises for location of said devices as traffic hazards, affect on neighboring properties and general health and safety of the premises to house said coin operated amusement devices. There shall be a limit of three (3) machines per establishment. Each establishment shall maintain rest room facilities. Children under the age of sixteen unaccompanied by a parent or guardian shall not be permitted to play or operate such machines. In this regard the Code Enforcement Officer and the Chief of Police shall be required to submit written reports on their evaluation of said premises.

Article V - LICENSE SPECIFICS

The license required by this ordinance shall be posted securely and conspicuously on the premises for which it is granted. The Town Clerk shall forward a copy to the local police department after issuance. Said license shall not be transferrable to any other person,

firm, corporation or association or from location to location and shall be valid only at the location and for the person, firm, corporation or association designated therein. Further, such license shall not be granted to any person under the age of eighteen (18) years, nor to any firm, corporation or association whose officers are under said age.

Article VI - REVOCATION OF LICENSE

Any such license issued herein may be revoked by the Clerk after hearing before the municipal officers when any of the following violations are found:

1. There are machines located on the premises which are not described in the license application.

2. That minors under the age of sixteen years (16) unaccompanied by a parent or guardian have been allowed to operate said machines in violation of the terms of the ordinance.

3. That any of the other specific findings required by this ordinance and defined in Article II have been violated and/or cease to be true.

4. When it has been established to the municipal officers' satisfaction that the premises for which said license was granted had ceased to be a proper location due to the creation of a public nuisance at said premises.

Article VII - APPEAL

The decision of the municipal Officers as carried out by the Clerk may be appealed to the Superior Court within thirty (30) days from the rendering of said decision.

Article VIII - VIOLATIONS

Any person, firm, or, in the case of a corporation or association, any official thereof, violating any of the provisions of this ordinance, shall upon conviction be punished by a fine not exceeding twenty-five dollars ($25.00) for each offense and each day such violation exists shall constitute a separate offense.

Article IX - SEPARABILITY CLAUSE

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions thereof.

FLOODPLAIN MANAGEMENT ORDINANCE

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of North Berwick, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of North Berwick, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in the attached Floodplain Management Ordinance.

It is the intent of the Town of North Berwick, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of North Berwick having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of North Berwick, Maine.

The areas of special flood hazard, Zones A and Al-30, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of North Berwick, Maine, York County," dated August 1, 1984 with accompanying "Flood Insurance Rate Map" dated February 1, 1985 and 'Flood Boundary and Floodway Map's dated February 1, 1985 is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II- PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of North Berwick, Maine.

ARTICLE III- APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include.

K. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4; Article VI.G.; and other applicable standards in Article VI;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT~S FEE

A non-refundable application fee of $50.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Planning Board may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of North Berwick, Maine," as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III.H.1 .b.; Article VI.J.; and Article VIII.D., in order to administer Article VI of this Ordinance;

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government

agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

F. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. Issue one of the following Flood Hazard Development Permits based on the type of development:

1.Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Planning Board with a second Elevation Certificate completed by a Professional Land Surveyor based on the Part I permit construction , "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Planning Board shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. Issue a Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G. 1 a. ,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, or renovations, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, towers, fencing, and pipelines.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI.J.2.a.&b.

K. New construction or substantial improvement of any structure in Zones A1-30 and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII; and,

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

   a. be certified by a registered professional engineer or architect; or,

   b. meet or exceed the following minimum criteria:

      (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

      (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,

      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

ARTICLE VII- CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any structure the applicant shall submit to the Code Enforcement Officer an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and,

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII- REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

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

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.

E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of North Berwick may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board in the

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 Per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is filly aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that &e related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

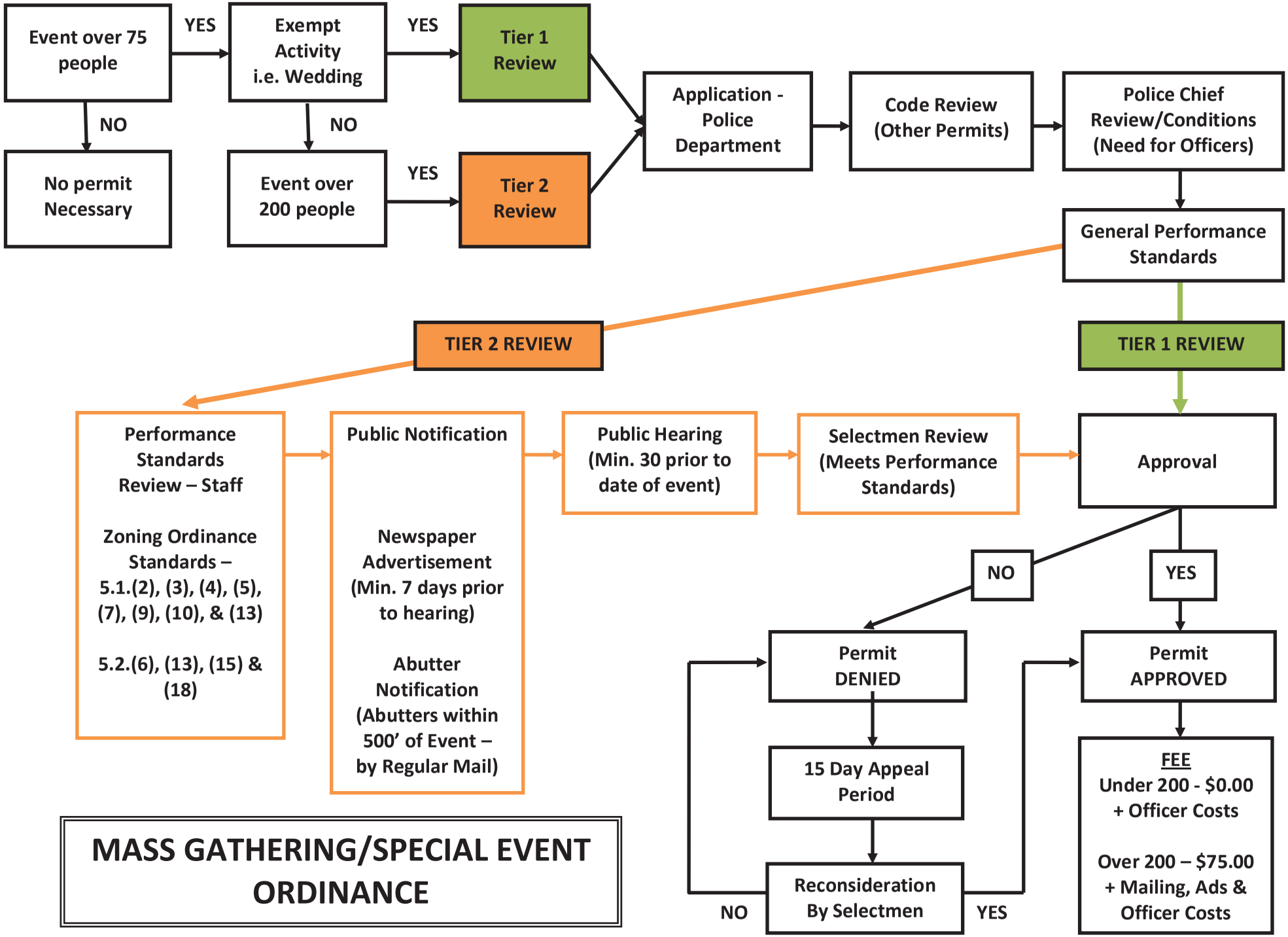
ARTICLE X - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;



MASS GATHERING/SPECIAL EVENT ORDINANCE

MASS OUTDOOR GATHERINGS/SPECIAL EVENT ORDINANCE AND REGULATIONS UPDATED 2010 NORTH BERWICK, MAINE

1. PURPOSE:

It is recognized that a mass outdoor gathering/special event attended by 75 or more persons , which is to continued with such attendance for two or more hours creates a hazard to public health and safety. Accordingly, it is deemed necessary in the interest of public welfare to regulate the conduct of such gatherings in order to protect the public health and safety. It is further recognized that a mass outdoor gathering attended by 200 or more persons can create additional hazards to public health and safety which requires a more detailed review prior to approval.

2. PERMIT REQUIRED:

Tier 1 Review:

A. Sponsoring, Promoting: No person or organization shall sponsor or promote a mass outdoor gathering/special event of 75 or more persons for two or more hours until he has obtained a permit from the Chief of the North Berwick Police Department.

B. Conducting: No person or organization shall conduct, or allow to be conducted on his or her property, a mass outdoor gathering/special event for two or more hours when he is aware that the gathering may be attended by 75 or more persons , unless he has obtained a permit from the Chief of the North Berwick Police Department.

Tier 2 Review:

A. Sponsoring, Promoting: No person or organization shall sponsor or promote a mass outdoor gathering of 200 or more persons for two or more hours until he has obtained a permit from the Chief of the North Berwick Police Department, with the approval of the North Berwick Boar d of Selectmen.

B. Conducting: No person or organization shall conduct, or allow to be conducted on his or her property, a mass outdoor gathering for two or more hours when he is aware that the gathering may be attended by 200 or more persons , unless he has obtained a permit from the Chief of the North Berwick Police Department, with the approval of the North Berwick Board of Selectmen.

3. PERMIT ISSUANCE :

Tier 1 Permit: The Chief of the North Berwick Police Department, shall grant a permit to sponsor, promote or conduct a mass outdoor gathering/special event to be attended by 75 or more persons for two or more hours on written application unless it appears to the Chief ~~Board~~ that such a gathering may present a danger to the public health or to the public safety. The Chief may condition the event to include the use of a Police Officer(s) based on a public safety concerns as determined by the Police Chief.

Tier 2 Permit: The Chief of the North Berwick Police Department, with the approval of the North Berwick Board of Selectmen, shall grant a permit to sponsor, promote or conduct a mass outdoor gathering/special event to be attended by 200 or more persons for two or more hours on written application unless it appears to the Board, after reviewing the impact of the event, that such a gathering may present a danger to the public health or to the public safety. The Board may condition the event to include the use of a Police Officer(s) based on a public safety concerns as determined by the Police Chief.

4. APPEAL :

An applicant who has been denied a permit, either by the Police Chief or the Board of Selectmen, shall be granted a prompt hearing for reconsideration of such denial if the applicant so requests, in writing, submitted to the North Berwick Board of Selectmen, within ~~five~~ fifteen days after notice of such denial. Any reconsideration decision by the Board of Selectmen shall be deemed final without further recourse by the applicant.

5. PERMIT APPLICATION:

The applicant shall furnish to the Chief of Police a written application describing how the applicant ~~he~~ proposes to meet the provisions of these regulations. The application shall include the sources of guarantee for meeting said proposals.

6. PERMIT FEE:

Tier 1: The permit fee shall be $0.00 plus any Officer costs as conditioned by the Police Chief according to the detail rate established by the Board of Selectmen for that year.

Tier 2: The permit shall be $75.00 plus any mailing, advertising and Officer costs as conditioned by the Police Chief according to the detail rate established by the Board of Selectmen for that year.

7. PENALTIES :

A. The promoter, conductor, operator, landowner, any performing group or any person violating any rule and regulation as set forth in this Ordinance shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars.

B. Any operator who conducts or attempts to conduct any gathering without duly issued permits; and any property owner who allows his or her property to be used for any gathering without duly issued permits will be responsible to the Town of North Berwick for all expenses incurred by it in stopping, controlling, dispersing, maintaining, caring for, cleaning up after and repairing all damage incurred by said gathering .

8. EXCEPTIONS :

The following organizations and activities shall be exempted from Tier 2 review requirements, regardless of the size of the gathering:

Activities – Private Weddings (where alcohol is not served), Private Graduation gatherings.

Organizations – Town of North Berwick, SAD #60, Boy Scouts, Girl Scouts, D.A. Hurd Library, William Hill Firefighters Association, North Berwick Rescue Inc., North Berwick Police Benevolent Association, North Berwick Athletic Association and North Berwick Historical Society.

All exempted Activities or Organizations in which there will a minimum of 75 person gathered for more than two hours shall at a minimum apply for a Tier 1 permit.

9. PERFORMANCE STANDARDS:

General: Each Mass Gathering/Special Event applied for under this ordinance shall meet the following performance standards to reduce the dangers to the health and safety of the general public. All proposed mass gatherings/special events shall be subject to all other applicable Federal, State and local laws and regulations.

A. ACCESS: The proposed mass gathering/special event shall provide for safe access to and from public and private roads. Safe Access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. The proposed mass gathering/special event shall not have an unreasonable negative impact on the Town road system and shall assure safe interior circulation within its site and provide adequate parking and loading areas. At the Police chief's discretion all public roadways shall be adequately staffed with traffic control personnel to insure safety to all the public. All costs associated with traffic control shall be borne by the applicant.

B. SANITARY FACILITIES :

1. Where a public sewer system is available, all plumbing systems and all building sewers shall be connected thereto. If a public sewer system is not available, a private sewerage disposal facility, approved by the Code Enforcement Officer shall be installed meeting the requirements of the State of Maine Wastewater Regulations. Where sufficient facilities are not available pursuant to Article 9.B.2, equivalent facilities (i.e. portable toilets) shall be provided and installed in accordance with the requirements of the State of Maine Wastewater Regulations.

2. Required sanitary facilities shall be provided in the following numbers:

   Sanitary facilities set at a rate of two for the first 100 persons(one being handicapped accessible) and one for each additional persons or fractional part thereof shall be provided for the mass gathering/special event for the proper disposal or treatment of excreta and liquid waste. Each facility shall be provided with a door to insure privacy or the entrance shall be screened so that the interior is not visible from the outside, have a continuous supply of toilet paper and be maintained in a clean and sanitary condition. Disposal of the waste shall conform to the State of Maine Wastewater Regulations in effect. During multi-day events which extend longer than two days, the facilities shall be cleaned and waste disposed daily.

C. REFUSE DISPOSAL:

1. Storage, collection and transportation and disposal of refuse shall be so constructed as to prevent odor, insect, rodent and other nuisance conditions.,

2. Refuse containers shall be readily accessible.

3. All refuse shall be collected from the assembly area at least twice each twelve hour period of the assemble, with a minimum of two such collections per gathering exceeding six hours, and disposed of at a lawful disposal site.

4. Grounds and immediate surrounding property shall be cleaned of refuse within 24 hours following the assembly.

Tier 2 Performance Standards - Each Mass Gathering/Special Event applied for under this ordinance that requires a Tier 2 review shall meet the additional performance standards to reduce the dangers to the health and safety of the general public.

A. The applicant shall meet the following performance standards as described in the Town of North Berwick Zoning Ordinance:

Article 5.1.2	Noise
Article 5.1.3	Air Emissions
Article 5.1.4	Odor
Article 5.1.5	Glare
Article 5.1.7	Erosion Control
Article 5.5.9	Explosive Materials
Article 5.1.13	Off-Street parking and Loading
Article 5.2.6	Signs and Billboards
Article 5.2.13	Aquifer Protection
Article 5.2.15	Handicapped Accessibility
Article 5.2.18	Adult Businesses

10. PUBLIC NOTIFICATION

A. Tier 1 Permit – No public notification is necessary.

B. Tier 2 Permit –

1. Public Hearing – The Board of Selectmen shall hold a Public Hearing a minimum of thirty (30) days prior to the date of the mass gathering/special event to solicit comments from the general public and shall publish notice of the hearing at least seven(7) days in advance in a newspaper of general circulation in the area. Cost of the publish notice shall be borne by the applicant.
2. Notification – the Board of Selectmen as a minimum shall notify, by regular mail, the applicant, abutters and owners of all property within 500 feet of the mass gathering/special event, at least seven(7) days in advance of the hearing, of the nature of the application of the time and place of the public hearing. Cost of the notification mailings shall be borne by the applicant.
3. The owners of the property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of Public Hearing shall not necessitate another hearing or invalidate any action by the Board of Selectmen.
4. At any hearing, a party may be represented by an agent. Hearing shall not be continued to other times except for good cause.
5. The applicant's proposal shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.

11. SEVERABILITY AND EFFECTIVE DATE:

A. The invalidity of any provision of this ordinance shall not invalidate any other part thereof.

B. This ordinance shall take effect immediately upon adoption of the same by the Town of North Berwick.

TOWN OF NORTH BERWICK

MASS GATHERING/SPECIAL EVENT PERMIT APPLICATION

MASS GATHERING/SPECIAL EVENT

_____ TIER 1 <200 & Exempt Activity/Org.

_____ TIER 2 >200 attending

NAME OF PERSON/ORGANIZATION	**PHONE**
CONTACT PERSON	

PROPERTY ADDRESS - LOCATION

TYPE OF GATHERING	**EXEMPT**
	Activity ____
	Organization ____

NUMBER ATTENDING _____

ALCOHOL SERVED? _____

The serving of alcohol may require a Police Officer be present as a condition of the permit.

DATE

TIME

GENERAL REQUIREMENTS

(Applicant must provide proof the following can be met)

	Provided	**Staff Review**
Access	____	____
Sanitary Facilites	____	____
Potable Drinking Water	____	____
Fire Suppression	____	____
Refuse Disposal	____	____
Police Officer Required		____

TIER 2 REVIEW REQUIREMENTS

(Applicant must provide proof the following can be met)

	Provided	**Staff Review**
Noise	____	____
Air Emissions	____	____
Odor	____	____
Glare	____	____
Erosion Control	____	____
Explosive Materials	____	____
Off-Street Parking	____	____
Signs	____	____
Aquifer Protection	____	____
Handicapped Accessibility	____	____
Adult Business	____	____
Public Notification		
List of abutters	____	____
Notifications Mailed		_____
Public Hearing Date		_____

FOR OFFICE USE ONLY

PERMIT NO. _____

ISSUE DATE _____

FEE AMOUNT

Tier 1	$
Tier 2	$
Advertising	$
Mailings	$
Officer	$
TOTAL FEE	$

OTHER REQUIRED PERMITS

Permit	**Granted**
	____
	____
	____
	____
	____

STAFF REVIEW

Department	***Reviewer***
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

APPROVALS

BOARD OF SELECTMEN

_____

_____

_____

_____

_____

CHIEF OF POLICE

_____

ORDINANCE PROHIBITING OBSCENE MATERIAL

OR

OBSECENITY FOR COMMERCIAL GAIN

NORTH BERWICK, MAINE

Ronald E. Staples

Joseph T. Ballantine

SELECTMEN, NORTH BERWICK, MAINE

ATTEST: Janet E Belmain

TOWN CLERK

TOWN OF NORTH BERWICK, MAINE 03906

ORDINANCE PROHIBITING OBSCENE MATERIAL OR OBSCENITY FOR COMMERCIAL GAIN IN THE TOWN OF NORTH BERICK, MAINE

Section 1.: Purpose:

The purpose of this ordinance is to prohibit any commercial enterprise from presenting, engaging in or disseminating any obscen exhibitions or material for profit. It is not intended to suppress or inhibit the free exchange of ideas or artistic expression, nor to regulate the behavior of individuals in the privacy of their own residences. This ordinance is enacted for promoting and protecting the general welfare, public safety, public order, and morals of the people of the Town of North Berwick, Main

Section 2: Definitions

2.1 "Commercial Enterprise" means any business, corporation, associatio partnership, or natural person; or any trustee, lessee, agent, assign or any other legal entity of the above.
2.3 "Engage in" means to solicit, produce, direct, finance, physically participate in, compensate others for, further the interest of, or otherwise be involved with the proscribed conduct.
2.2 "Present" means to show, reveal, display or expose to any person.
2.4 "Disseminate" means to import, publish, produce, print, manufacture distribute, sell, lease, rent, exhibit or display.
2.5 "Exhibit or Exhibition" means any aural, visual, or tactile performance, dramatization, simulation of, show or display which includes any amount of human, animal or animated conduct presented by a live performan or by silhouette.
2.6 "Material" means any printed matter, visual representation or sound recording including but not limited to, books, magazines, motion pictures photographs, figures, statues or other types of representation or embodiment.
2.7 "Obscene" means any conduct, exhibit or material of a sexual natur which:

2.7.1 To the average individual applying contemporary community standards considered as a whole, appeals to prurient interests;
2.7.2. Presents in a patently offensive manner, actual or simulat sexual acts, sodomy, beastiality, excretory functions, masturbation direct stimulation of a male, or female or animal genitals, flagellation or torture in the context of sexual acts or gratification, exhibits of male or female genitals, pubic area, buttocks, or the female breast at or below the areola area, and
2.7.3 Considered as a whole lacks serious literary, artistic, political or scientific value.

Section 3: Prohibition:

3.1 It shall be unlawful for any commercial enterprise to present for profit, any obscene exhibitions within the Town of North Berwick.
3.2 It shall be unlawful for any commercial enterprise to engage in fo profit, any obscene exhibitions within the Town of North Berwick.
3.3 It shall be unlawful for any commercial enterprise to disseminate any obscene materials for profit within the Town of North Berwick.
3.4 It shall be unlawful for any commercial enterprise to solicit, per mit, promote, or assist any commercial enterprise or private person to pr sent, engage in or disseminate any obscene exhibit or materials within th Town of North Berwick.

3.5 It shall be unlawful for a person who, while acting as a sales pers waiter, waitress, entertainer, agent, owner, manager or employee of a commercial enterprise to expose his or her genitals, pubic hair, buttocks, anus or to expose any portion of the female breasts at or below the areol thereof.

3.6 It shall be unlawful for a person to cause, permit, procure, counse encourage or assist any person to expose himself or herself as prohibited by Section 3.5 of the Ordinance.

Section 4: Exceptions:

4.1 This ordinance is not intended to regulate any established and existing school, church, museum, private or public library or governmental agency, nor their libraries or collections as they may exist under state, local or federal law.

4.2 This ordinance is not intended to regulate any conduct expressly regulated by exisiting state statutes.

Section 5: Penalty:

5.1 Any conduct made unlawful by this ordinance and any violation of th ordinance shall be punishable by a fine of Five Hundred Dollars ($500.00) for each offense, payable to the Town of North Berwick. Each day that suc unlawful act or violation continues shall be considered a separate violation. The fine or fines shall be assessed by the Selectmen of North Berwi as well as any legal costs incurred by the Town of North Berwick in collecting such fines.

5.2 In addition to any other penalty provided by law, the commission of acts prohibited by this Ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continue violations.

Section 6: Severability:

6.1 If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

TOWN OF NORTH BERWICK
PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of North Berwick, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program;

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE 1 - PURPOSE AND ENABLING LEGISLATION

1.1 Purpose.

By and through this Chapter, the Town of North Berwick declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with Federal and State laws.

1.2 Enabling Legislation.

The City/Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq*.).

ARTICLE 2 - TITLE AND DEFINITIONS

2.1 Title.

This Chapter/Ordinance shall be known and may be cited as "the Town of North Berwick Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance")."

2.2 Definitions.

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

   A. Will result in increased energy efficiency and substantially reduced energy use and:
      (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
      (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
   B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. **Municipality.** "Municipality" shall mean the Town of North Berwick.

3. **PACE agreement.** "Pace agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. **PACE assessment.** "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

5. **PACE district.** "Pace district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

6. **PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A.§ 10103 and/or its agent(s), if any.

ARTICLE 3 - PACE PROGRAM

3.1 Establishment; funding.

The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans. PACE loan funds may come from a variety of sources. To the extent that PACE loan funds are made available from the Trust, these are made available in municipalities that: 1) adopt a PACE Ordinance; 2) adopt and implement a local public outreach and education plan; 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

3.2 Amendment to PACE program.

In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE 4 – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

4.1 Standards adopted; Rules promulgated; model documents.

If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance the Municipality shall take necessary steps to conform this Ordinance and/or its manner of participation in the PACE program to those standards, rules, or model documents.

ARTICLE 5 – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

5.1 Program Administration.

1. **PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

    A. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
    B. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
    C. the Trust, or its agent, will disburse the PACE loan to the property owner;
    D. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
    E. the Trust, or its agent, will be responsible for collection of the PACE assessments;
    F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
    G. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

2. **Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

3. **Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

4. **Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

5.2 Liability of Municipal Officials; Liability of Municipality.

1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

2. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Adopted 5/87

Section I - Title: Solid Waste Flow Control Ordinance

This Ordinance shall be known as the Town of North Berwick, Maine, Solid Waste Flow Control Ordinance.

Section II - Enabling Legislation

This Ordinance is enacted pursuant to the authority granted in 30 M.R.S.A. §§1917, 2151, 2153, 4101 to 4102 and 38 M.R.S.A. §1304-8.

Section III - Purpose

The municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the municipality and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge, pursuant to 38 M.R.S.A. §1305, sub§1. Municipal solid waste contains valuable recoverable resources including energy, which if recovered reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes, generally must agree to provide the facility with a steady supply of solid waste for a relatively long period.

The municipality must exercise its legal authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated herein.

Section IV - Definitions

All terms not specifically defined herein shall have their ordinary meaning; words used in the present tense include the future and the plural includes the singular.

Acceptable Waste: all solid wastes of the type presently accepted at the landfill used by the municipality, including all ordinary household, municipal, institutional, commercial and industrial wastes with the following exceptions:

1) demolition or construction debris from building and roadway projects

or locations;

2) liquid wastes or sludges;
3) abandoned or junk vehicles;
4) hazardous waste, that is waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to, chemicals, explosives, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
5) dead animals or portions thereof or other pathological wastes;
6) water treatment residues;
7) tree stumps;
8) tannery sludge;
9) waste oil; and
10) discarded "white goods" including, but not limited to, freezers, stoves, refrigerators and washing machines.Disposal Facility: the facility(ies) designated by the municipality as the storage and/or disposal site(s) for Unacceptable Wastes.

Collection Facility: A building or container or designated area in which acceptable waste is deposited and temporarily sotred for trans-shipment to the Energy Recovery Facility.

Disposal Facility: the facility(ies) designated by the municipality as the storage and/or disposal sites(s) for Unacceptable Waste.

Energy Recovery Facility: the facility designated herein which processes and recovers energy and/or useful materials from Acceptable Waste generated in the municipality.

Municipality: The Town of North Berwick, Maine.

Unacceptable Waste: All solid waste of the type municipalities are required to regulate by 38 M.R.S.A. §1305, as amended, which specifically excludes industrial and sewage treatment plant sludge, and not included in the definition of Acceptable Waste.

Section V - Designation

In accordance with the provisions of 38 M.R.S.A. §1304-B, the municipality hereby designates the Maine Energy Recovery Company facility located in Biddeford, Maine as its Energy Recovery Facility for the purposes cited in

Section I of this ordinance.

Section VI - Regulated Activity

The accumulation, collection, transportration and disposal of Acceptable Waste and Unacceptable Waste generated within the Municipality shall be regulated in the following manner:

6.1 All Acceptable Waste generated within the municipality, shall be deposited at a Collection Facility or directly at the Energy Recovery Facility.

6.2 All Unacceptable Waste generated within the municipality, shall be deposited at a Disposal Facility.

Section VII - Exempted Waste

The following categories of waste shall be exempted from regulation by this ordinance:

7.1 Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.

7.2 Glass, metal or other noncombustible materials which are separated from Acceptable Waste by the generator as part of a recycling program approved by municipal officers.

7.3 Cardboard, paper or other combustible materials which are separated from Acceptable Waste by the generator as part of a recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the BTU content of Acceptable Waste below the BTU level acceptable to the Energy Recovery Facility.

Section VIII - Administration

This ordinance shall be administered by the Municipal Officers. Their powers and duties are as follows:

8.1 To adopt reasonable rules and regulations as needed to enforce this ordinance.

8.2 To consider all license applications and to grant or deny each application within 15 days after receipt of a completed application at the municipal offices or within such other time as the municipal officers and the applicant shall agree is reasonable.

8.3 To review any alleged violation of this ordinance, and to impose

appropriate penalties therefor after notice and hearing as required by this ordinance.

8.4 To institute necessary proceedings, either legal or equitable, to enforce this ordinance.

Section IX -Licensing

9.1 No person, firm or corporation shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the Municipality without obtaining a license from the Municipal Officers, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 1/2 tons per month of its own waste shall not be required by this section to obtain such a license.

9.2 Any person, firm or corporation required by this Ordinance to obtain a license shall make application to the Municipal Officers, providing the formation required. Each application shall be accompanied by a non refundable application fee of $25.00.

9.3 The application shall contain all information required by the Municipal Officers, including but not limited to a description of the activity(ies) engaged in, e.g., collection, transportation or disposal of Acceptable and/or Unacceptable Waste; type and amount of waste handled in each service area; the description of the facility(ies) operated and used; and an equipment inventory, including for vehicles a description with the make, model and year of each vehicle used for the collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Municipal Officers determine that the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Municipal Officers shall be informed immediately, in writing of any changes in or additions to equipment, including vehicles.

9.4 Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle upon furnishing of all information required for a licensed vehicle.

9.5 All licenses shall expire one (1) year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this ordinance.

9.6 The annual license fee shall be $25.00 per vehicle under one (1) ton G.V.W. and $100. per vehicle over one (1) ton G.V.W.

9.7 In the event the Municipal Officers deny a license application, they shall notify the applicant in writing and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in Section XI.

Section X -Suspension or Revocation

Any license issued may be suspended or revoked by order of the Municipal Officers after benefit of a hearing in accordance with the procedures in Section XI, for the following causes:

10.1 Violation of this ordinance.

10.2 Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this ordinance.

10.3 Violation of any license condition(s).

10.4 Falsehoods, misrepresentations or omissions in the license application.

Section XI - Hearings

11.1 Anyone denied a license or whose licensee is suspended or revoked pursuant to section X shall be entitled to a hearing before the Municipal Officers, if such request is made in writing within 15 days of the denial, suspension or revocation.

11.2 Such hearings shall be held within thirty (30) days after receipt of the written request for a hearing.

11.3 The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least ten (10) days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.

11.4 A determination shall be made by the Municipal Officers within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.

11.5 The Municipal Officers' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than ten (10) days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant

and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decision may be appealed as provided in this ordinance.

11.6 Any controversy or claim arising out of or relating to the Municipal Officers' determination shall be directly reviewable by Superior Court pursuant to M.R.Civ.P., Rule 80B.

Section XII - Enforcement

12.1 All provisions of this ordinance are enforceable by duly authorized police officers and the Municipal Officers.

12.2 Any person who violates any provision of this ordinance is subject to arrest and if convicted, to punishment as provided in Section XIII.

12.3 Whenever the Municipal Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested.

(A) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.

(B) The citation may contain an outline of remedial action which, if taken, will effect compliance.

(C) The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license revocation or suspension pursuant to the provvisions of this ordinance.

Section XIII - Penalties

13.1 Criminal penalties: any person who violates this ordinance shall be guilty of a Class E crime for each violation.

13.2 Civil penalties: any person, firm or corporation who violates this ordinance shall be subject to a civil penalty, payable to the municipality, of not more than $500 for the first violation and not more than $1000 for each additional violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Municipality.

Section XIV - Variances

The Municipal Officers may, on written application, grant a variance from a specific provision of this ordinance in a specific case subject to appropriate conditons where such variance is in harmony with the general purpose and intent of this ordinance and the Agreement between the Municipality and the Energy Recovery Facility.

Section XV - Conflict and Severability

15.1 The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

15.2 The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provisions, or the application lthereof to any person or circumstance shall be held invalid, the reminder of this ordinance and the application thereof shall not be affected thereby.

Section XV - Conflict and Severability

15.1 The provisions of this law shall supersede all other local laws, ordinances, resolutions, rules or regulations contrary thereto, or in conflict therewith.

15.2 The provisions of this ordinance shall be severable and if any phrase, clause, sentence or provision, or the application thereof to any person or circumstance shall be held invalid, the remainder of this ordinance and the application thereof shall not be affected thereby.

Section XVI - Amendment

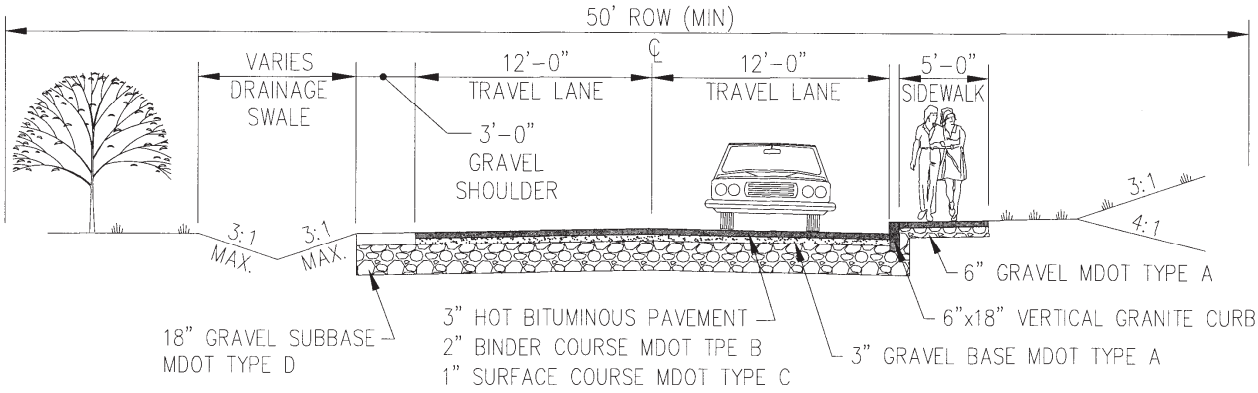
This ordinance may be amended in the same manner as any other ordinance of the Municipality, subject to the contractual obligations outlined in the contract between the Municipality and the Energy Recovery Facility.

Section XVII - Effective Date

This ordinance shall become effective upon adoption except that provisions dependent upon the Energy Recovery Facility designated herein shall become effective on the date that the Energy Recovery Facility begins commercial operations, provided the municipality provides notice of commencement in the manner required for publication of ordinances. Any person, firm or corporation required to obtain a license hereunder shall have sixty (60) days

from the date of adoption of this ordinance to secure such license, which shall become effective on the date specified therein.

TOWN OF NORTH BERWICK STREET DESIGN & CONSTRUCTION STANDARDS ORDINANCE



TYPICAL CROSS-SECTION

NOT TO SCALE

ADOPTED: 4/01/06
AMENDED:
4/5/08
4/4/09
3/31/12

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TOWN OF NORTH BERWICK STREET DESIGN & CONSTRUCTION STANDARDS ORDINANCE

Article I. Street Names and Building Numbering

1.1 Street Names: The name of every street, road and public and private way must be distinctly different from any existing street, road and public and private way located in North Berwick. The Selectmen, after reviewing input from the public, have the authorization to name or change the name of a street.

1.2 Street numbering map: All buildings shall bear a distinctive street number in accordance with and as designated upon the street numbering map on file in the Code Enforcement Officer's office. The Code Enforcement Officer or his/her designee shall be responsible for updating and keeping the map current. For the purpose of this section, the intersection of Wells, High and Elm Streets will be considered the center point where all numbering begins, East, West, South and North as shown on the map located in the Code Enforcement Officer's office.

1.3 Display of number: Assigned numbers to dwellings and dwelling units must be prominently displayed so as to be visible from the right-of- way, and must have a minimum size of three inches in height and be made of a reflective material.

1.4 Building numbering: The Code Enforcement Officer when issuing a building permit for a new dwelling or dwelling unit will issue a building number according to the following criteria:

A. All streets, roads and public ways in a subdivision shall be named with the numbering to be at fifty (50) foot intervals starting at the existing intersection. The numbers shall be assigned to the building closest to the nearest 50 foot mark with odd numbers to the left and even numbers to the right.

B. For the purpose of loop roads, the numbers shall run counterclockwise from the beginning of the loop.

C. Multi unit complexes – the complex street number shall be displayed in accordance with subsection 1.3. Each individual unit shall be clearly sub-lettered utilizing numbers and not letters. Ex. 200-1

D. Direction and numbering shall be in keeping with the map located in the Code Enforcement Officer's office.

Article II General Provisions

2.1 General Provisions

Streets constructed shall meet the following:

A. All street and related drainage plans shall be stamped and signed by a professional engineer registered by the State of Maine. The engineer's seal shall be affixed to all design drawings.

B. The minimum right-of-way width for all streets shall be 50 feet. Access to street side embankments and drainage facilities shall be provided within the right-of-way or by access easements over the adjacent land. All such easements shall be shown on the design drawings.

C. All streets shall be designed in accordance with Article III, Specifications, of this chapter.

D. The roadway shall be centered within the right-of-way unless otherwise authorized by the Road Commissioner.

E. Dead end streets shall not be permitted in any district. Cul-de sacs are permitted in the following districts: Village A, Village B, Village C overlay, Residential I, and Residential II. Cul-de-sacs shall not be permitted in the Farm and Forest district. The design of the Cul-de sac shall conform with Section 3.4 (H) of this ordinance. For streets constructed with a loop: the design of the loop shall be the following minimum requirements for the radii of the turn-around to the property line 160 ft.; to the outer edge of the pavement 145 ft.; to the inner edge of the pavement 121 ft. The Road Commissioner may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Road Commissioner may also require the reservation of a fifty foot easement in line with the street to provide continuation of the road where future subdivision is possible. Private Drives serving no more than 2 dwelling units may be constructed as a dead end street with a hammerhead turnaround provided for emergency vehicles.

F. Private Drives built under the provisions of Subsections 2.6(A)(6) and 3.4(E) will not be considered for acceptance as Town streets. If the private drive is shown on a site plan, the plan or plans shall contain a note reflecting that the street is and will remain private in accordance with the terms of this article. Private Drives are not permitted within subdivisions.

G. Roads in mobile homes parks, seasonal trailer parks and campgrounds (whether tent or RV), shall be built to the standards described in Section 3.6 and shall not be offered to the Town for acceptance. Each approved subdivision or site plan for a mobile homes parks, seasonal trailer parks and campgrounds shall contain a note that affords public notice that project roads are and will remain private and will not be considered for Town acceptance.

2.2 Driveways and private drains.

A. No driveway shall be connected to a Town street until a permit is obtained from the Road Commissioner or his designee.

B. A driveway shall be designed so that:
   1. It does not cause drainage problems or interfere with the operation of the roadway drainage system;

   2. If a lot occupied by or proposed for a residential use abuts more than one street the driveway entrance to the lot shall be on the less traveled street, unless the Road Commissioner determines that so locating the driveway is unfeasible because of the features of the lot or because it would be unsafe; and

   3. On streets other than private streets the following requirements shall apply:
      a) An on-site vehicular turnaround shall be provided so that vehicles do not have to back out into the public street; and
      b) Adequate sight distance is provided from the driveway. All exit driveways shall be designed according to the following standards of safe sight-distance:

Sight Distances

Posted Speed Limit	Recommended	Minimum
25 MPH	250'	175'
30 MPH	300'	210'
35 MPH	350'	245'
40 MPH	400'	280'
45 MPH	450'	315'
50 MPH	500'	350'
55 MPH	550'	385'

NOTE: Where it is not possible to meet the recommended sight-distance standards, due to physical conditions, the minimum standards may be permitted. (The minimum standards are consistent with the absolute minimum stopping distance requirements on wet pavements established by the Maine Department of Transportation.)

Sight distances shall be measured from a point that is 10 feet from the edge of the travel lane with the eye at a height of 3.5 feet above the ground to an object having a height of 4.25 feet located within any travel lane of the street. If this requirement cannot be met, the Road Commissioner may approve a location which provides the safest potential access to the lot.

C. Access Control: All lots of record existing before March 10, 1984, the time of Zoning Ordinance amendment establishing access control, shall be allowed one direct access to Routes 4 and 9 provided that a minimum safe sight-distance standards (above) can be met. A second entrance/exit for a large parking lot is permissible provided that the two access points are not closer than 500 feet and that they both meet the minimum sight-distances standard.

All lots of record created on or after March 10, 1984 shall accommodate all vehicular movements to and from Routes 4 and 9 via a single common driveway or entrance way serving all lots or premises, except that subdivisions containing fifteen or more dwelling units, or large-scale non-residential developments shall be permitted to have two highway access points.

D. A fee shall be charged for a driveway permit. Connection of a driveway to a Town street without a permit will result in a per diem penalty until the permit is obtained. The fee for a driveway permit and the penalty for failure to obtain a driveway permit shall be established by the Board of Selectmen.

E. Private drains. Abutting owners along a Town-accepted street do have the right to drain storm and subsurface water into Town ditches as long as such drainage does not interfere with roadway purposes. This does not apply to sanitary disposal but only to uncontaminated storm and subsurface water. No sewage drain shall be connected to a roadway drainage system.

2.3 Construction hours and standards; inspections.

A. No street construction will be permitted between the hours of 8:00 p.m. and 6:00 a.m. except with the written consent of the Town Manager and the Board of Selectmen upon such terms and conditions as they deem appropriate.

B. Construction shall be conducted in accordance with all applicable safety ordinances and in accordance with the requirements of the Town of North Berwick Street Specifications.

C. The Road Commissioner shall be notified prior to the start of construction. The Road Commissioner shall have access to the project area to make periodic inspections.

2.4 Street openings.

A. No person shall place any pavement in a street right-of-way without obtaining a street opening permit, except that placement of pavement for driveways which are less than 16 feet in width at the edge of the right-of-way may be done without obtaining a street opening permit.

B. No person, utility or company may excavate in a street without obtaining a street opening permit. The Road Commissioner or his designee shall be authorized to issue said permits and to impose reasonable conditions applicable to traffic control and other safety considerations. The fee and general policies for street opening permits issued by the Road Commissioner or his designee shall be established by the Selectmen.

C. If a street opening is not approved by the Road Commissioner, the utilities or persons may apply to the Selectmen. Fees for permits issued by the Selectmen shall be set on a case-by-case basis by the Selectmen.

D. Appropriate utilities shall be notified by the Road Commissioner or his designee a minimum of 30 days prior to the paving of a street or reconstruction of a street.

2.5 Street acceptance.

Purpose. The purpose of this section is to provide notice to the community and to developers that the Town will not consider accepting certain types of streets and to outline the procedures and standards that govern the acceptance process. This restriction is adopted to promote the efficient and cost-effective allocation of funds for road construction, maintenance and plowing and to encourage development of connecting streets. The following types of streets, although permitted in the Town in accordance with the other standards of this chapter, are not eligible to be presented to the Town for acceptance: (1) private roads; (2) Streets not meeting the design and construction standards or this ordinance; (3) Roads in mobile Homes parks, seasonal Trailer parks and campgrounds.

A. Acceptance procedure for streets:

1. The owner(s) of the street shall present a written offer to dedicate the street to the Town in accordance with the statutory requirements of 23 M.R.S.A. § 3025, which may include an approved subdivision plan showing the proposed streets. The Board of Selectmen, upon receipt of the written offer and the written recommendation from the Road Commissioner, shall recommend acceptance (or not) to the Town Meeting, and the question shall be placed on the warrant for the next Annual Town Meeting.

2. Anyone proposing to offer a street to the Town for acceptance as a public street shall provide the Town with the following:

   a. Boundary survey. The street boundary survey must be prepared by a land surveyor registered to practice in the State of Maine. The survey must conform to the standards adopted by the American Congress on Surveying and Mapping and the Maine Society of Land Surveyors, using methods of measurement which will obtain the precision required on the plan.

b. Monumentation. Class A or Class B monuments must be set on both sides of the street at every intersection, angle point, point of curvature, point of tangent, point of compound curve and point of reverse curve. At least four Class A monuments must be set along each 1/4 mile of street or fraction thereof, preferably at each end of long tangents. The Road Commissioner may require additional monuments. Class A monuments must be made of stone or reinforced concrete and must be a minimum of five inches by five inches by five inches if square and six inches in diameter if circular and must be at least 36 inches long. A drill hole at least 1/2 inch deep or metal insert must be placed in the top of each monument to mark the exact point. All monuments must be set in the ground accurately and properly backfilled and compacted to minimize any possible disturbance. Class B monuments must be a metal rod or pipe at least 1/2 inch in diameter and 36 inches long. In exposed ledge outcroppings, drill holes at least 1/2 inch deep or metal inserts may be used for Class B monuments.

c. Ties. If a National Geodetic Survey or Maine State Coordinate system control point exists within 1/2 mile of any portion of the proposed street, the survey must be tied to that point. All intersections with existing streets must be tied in to the nearest boundary line of record. All monuments must be tied in by measurements to whatever relatively permanent physical objects, such as structures, foundations, etc., are available within 200 feet of each monument. Two reference ties to each monument must be taken when available. When two ties are not available, reference directions to distant objects, such as towers or steeples, shall be substituted when those are available.

d. Plans.

    1. The plan of the street boundaries shall be made on durable drafting media, such as tracing cloth, Mylar, herculene or an equivalent drafting film. Tracing paper is not acceptable. The scale may be any convenient scale between the ranges of one inch equals one foot to one inch equals 50 feet that clearly depicts the required information. The maximum sheet size is 24 inches by 36 inches. If necessary, more than one sheet may be used. If more than one sheet is used, all sheets must be appropriately referenced to each other.

    2. The plan of the street boundaries shall show the following information:
        a. Appropriate title, including location.
        b. Date of survey.
        c. Seal and signature of registered land surveyor.
        d. Graphic scale English units.
        e. Meridian arrow with specific definition of representation.
        f. Source of bearings used if not covered by meridian arrow designation.

g. A location sketch showing the location of the street within the Town relative to surrounding streets, railroads, waterways and other important geographical features.
h. Space for signatures by appropriate municipal officials.
i. The direction of each straight line to the nearest 30 seconds [zero degrees zero minutes plus or minus thirty seconds (0º 00' 30")] of arc.
j. The length of every line to the nearest 0.01 of a foot.
k. The radius, central angle and length of every curve to the same precision as the last two above items.
l. The location and description of each monument and whether found or set as a result of the survey.
m. The coordinates of at least two monuments and reference to the grid system used. The Maine Coordinate Grid System must be used if a control point is available within 1/2 mile of any part of the street.
n. The direction and lengths of all ties taken and descriptions of the points to which the ties were taken. Tie measurements must be shown to the same degree of precision as for the boundary measurements.
o. From one point on the street boundary, show the direction and length and description of the horizontal control point tied to, if one is available.
p. Full name of present record owner(s) of the land on which the street is laid out and the book and page numbers of deed references.
q. Names of record owners of abutting lands and the book and page number of their deed references.
r. Outline of abutting portions of subdivisions, lot numbers and reference to subdivision plans.
s. Reference to any other plans of lands on which the street is laid out.
t. Names of all intersecting and adjoining streets, ways and bodies of water.
u. The location, dimensions and descriptions of all easements, rights and privileges appurtenant to or affecting the street and existing record references.
v. Any physical features or conditions observed, such as encroachments, structures, cemeteries, natural drainageways, ecologically sensitive areas, utility installations or other conditions that could affect title or use of the proposed street.
w. When both sides of the street boundaries are not parallel or concentric, tie lines from one side of the street to the other must be shown.
x. The center-line profile of the street and cross sections at intervals determined by the Road Commissioner.

3. Upon completion of a street, a written notice shall be sent to the Road Commissioner. The Road Commissioner or his designee shall promptly inspect the street and note any items that are not in accordance with this article or the Town of North Berwick street specifications. The list of items, if any, shall be provided to the street builder. Once these items are resolved, the Road Commissioner shall make a written recommendation regarding acceptance of the street to the Selectmen.

4. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this ordinance.

5. The developer shall provide the Town of North Berwick with a maintenance bond in the amount of 5% of the cost of the street construction at the time the request for street acceptance is filed. The bond shall be valid for a period of one year after the date of acceptance of the street by the Town.

6. The Town shall be provided with a legal description of the street and documentation as to who owns the street. Prior to the Board of Selectmen making a recommendation for acceptance (or not), the Town Attorney shall provide a written report to the Selectmen regarding problems of title to the street, if any. The Town Attorney shall also review the maintenance bond and report to the Selectmen. The owners of the street shall reimburse the Town for all legal and any other expenses incurred as determined by the Board of Selectmen.

7. The Board of Selectmen, in conjunction with the Road Commissioner, shall determine what, if any, improvements should be made to the street if it is to be recommended for acceptance by the Town. Any requested improvements to the street shall be completed or the construction secured by a performance bond approved as to form and amount by the Town Manager, unless the Town Meeting votes to accept the street and fund the necessary improvements in another way.

8. The Selectmen may propose a street for acceptance, provided that they have received a favorable recommendation for acceptance from the Road Commissioner, a maintenance bond from the developer and a statement from the Town Attorney that the title, maintenance bond, and any other required documentation are proper.

9. The Road Commissioner or his designee shall inspect the accepted street prior to the expiration of the guaranty period and shall note any items to be repaired. The list of items shall be provided to the street builder. The street builder shall be responsible for the execution of all maintenance required on the work performed by the street builder for a period of one year following acceptance. Once these items are repaired to the satisfaction of the Road Commissioner, the maintenance bond shall be released.

10. Filing. Upon acceptance of the street by the Town and signing the plan on the durable drafting media, the plan shall be filed in the office of the Town Clerk. Paper copies of the plan shall be filed with the Road Commissioner and the Assessor's office.

2.6 Street classification system.

A. All streets in the Town of North Berwick shall be classified by the Board of Selectmen into the following categories based on construction standards:

1. State Arterial Street: high-volume streets that are identified by a state route number. The following roadways shall be considered State arterial streets:

   State Route 9 – Somersworth and Wells Street
   State Route 4 – High and Elm Street

2. Town Arterial Street: a major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

Lebanon Road	Morrill's Mill Road
Valley Road	Governor Goodwin Road

3. Collector Street: a street servicing at least fifteen residential units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

4. Minor Street: A street servicing less than fifteen residential units.

5. Industrial or Commercial Street: streets servicing industrial or commercial uses.

6. Private Drive: a privately owned access way or right-of-way not intended to be dedicated to the Town and providing frontage for no more than two dwelling units.

7. Private Road: a privately owned access way or right-of-way that does not meet any of the standards contained in this ordinance. These roads are nonconforming and provide frontage for more than two dwelling units and cannot be dedicated to the Town.

8. Mobile Home Park, Seasonal Trailer Parks and Campgrounds: a privately owned access way or right-of-way not intended to be dedicated to the Town servicing Mobile Home Park, Seasonal Trailer Parks and Campgrounds.

2.7 General Requirements - Subdivisions

A. The Planning Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed in accordance with any local ordinance or the specifications contained in this ordinance. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the Municipality of any street or easement.

B. Streets shall be designed to discourage through traffic within a residential subdivision

C. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in any lot, but shall be reserved to be deeded to the Municipality or State.

D. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage the arterial street.

E. Any subdivision containing fifteen dwelling units or more shall have at least two street connections with existing public (Town accepted or State Routes) streets or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. At a minimum, one of the street connections must be within the geographic boundaries of North Berwick. If the second access is located outside the geographic boundaries of North Berwick, a hammerhead turn around shall be provided within the geographic boundaries for road maintenance and school bus turn around. The hammerhead turn around requirement may be waived by the Road Commissioner if an alternate turn around for traffic movement is available.

F. Developer shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:

1. Date, scale, and magnetic or true north point;

2. Intersections of the proposed street with existing streets;

3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs;

4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways;

5. Complete curve data shall be indicated for all horizontal and vertical curves;

6. Turning radii at all intersections;

7. Centerline gradients;

8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

G. Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the Municipality shall be sent to the Municipal Engineer for review and comment.

H. The application shall contain an estimate of the average daily traffic projected to be generated by the subdivision. Estimates of traffic generation shall be based on the Trip Generation Manual, current edition, published by the institute of Transportation Engineers. If the subdivision is projected to generate more than 200 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.

Article III Specifications

3.1 Applicability The following specifications shall be used as a guide for the construction of all Town street improvements. All improvements located within a street right of way shall be designed in accordance with the Maine Department of Transportation Standard Specifications For Highways and Bridges current edition unless otherwise specified in this ordinance.

3.2 Deviations If it is found necessary or advantageous to deviate from these specifications to ensure the public safety, prior approval shall be obtained from the Road Commissioners or his designee. All requests and approvals shall be in writing and kept on file in the Road Commissioner's office.

3.3 Definitions: Any word or term defined in the Zoning Ordinance or Subdivision Ordinance shall have the same definition as in this ordinance, unless otherwise defined below. As used in this ordinance, the following terms shall have the meanings indicated:

Base – That portion of the roadway constructed of special material on the subbase and supporting the surface or pavement.

Bridges – Structures having a clear span of 10 feet or more.

Cul-de sac – Short minor street having only one vehicular access to another street and terminated by a vehicular turn-around.

Culverts – All structures not defined as bridges which provide an opening under a roadway, usually constructed of plastic, corrugated metal or reinforced concrete.

Driveway – A private access connecting a house or other building with the street.

Municipal Engineer – Engineering firm designated by the Board of Selectmen or Town Manager.

Record Drawings – Plans that have been revised according to field construction records.

Right-of-Way – All lands or other property interest provided or acquired for the development and operation of a public highway or street.

Road Commissioner – The Town Manager or his designee or an appointee of the Selectmen. The Road Commissioner has the statutory duties and responsibilities.

Road Foreman - Person in the position of Road Foreman for the Town of North Berwick Public Works Department.

Shoulders – The part of the roadway lying immediately outside the pavement.

Sidewalk – A pedestrian walkway typically paved (i.e., covered with bituminous concrete/asphalt, concrete, concrete cobble pavers or other surfaces suitable for walking), and located in a street right of way between the curblines or edge of pavement of the roadway and the edge of the right-of-way or within another right-of-way or easement.

Sub-Base – That portion of the roadway constructed of special material on the subgrade and supporting the base and surface or pavement.

Subgrade – that portion of the roadway upon which the base and shoulders are constructed.

3.4 Street Design Standards

A. These design standards shall be met for all streets in the Town of North Berwick, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

B. The utilization of solar energy shall receive careful consideration in the layout of the proposed streets. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.

C. Median strips controlling access to streets shall be prohibited.

D. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this ordinance.

E. The following design standards apply according to street classification:

Type of Street

DESCRIPTION		ARTERIAL	COLLECTOR	MINOR	INDUSTRIAL/ COMMERCIAL	PRIVATE DRIVE
Minimum Right-of Way Width		80’	50’	50’	80’	50’
Minimum Right-of Way Width where road is depressed from adjacent land		80’	60’	60’	80’	60’
Minimum Pavement Width (Traveled Way)		44’	24’	20’	44’	18'
Sidewalk Width		5’	5’	5’	5’	N/A
Minimum Grade		.5%	.5%	.5%	.5%	.5%
Maximum Grade		5.0%	6.0%	8.0%	5.0%	8.0%
Minimum Centerline Radius		800’	230’	150’	800’	150’
Minimum Tangent Between Curves of Reverse Alignment		300’	200’	100’	300’	100’
Roadway Crown		¼ “/ft.	¼ “/ft.	¼ “/ft.	¼ “/ft.	¼ “/ft.
Minimum Angle (in degrees) of Street Intersections		90	90	90	90	90
Maximum Grade Within 75 ft. of Intersection		2.0%	2.0%	2.0%	2.0%	2.0%
Minimum Curb Radii at Intersections		30’	20’	15’	30’	15’
Minimum Right-of –Way at Intersections		20’	10’	10’	20’	10’
Minimum Width of Shoulders (each side)		3’	3’	3’	9’	3’

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

G. Grades, Intersections, and Sight Distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

2. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.

3. Where new street intersections are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below

Posted Speed Limit (miles per hour)		25	30	35	40	45	50	55
Sight Distance (in feet)		250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four cornered) street intersections shall be provided insofar as possible. A minimum distance of two hundred feet shall be maintained between center lines of side streets.

H. Cul-de-sac.

1. Length. Cul-de-sac streets shall not be more than 600 feet in length, measured along their centerline from the street of origin to the end of the cul-de-sac rights-of-way and shall serve no more than 10 dwelling units.

2. Right of Way Terminus. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way radius of 65 feet (130 feet diameter). The terminus shall be connected with each right-of-way line of the approach segment of the street by a reverse curvature having a radius of not less than 20 feet.

3. Pavement Width. Each Cul-de-sac shall have a minimum pavement width of 24 feet and shall have terminus of nearly circular shape with a minimum radius of 55 feet (110 feet diameter). The paved terminus shall be connected to the street by a reverse curvature having a radius of not less that 40 feet.

4. Traffic Flow. Traffic Flow around a cul-de-sac terminus shall be one way in a counter clock wise motion. Signage shall be provided to prohibit traffic from turning left onto the terminus end of the cul-de-sac.

5. Cul-de-sac in Subdivisions. Not more than one Cul-de-Sac shall be permitted in any subdivision including any revisions to a previously approved subdivision that contains a Cul-de-sac.

6. Front yard setback. Front yard setback on a Cul-de-sac shall be determined by one of the following.

a. If the district frontage is met, then the district setback will apply.
b. Street frontage along the turnaround may be 75 feet or more provided that the lot width at the location where the zoning district front setback requirement is at least equal to the distance normally required for street frontage in that zoning district.

3.5 Street Construction Standards

A. Minimum thickness of material after compacting:

	Minimum Requirements

Street Materials		Arterial	Collector	Minor	Ind/Comm	Private
Aggregate Sub-Base Course (Max. sized stone 4") (See Note 1 below)		18"	18"	18"	18"	18"
Crushed Aggregate Base Course (Max sized stone ¾") (See Note 2 below)		4"	3"	3"	4"	4"
Hot Bituminous Pavement						
Total Thickness		3 ½"	3"	3"	3 ½"	N/A
Surface Course		1 ½"	1"	1"	1 ½"	N/A
Base Course		2"	2"	2"	2"	N/A

Note 1. - Aggregate sub-base MDOT 703.06(b) Type D
Note 2. - Crushed Aggregate base MDOT 703.60(a) Type A

B. Preparation

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.

2. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, boulders, brush, and other objectionable material.

3. All organic materials shall be removed to a depth of two feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base.

4. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical (unless otherwise directed by Town Engineer) and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

5. All underground utility construction shall be accomplished prior to the placement of the roadway's foundation courses.

6. Road Inspection by Road Foreman during construction

Road inspection will be accomplished in four phases during construction:

A. Phase 1:
   1. The Road Forman shall be notified after road is initially grubbed out prior to gravel base is applied to roadway. All grade stakes will be in place. At the discretion of the Road Foreman construction shall continue.

B. Phase 2:
   1. The Road Foreman shall be notified after gravel sub-base has been applied prior to the application of crushed stone. At the discretion of the Road Foreman construction shall continue.

C. Phase 3:
   1. The Road Foreman shall be notified after crushed gravel base has been applied and graded to proper specifications

D. Phase 4: (Paved Roads)
   1. The Road Foreman shall be notified prior to the application of the base coat.

   2. The Road Foreman shall be notified prior to the application of the finish coat. At the discretion of the Road Foreman, the road will be certified by the Road Foreman for meeting the road construction standards set forth in this ordinance. The Road Foreman will forward a copy of this certificate to the Municipal Officers and Code Enforcement Officer.

E. Upon recommendation by the Road Foreman, the Road Commissioner may require the developer of a road to place an amount of funds in an escrow account for unrestricted use by the Municipal Officers to defray the cost for the review of the construction by a registered engineer. This requirement is separate from any performance guarantees or other escrow accounts established for review of the plans for a road as described in the Subdivision Ordinance. Any funds remaining after the project is complete shall be returned to the applicant with any interest, which may have accrued.

C. Bases and Pavement

1. Bases

a. MDOT Specification 703.60(b) Type D: The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/4 inch	25 - 70%
Number 40	0 - 30%
Number 200	0 - 7%

Aggregate for the sub-base shall contain no particles of rock exceeding four inches in any dimension.

b. MDOT Specification 703.60(a) Type A: The aggregate base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45 - 70%
1/4 inch	30 - 55%
Number 40	0 - 20%
Number 200	0 - 7%

Type A aggregate for base shall only contain particles of rock which will pass the 2 inch square mesh sieve.

2. Pavement Joints. Where pavement joins an existing pavement, the exiting pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Curbs and Gutters

a. Street curbs and gutters shall be installed as required by the Road Commissioner.

b. Curbs shall be constructed of vertical granite except when sloped granite curbs are specifically allowed by the Road Commissioner.

c. The curb shall have a minimum of six inches of reveal.

4. Pavements

a. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum.

b. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than 3/4 inch maximum.

c. Before any bituminous pavement is applied, the gravel surface shall be bladed with a power grader to obtain a proper shape and crown.

d. No bituminous pavement shall be applied unless the atmospheric temperature in the shade is 40º F. and rising or above 50º F. if falling and has not been below 40º F. during the previous 24 hours. The weather shall not be foggy or rainy and the prepared roadbed shall be in satisfactory condition. The roadbed shall be free from pools of water.

e. No bituminous pavement shall be placed between October 30 and May 1 without the written approval of the Road Commissioner or his designee.

3.6 Storm Water Management Design Standards

A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a one hundred year storm based on rainfall data for Portland, Maine.

2. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

3. Catch basins shall be installed where necessary and located at the curb line.

4. Outlets shall be stabilized against soil erosion by stone rip-rap or other suitable materials to reduce storm water velocity.

B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream run off.

C. Down stream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The sub-divider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

E. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

3.7 Storm Drainage Construction Standards

A. Materials

1. Reinforced Concrete Pipe. Reinforced concrete pipe shall meet the requirements of ASTM designation C-76 (AASHT M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM designation C 443-70, or of an approved pre-formed plastic jointing material such as "Ramnek". Perforated concrete pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. Asbestos Cement Pipe. Asbestos cement pipe shall meet the requirements of ASTM Designation C-428 (AASHTO M189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM designation D-1869-63, or of an approved pre-formed plastic sleeve type.

3. Corrugated Metal Pipe. Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO designation M 190 Type C for iron or steel pipe or AASHTO designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

4. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fitting shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

5. Corrugated Plastic Pipe. Corrugated plastic pipe shall conform to the requirements of AASHTO M 252.

6. Manholes. Manholes shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASTM designation C 478 or pre-cast concrete manhole block construction meeting the requirements of ASTM designation C 139, radial type. Bases may be cast in place 3,000psi 28 day strength concrete or may be of pre-cast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

7. Catch Basins. Catch basins shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASTM designation C 478 or pre-cast concrete manhole block construction meeting the requirements of ASTM designation C139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000psi 28 day strength concrete or may be of pre-cast concrete , placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

B. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Road Foreman, after consultation with the Municipal Engineer.

C. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

D. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

3.8 Mobile Home Park, Seasonal Trailer Parks and Campgrounds Road Design, Circulation, and Traffic Impacts:

A. Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

B. Streets shall remain private ways and shall meet the following minimum geometric design standards:

1. Minimum right of way width: 23 feet

2. Minimum width of traveled way: 20 feet

C. Any mobile home park expected to generate average daily traffic of 200 trips per day or incorporate 40 or more units 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 or incorporate 40 or more units 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 an existing public street shall meet the following standards:

1. Angle of intersection: the desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.

2. Maximum Grade within 75 feet of intersection: The maximum permissible grade within 75 feet of the intersection shall be 2%.

3. 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 distances 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 object 4 1/4 feet.

4. Distance from other intersections: The centerline of any street within a park intersecting an existing public street shall be no less than 125 feet from the centerline of any other street intersecting that public street.

3.9 Sidewalks. Where installed, sidewalks shall meet these minimum requirements:

A. Sidewalks shall be at least five feet wide and shall be located between the curb or grade line of the public street and the right-of-way line or public access easement if approved by the Town.

B. Where a new sidewalk adjoins existing sidewalks that are not five feet in width, the new sidewalk shall taper on each side over a five-foot length to meet the existing condition.

C. All sidewalks shall be constructed in accordance with the Americans with Disabilities Act (ADA) standards. Wheelchair access ramps must be constructed at any point a proposed sidewalk intersects a Town street with the exception of walks leading from the street to the door of a single-family residence. Access ramps shall be built to grades no greater than one foot of fall per 12 feet in length.

D. Sidewalk materials
   1. Bituminous Sidewalks

      a. The gravel aggregate sub-base course shall be no less than six inches thick;
      b. The crushed aggregate base course shall be no less than two inches thick;
      c. The hot bituminous pavement surface course shall be no less than two inches after compacting.

   2. Portland Cement Concrete Sidewalks

      a. The sand base shall be no less than six inches thick;
      b. The Portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.
      c. Where installed, curbing shall be granite and shall be installed on a thoroughly compacted gravel base of six inches minimum thickness.

3.10 Additional Improvements and Requirements

A. Erosion Control. Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the State of Maine "best-management" practices including the following:

   1. Stripping of vegetation, soil removal, and regrading or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.

   2. The duration of exposure of the disturbed area shall be kept to a practical minimum.

   3. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

4. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.

5. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.

6. During grading operations, methods of dust control shall be employed.

7. The procedures outline in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

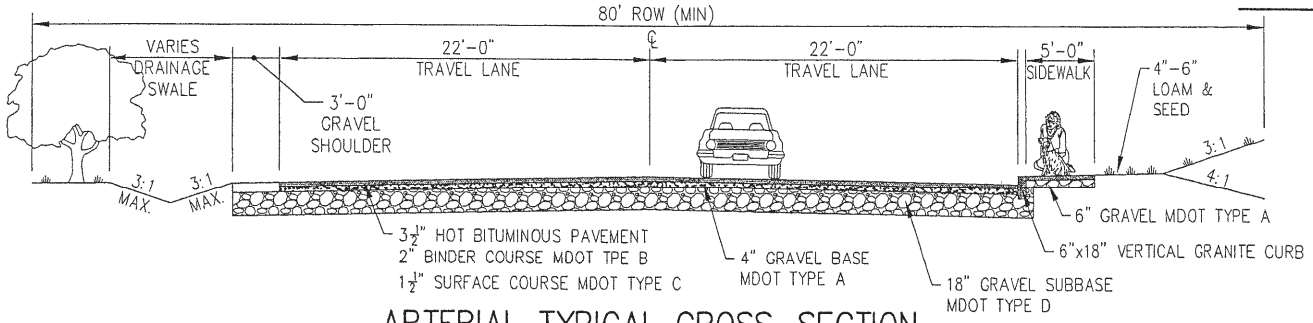
B. Clean-up. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way.

Cleanup checklist

1. Cut off all stumps so they will not project more than six inches above the existing ground.
2. Pick up all debris left from clearing and selective thinning, such as sawed-off stumps, logs and brush.
3. Trim all branches overhanging the roadbed to 16 feet above the pavement and shoulder.
4. Clean up edges of waste dumps and cut all damaged and bent trees visible from the roadway.
5. Clean out sand silt from all culverts, catch basins, drop inlets and manholes.
6. Remove debris from inlets and outlets of culverts and underdrain outlets.
7. Sod or riprap outlets of culverts where there is a possibility of erosion. In the main line ditch where grades may vary 2% to 5%, erosion control mesh can be used where deemed necessary. The use of sod could apply to grades in excess of 5%.
8. Repair damaged and bent corrugated metal pipe of inlets and outlets. Repaint damaged asphalt coating using asbestos bonding and asphalt paint obtainable at most hardware stores.
9. Clean up all ditches and check for proper drainage.
10. Clean up all ledge debris. Check 200 to 300 feet or more in blasted areas for flying debris in fields to be mowed.
11. Check all shoulders for uniform width.
12. Grade and clean up all driveways, field and woods entrances.
13. Compact gravel surfaces in driveways, field and woods entrances.
14. See that all slopes are uniformly graded to present a neat appearance.
15. Remove all grade stakes in lawns and fields.
16. Check all survey monuments.

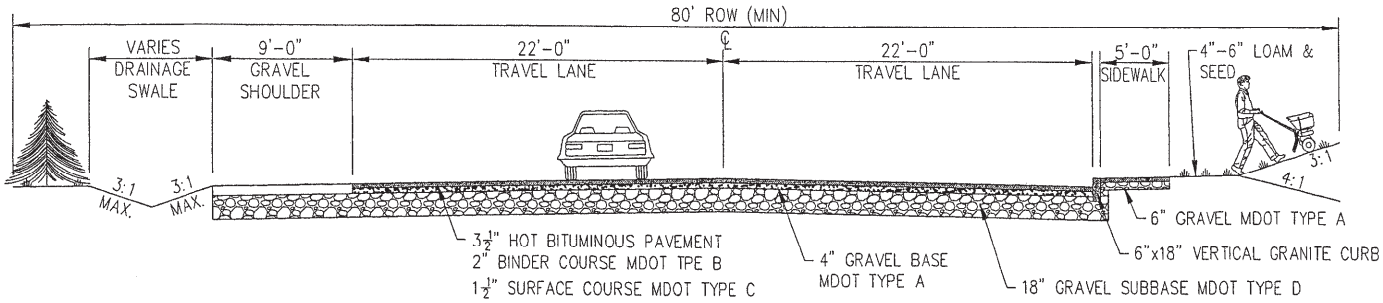
C. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, no bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board of Selectmen.

Appendices



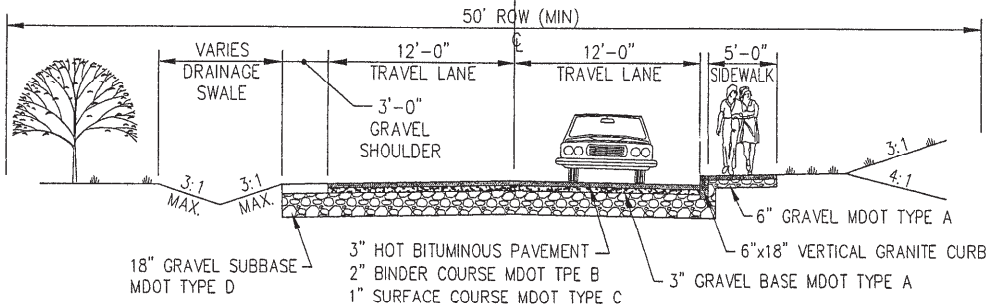
ARTERIAL TYPICAL CROSS-SECTION

NOT TO SCALE



INDUSTRIAL/COMMERCIAL CROSS-SECTION

NOT TO SCALE



COLLECTOR TYPICAL CROSS-SECTION

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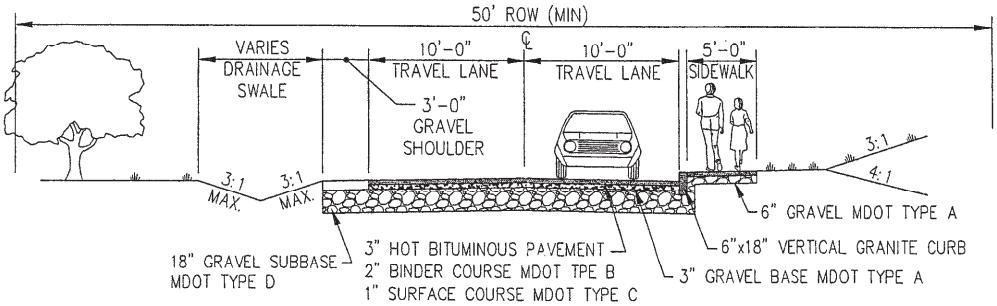
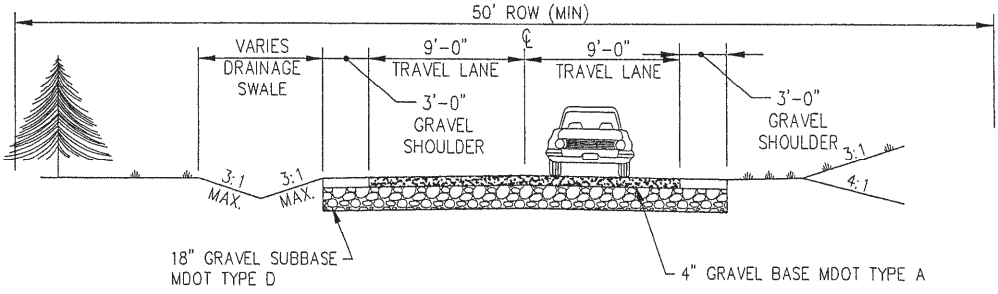


MINOR TYPICAL CROSS-SECTION

NOT TO SCALE



PRIVATE DRIVE TYPICAL CROSS-SECTION

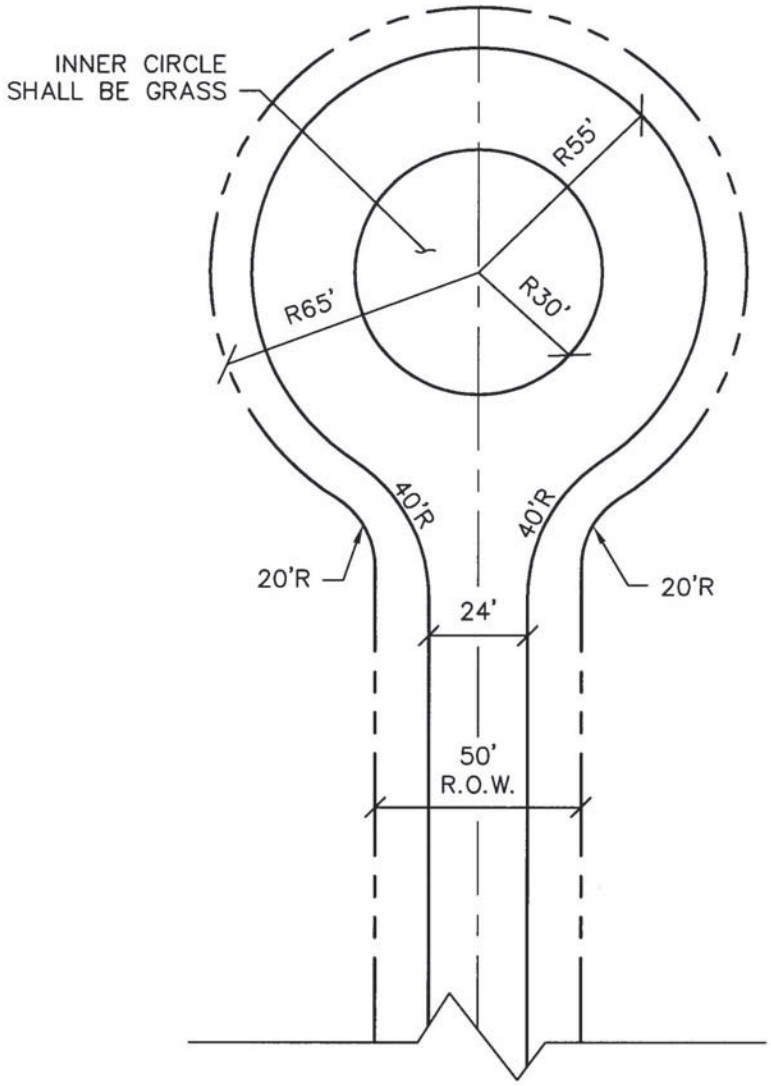
NOT TO SCALE

MAJOR STREETS

MINOR STREETS

PRIVATE STREETS

Cul-de-sac Diagram
Not to scale



TOWN OF NORTH BERWICK
ROAD OPENING APPLICATION

NAME: _____

ADDRESS: _____

_____

TELEPHONE: _____

ROAD TO OPEN: _____

Diagram proposed opening on sketch below: ***(Specify location of homes, buildings, monuments and poles)***

_____
_____
_____
_____
_____
_____

STARTING DATE: _____ **COMPLETION DATE:** _____

COST: $25.00 per sq. yd. Disturbed area for paved roads and $15.00 sq. yd. for unpaved roads.

AREA TO BE DISTURBED IN SQ. YDS.: _____

I understand that the opening will be measured by a representative of the North Berwick Public Works Department and agree to pay any subsequent charges on the difference between the estimate and the final accurate measurement. If total cost is less, a refund will be made.

_____ _____

Signature of Applicant Date

----------OFFICE USE ONLY----------

Permit Granted: _____No. _____

By: _____

Area Disturbed: _____sq. yds.

Rate: $_____

Permit Cost: $_____

Cash____ Check # _____

Was type of backfill satisfactory? _____
Was shoring necessary? _____
Was fencing and/or lighting necessary? _____
Were temporary surface repairs adequate? _____
Was compaction satisfactory? _____
Were surfaces outside paved area completed? _____

Final approval Date:_____

By:_____

TOWN OF NORTH BERWICK
DRIVEWAY ENTRANCE APPLICATION

OWNER'S NAME: _____

ADDRESS: _____

_____

TELEPHONE: _____ **MAP/LOT** _____

DRIVEWAY LOCATION (ROAD): _____

Diagram proposed driveway on sketch below: ***(Specify sight distance, width, estimated culvert size)***

Width of Driveway: _____ | | **Est. Culvert Size: _____**

_____| |_____

Street/Road Name: _____

_____

_____Feet ← Sight Distance → _____Feet

CONTRACTOR (IF APPLICABLE) _____ **EST. STARTING DATE:** _____

_____ Telephone: _____

I understand that the driveway opening permit will be reviewed by a representative of the North Berwick Public Works Department and agree to pay the permit fee along with any associated cost of the culvert required for the driveway. I further agree to abide by all requirements established by the Town of North Berwick Street Design and Construction standards Ordinance

_____ _____

Signature of Property Owner Date

----------OFFICE USE ONLY----------

Permit Granted: _____No. _____

By: _____

Culvert Cost: $_____

Culvert Installation Cost: $_____

Permit Cost: $_____

Total Cost: **$_____**

Cash____ Check # _____

Culvert Sizing

Culvert Required? Y N

Culvert Diameter: _____

Culvert Length: _____

Additional Clearing Required for Sight Distance?

_____

Initially Repealed and Amended Sections of the Town of North Berwick Zoning and Subdivision Ordinance

Adoption of this Ordinance will also include the repeal and amending of the following sections of the North Berwick Zoning Ordinance dated April 9, 2005 and Subdivision Ordinance dated April 20, 2002:

Zoning Ordinance:

Article 1.4.2 – Repeal entire section

Article 4.3: Amend to read:

b. All lots hereinafter created shall posses a minimum frontage on (1) public road, or on (2) a private road or other thoroughfare or access route which meets the specifications for road construction in the ~~North Berwick Subdivision Review Standards~~ Town of North Berwick Street Design & Construction Standards Ordinance. However in administering the minimum requirement for road frontage, the following provisions shall apply:

1. New building lots located at the end of a loop or along curves in a street may be designed so that they have 100 or more feet of street frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for lot frontage in that zoning district, and provided that the radius of the curve is not more than 300 feet, measured at the front lot line.

2. In situations where there is, in the opinion of the Planning Board, no reasonable future possibility of accessing the back land (ie. the property lying behind an existing row of lots with street frontage) with new roads, due to severe or unusual topographical features (such as swamps, ravines, steep slopes, waterbodies or watercourses), a maximum of two new building lots may be created without street frontage provided all the following conditions are met:

a. only lots of record, existing on or before the date of the Ordinance amendment (March 10, 1984) may be used to create two new lots without road frontage;

b. if the lots posses less than 30 feet of street frontage, they shall be accessed by a deeded right-of- way whose width, taken in combination with any street frontage legally connected with the lots, totals at least 30 feet. This right of way shall be provided with a common driveway meeting the following specifications: a 12" base of sand and gravel (with no stone greater than 4") shall be 18 feet wide plus two 2-foot shoulders; this shall be covered with 3" of 3/4" crushed stone except on the shoulders), and drainage ditches and culverts shall be provided wherever appropriate;

c. the new lots shall meet all other requirements of this Ordinance.

3. A lot abutting a lake, pond, river or stream in any District shall have a minimum shore frontage of 200 feet, except in the Farm and Forest District where the minimum shore frontage shall be 300 feet. Shore frontage shall be measured in a line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

Article 5.1.1 – Amend to read:

5.1.1 Traffic and Highway Access

a. **Traffic:** The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. "Curb Cuts" shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the Town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas. ~~Sight distances shall be measured in a straight line, from the edge of the public right-of-way, at a point approximately four feet above the elevation of the existing or proposed driveway pavement. The sight distance shall be from this point to the point along the road where an observer sitting in his car at the driveway exit is able to see the drivers of approaching cars. This will ensure that both drivers will be able to see each other before vehicles exit from the driveways.~~

~~All exit driveways shall be designed according to the following standards of safe sight-distance:~~

~~Sight Distances~~

~~Posted Speed Limit~~	~~Recommended~~	~~Minimum~~
~~25 MPH~~	~~250'~~	~~175'~~
~~30 MPH~~	~~300'~~	~~210'~~
~~35 MPH~~	~~350'~~	~~245'~~
~~40 MPH~~	~~400'~~	~~280'~~
~~45 MPH~~	~~450'~~	~~315'~~
~~50 MPH~~	~~500'~~	~~350'~~
~~55 MPH~~	~~550'~~	~~385'~~

~~NOTE: Where it is possible to meet the recommended sight-distance standards, due to physical conditions, the minimum standards may be permitted. (The minimum standards are consistent with the absolute minimum stopping distance requirements on wet pavements established by the Maine Department of Transportation.)~~

~~b. Access Control: All lots of record existing before March 10, 1984, the time of Ordinance amendment, shall be allowed one direct access to Routes 4 and 9 provided that a minimum safe sight-distance standards (above) can be met. A second entrance/exit for~~

~~a large parking lot is permissible provided that the two access points are not closer than 500 feet and that they both meet the minimum sight distances standard.~~

~~All lots of record created on or after March 10, 1984 shall accommodate all vehicular movements to and from Routes 4 and 9 via a single common driveway or entrance way serving all lots or premises, except that subdivisions containing fifteen or more dwelling units, or large scale non residential developments shall be permitted to have two highway access points.~~

***Article 5.4.4 (6)*:** Repeal entire section – Amend to read : All streets within a park shall meet the standards found in the Town of North Berwick Street Design & Construction Standards Ordinance.

5.2.14: Amend to read: All streets in the Town of North Berwick will be built to the standards contained in Article 11.2 and 11.3 of the ordinance entitled "~~North Berwick Subdivision Ordinance"~~ Town of North Berwick Street Design & Construction Standards Ordinance.

Subdivision Ordinance:

Article 3: Repeal the following definition:

~~**Street**: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.~~

~~Street Classification:~~

~~Arterial Street: a major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:~~

~~State Route 9~~
~~State Route 4~~

~~Collector Street: a street servicing at least fifteen residential units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.~~

~~Minor Street: A street servicing less than fifteen residential units.~~

~~Industrial or Commercial Street: streets servicing industrial or commercial uses.~~

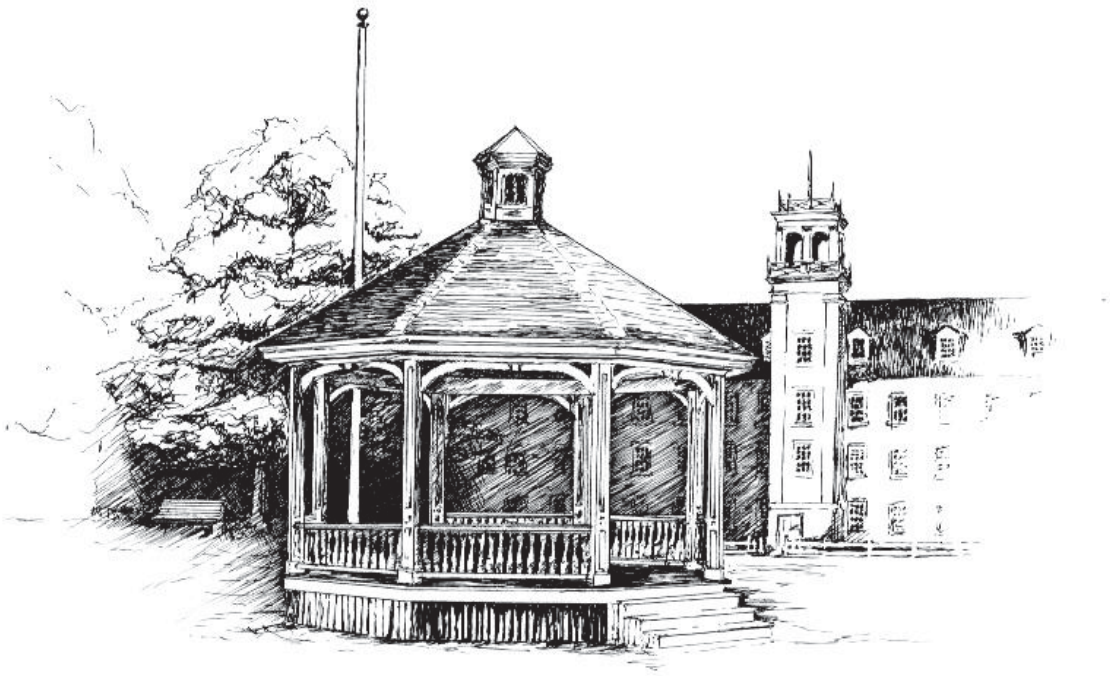
~~Private Road: a privately owned access way or right-of-~~way ~~not intended to be dedicated to the Town serving no more than two dwelling units.~~

Article 11: Repeal all and Amend to read: All streets within a park shall meet the standards found in the Town of North Berwick Street Design & Construction Standards Ordinance.

Town of North Berwick, Maine

Subdivision Ordinance

Revised April 1, 2006



MILL FIELD GAZEBO

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Enclosure: North Berwick Application for Subdivision

NOTICE

This Subdivision Ordinance was originally adopted on 8 March 1986 by Town vote at the annual Town Meeting. Subsequent amendments have been made by Town vote at Town Meetings on the following dates:

22 September 1987
30 July 1988
12 March 1990
31 December 1990
17 May 1991
20 June 1992
16 September 1995
24 April 1999
29 April 2000
20 April 2002
1 April 2006
This printing is current as of 1 April 2006

ARTICLE 1 - PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of North Berwick, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of North Berwick, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A sections 4401 to 4407. The subdivision:

1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and sub-soil's and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable State and local health and water resource rules and regulations;

1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;

1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

1.6 Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

1.8 Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any;

1.10 The sub-divide has adequate financial and technical capacity to meet the above stated standards;

1.11 Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shore land strip narrower than 250 feet which is not plotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) the frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shore land zoning, Title 38, chapter 3, subchapter 1, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definition requirements of section 4401, subsection 1, on September 23, 1983;

1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

1.13 Flood areas. Based on the Federal Emergency Management Agency's Flood boundary and Flood Way Maps and Flood Insurance Rate Maps, and information presented by the applicant , whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the sub-divide shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevations; and

1.14 Storm Water. The proposed subdivision will provide for adequate storm water management;

1.15 River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

1.16 Freshwater wetlands. All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

ARTICLE 2 - AUTHORITY AND ADMINISTRATION

2.1 Authority

a. These standards have been prepared in accordance with the provisions of Title 30 M.R.S.A., paragraph 4956, subsection 2.

b. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of North Berwick, Maine."

2.2 Administration

a. The Planning Board of the Town of North Berwick, hereinafter called the Board, shall administer these standards.

b. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30 M.R.S.A., paragraph 4956, subsection 1, within the boundaries of the Town of North Berwick.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization. clustering shall not be used to increase the overall net residential density of the development.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance for a Final Plan, or by a vote by the Board to waive the submission or required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in Title 30 M.R.S.A., Section 4961.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen feet wide.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

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

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

Normal High Water Elevation of Inland Waters: That line on the shores of banks on non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is

not limited to the following plants and plant groups: Water lily, pond lily, pickerel weed, cattail,

wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sassperilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the sore or bank is of such character that the high water mark cannot be easily determined, (rock slides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

Industrial Park or Development: a subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Living Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

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

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

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

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

Planned Unit Development: A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A "PUD" is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Planning Board of the Town of North Berwick, created under Title 30 M.R.S.A., Section 4964.

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

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Re-subdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the sub-divide not indicated on the approved plan.

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Subdivision: "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 23, 1971. This definition applies whether the division in accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

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

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

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

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

c. A lot of 40 or more acres shall be counted as a lot.

d. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

e. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

f. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

g A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means spouse, parent, grandparent, brother, sister, child, or grandchild related by blood, marriage, or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.

h. A division accomplished by gift to municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

i. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

j. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs d to i, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

k. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

l. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

m. For the purpose of this Ordinance, the term subdivision shall include such functional divisions of land as shopping center, industrial complexes, condominiums, apartment, mobile home parks, motels and campgrounds, where there are three or more units involved.

Subdivision, Major: any subdivision containing more than four lots or living units, or any subdivision containing a proposed street.

Subdivision, Minor: any subdivision containing not more than four lots or living units, and in which either no street or only a private road is proposed to be constructed.

Tract, or Parcel, of Land: all contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

4.1 Purpose. The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

4.2 Agenda. In order to avid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda by contacting the Chairman of the Planning Board in writing. Applicants shall be placed on the next available slot on the Board's agenda on a first come first served basis. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after agenda items have been completed, and then only if a majority of the Board so votes.

ARTICLE 5 - PREAPPLICATION

5.1 Procedure

a. Applicant presentation and submission of sketch plans;

b. Question and answer period. Board makes specific suggestions to incorporated by the applicant into subsequent submissions;

c. Scheduling of on-site inspection.

5.2 Submissions. The pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots and other features in relation to existing conditions. The Sketch Plan, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development, in sufficient detail to allow a meaningful on-site inspection. It is required that the sketch plan be superimposed on or accompanied by a copy of the U.S.G.S topographic map of the area showing the outline of the proposed subdivision.

5.3 Contour Interval and On-Site Inspection. Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property. At the time of the on-site inspection the centerline(s) of all proposed streets and property lines will be flagged. On-site inspection will not be scheduled unless all land features including but not limited to seasonal water levels are observable. Snow cover in excess of 2 inches will be considered grounds to postpone site inspection. A Preliminary Plan Application will not be received by the Board until the on-site inspection for that respective subdivision has been completed.

5.4 Rights not Vested. The submittal or review of the pre-application sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A, section 302.

ARTICLE 6 - MINOR SUBDIVISIONS

6.1 General. The Board may require, where it deems it necessary for the protection of public health, safety, and welfare that a Minor Subdivision complies with all or any of the submission requirements for a Major Subdivision.

6.2 Procedure

a. Within six months after the on-site inspection by the Board, the sub-divider shall submit an application for approval of a Final Plan. Failure to do so shall require re-submission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

b. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of $80.00 payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.

c. Upon receipt of an application for Final Plan approval of a minor subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.

d. The sub-divider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

e. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Final Plan application.

f. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

g. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the sub-divider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3 Submissions.

a. The subdivision plan for a Minor Subdivision shall consist of one reproducible, stable based transparent original to be recorded at the Registry of Deeds, and two copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

4. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision. All restrictions shall be listed on the filed plans.

5. Indication of the type of sewage disposal to be used in the subdivision.

a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District stating the district has the capacity to collect and treat the wastewater shall be provided.

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

6. Indication of the type of water supply system(s) to be used in the subdivision.

a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.

b. When water is to be supplied by private wells evidence of adequate ground water supply and a written statement from a hydrogeologist familiar with the area shall submit quality.

7. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, sub-divider, and individual or company who prepared the plan, and the names of adjoining property owners.

8. A copy of the portion of the county Soil Survey covering the subdivision.

9. Contour lines at the interval specified by the Planning board, showing elevations in relation to Mean Sea Level.

ARTICLE 7 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure

a. Within one year of the sketch plan submittal to the Board, the sub-divider shall submit an application for approval of a Preliminary Plan at the meeting for which he is scheduled. Failure to do so shall require re-submission of the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

b. All applications for Preliminary Plan approval for a major Subdivision shall be accompanied by an application fee of $50.00 per lot or dwelling unit, plus the costs of advertising and postal notification, payable by check to the Municipality. In addition, an administrative fee in the amount of 2% of the estimated cost of the project (including land, site improvement and projected building value) shall be placed in escrow in a bank in the Town of North Berwick for unrestricted use by the Municipal Officials, Code Enforcement Officer and Planning Board in order to adequately review the subdivision plans, and defray any other consultants fees incurred by the Town as a result of reviewing the submitted plans and overseeing the construction of the project. This requirement is separate from any performance guarantees required under Article XII. Any funds remaining after the project is complete shall be returned to the applicant with any interest which may have accrued.

c. The sub-divider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.

d. Upon receipt of an application for Preliminary Plan approval of major subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.

e. Within thirty days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

f. The Board shall hold a public hearing on the Preliminary Plan application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

g. The Board shall, within thirty (30) days of the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the sub-divider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

h. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the Final Plan;

2. The Character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion my be waived without jeopardy to the public health, safety, and general welfare; and

3. the amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.

i. The Planning Board shall notify the Road Commissioner, School Superintendent, Police Chief, Postmaster and Fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Planning Board shall request that these individuals comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

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

k. Burden of Proof. In all instances, the burden of proof is upon the applicant to prove the subdivision is in accordance with all State and local regulations and with the North Berwick Subdivision and Zoning Ordinances.

7.2 Submissions

a. Location Map. The Preliminary Plan shall be accompanied by a Location map drawn to a scale adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision;

2. Locations and names of existing and proposed streets;

3. Boundaries and designations of zoning districts;

4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

b. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than seventy-five acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan shall be reduced. The following information shall be shown on the Preliminary Plan or shall accompany the plan for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers;

2. A actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set found at each lot corner;

3. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. All deed restrictions shall be listed on the plan filed with the Registry of Deeds;

4. A copy of any covenants of deed restrictions intended to cover all or part of the lots in the subdivision;

5. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level;

6. The number of acres within the proposed subdivision, location of property lines, existing building, watercourses, vegetative cover type, and other essential existing features. The location of any trees larger than 24 inches in diameter at breast height (4 feet 6 inches) shall be shown on the plan. All potential freshwater wetlands regardless of the size must be indicated;

7. Indication of the type of sewage disposal to be used in the subdivision.

a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District indicating there is adequate capacity within the District's system to transport and treat the sewage shall be submitted.

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

c. Ground water impact shall be assessed as follows:

1. Assessment Submitted. Accompanying the application for approval of any subdivision which is not served by public sewer shall be an analysis of the impacts of the proposed subdivision on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology and shall contain at least the following information:

a. A map showing the basic soils types.

b. The depth to the water table at representative points throughout the subdivision.

c. Drainage conditions throughout the subdivision.

d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.

e. an analysis and evaluation of the effect of the subdivision on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

2. Standards for Acceptable Ground Water Impacts.

a. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation.

b. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

c. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on- site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

d. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration;

8. Indication of the type of water supply system(s) to be used in the subdivision.

a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.

b. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from a hydrogeologist familiar with the area;

9. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, sub-divider, and individual or company who prepared the plan;

10. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision;

11. The location of any zoning boundaries affecting the subdivision;

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

13. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain rough survey and scale data sufficient to allow approximate location, bearing and length of street lines, lot lines and boundary lines to be readily determined;

14. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision;

15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included;

16. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing
Street maintenance and snow removal
Police and Fire protection
Solid waste disposal
Recreation facilities
Storm water drainage
Waste water treatment
Water supply

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision;

17. The location of any open space to be preserved and an indication of its improvement and management;

18. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District;

19. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer and endorsed by the York County Soil and Water Conservation District.

20. A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses;

c. The Planning Board shall require the applicant to contribute a Development Impact Fee to participate in municipal infrastructure improvements at the rate set by the Town of North Berwick using the fee schedule in effect on the date of submission of the Major Subdivision Preliminary Plan to the Planning board. The Board shall require the applicant to participate in all areas of concern as determined by the Board

1. As soon as the applicant's share of infrastructure impact has been established by the Planning Board, the applicant and the Board shall select the method by which the applicant shall participate in the infrastructure improvement. The following alternatives are available:

a. The applicant must agree to make the necessary infrastructure improvements, establish a construction schedule and post a separate performance guarantee in accordance with the provisions of Article 12 to cover all associated costs prior to approval of the final plan. In addition, appropriate annotations shall be made on all subdivision documents including the recorded plan to ensure the infrastructure improvements are completed before occupancy or sale/transfer of the property can occur.

b. The Town shall agree to complete the required improvement, and the applicant shall pay the required Development Impact Fee to the Town. Agreement of the Town to complete the required improvement shall be documented by the submission of a letter from the Municipal Officers to the Planning Board detailing the extent of the improvement the Town will accomplish, and a separate letter to the Planning Board from the Town Clerk substantiating that the required Development Impact Fee has been paid in full, prior to the Planning Board approval of the final plan. If the required improvement is not completed by the Town within ten (10) years, the fee plus interest shall be returned to the applicant.

c. All standards in Article 10 and 11 of this ordinance shall be adhered to and reflected in the submitted plans.

ARTICLE 8 - FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure

a. The sub-divider shall, within six months after the approval of the Preliminary Plan, file with the board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.

b. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of $50.00 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional charge shall be required to cover the costs of advertising and postal notification.

c. The sub-divider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

d. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the sub-divider.

e. Prior to submittal of the Final Plan application has been submitted for review, the following approvals shall be obtained in writing, where appropriate:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Alteration of Streams and Rivers Act, or if a Waste Water Discharge License is needed.

2. The servicing water utility, if an existing public water service is to be used.

3. Maine Department of Human Services, if the sub-divider proposes to provide a central water supply system.

4. The servicing sewer district, if an existing public sewage disposal system is to be used.

5. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

6. Municipal Officials and Town Clerk for Development Impact Fee if the Town is going to complete the required infrastructure improvement.

f. A public hearing may be held by the Planning Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

g. Before the Board grants approval of the Final Plan, the sub-divider shall meet the performance guarantee requirements contained in Article 12.

h. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the plan.

i. The Board, within ninety days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, M.R.S.A section 4551, and this ordinance. If the Board finds that all standards of the Statute and this ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border one on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. Two reproducible, stable based originals to be submitted, one to be recorded at the Registry of Deeds, and the second to be submitted to the Planning Board for file, in addition two copies of the Final Plan shall be submitted. Also required one copy of the Final Plan reduced. The application for approval of the Final Plan shall include the following information:

a. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers;

b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each corner.

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

d. Indication of the type of sewage disposal to be used in the subdivision. when sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District indicating the District has reviewed and approved the sewerage design shall be submitted.

e. Indication of the type of water supply system(s) to be used in the subdivision.

1. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.

2. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from a hydrogeologist familiar with the area.

f. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, sub-divider, and individual or company who prepared the Plan.

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

h. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The Plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.

8.3 Final Approval and Filing

a. No plan shall be approved by the Planning Board as long as the sub-divider is in default on a previously approved Plan.

b. Upon findings of fact and determination that all standards in Title 30-A, and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the plans filed with the Registry of Deeds shall be forwarded to the Board within 30 days of filing. Any subdivision not recorded in the Registry of Deeds within ninety days from the date upon which the plan is approved and signed by the Board shall become null and void.

c. At the time the board grants Final Plan approval, it may require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the Superintendent of Schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved by not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom over crowding.

d. No changes, erasure, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9.1(c). The Board shall make findings that the revised Plan meets the standards of Title 30-A, M.R.S.A section 4551 and this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceeding to have the Plan stricken from the records of the Registry of Deeds.

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

ARTICLE 9 - ENFORCEMENT

9.1 Inspection of Required Improvements

a. At least five days prior to commencing each major phase of construction of required improvements, the sub-divider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

b. If the inspection official finds upon inspection of the improvements that any of the re1required improvements have not been constructed in accordance with the plans and specifications filed by the sub-divider, he shall so report in writing to the Municipal Officers, Planning Board, and the sub-divider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

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

d. At the close of each summer construction season the Town shall, at the expense of the sub-divider, have the site inspected by a qualified individual. By December 1 or each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

e. Prior to the sale of any lot, the sub-divider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monuments be shown on the plan has been installed.

f. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of this ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

g. The sub-divider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvement by the municipality.

9.2 Violations and Enforcement; Prohibited Activities

The Attorney General, the Municipality or the Planning Board of any municipality may institute proceedings to enjoin a violation of this subchapter.

a. Sales or Other Conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds.

1. No register of deeds may record any subdivision plat or plan which has not been approved under this subchapter. approval for the purpose of recording must appear in writing on the plat or plan. all subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

2. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of variance from any applicable subdivision approval standard, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

a. In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the registry of deeds. This certificate shall:

1. Indicate the name of the current property owner;

2. Identify the property by reference to the last recorded deed in its chain of title; and

3. Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

b. The variance is not valid until recorded as provided in this paragraph. Recording must occur within 30 days of the final subdivision approval or the variance is void.

3. No building inspector may issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter.

4. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision which has not been approved under this subchapter shall be penalized in accordance with Title 30-A MRSA section 4452.

5. Any person who after receiving approval from the municipal reviewing authority and recording the plan at the registry of deeds, constructs or develops the subdivision, or transfers any lot, in a manner other than depicted on the approved plans or amendments shall be penalized in accordance with Title 30-A MRSA section 4452.

a. Utility Installation. No public utility, water district, sanitary district or any utility company of any kind may install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that installation has been completed.

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

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

ARTICLE 10 - GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

10.1 Conformance with Comprehensive Plan

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent State and local codes and ordinances.

10.2 Retention of Open Spaces and Natural or Historic Features and Provision of Recreational Areas and Facilities

a. In any subdivision larger than thirty-five acres, or more than fifteen lots or dwelling units, the developer shall provide up to ten percent of his total area as open space or land to be dedicated for the provision of recreational facilities. The provision of open space and/or recreational land shall be based in part upon the towns Comprehensive Plan, identified natural resources of the area, the Open Space and Recreational Needs Analysis on file at Town Hall and the towns Future Open Space and Recreation Map available at the town office. In any subdivision thirty-five acres or less, or containing fifteen lots or dwelling units or less, the Board may request the developer to provide a percentage of his total area as open space/recreational land or the Board may instead require the developer to make a payment in-lieu of land dedication into a Municipal Land Acquisition Fund.

The following table provides the minimum open space reservations for various development densities.

Average Size/Single Family Lots Minimum Lot Sizes	**Percentage of Land to be Reserved as Open Area**
Lots 20,000 square feet and greater	10%
Lots under 20,000 square feet	5%
Multi-family units	5%

b. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Reference shall be made to the needs highlighted in the towns Open Space and Recreational Needs Analysis (2001) available at the town office. Sites selected primarily for natural resource preservation, farmland protection or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to factors and resources highlighted on the towns Future Open Space and Recreation Map. Open areas space shall be part of an integrated design for open space. No more than 30% of such open space shall be wetland as delineated by the applicants wetland mapping provided with the application.

c. Reserved land acceptable to the Board and sub-divider may be dedicated to the municipality, a local conservation organization or a homeowners group as a condition of approval.

d.. Where the land in the subdivision is not suitable for open space, or is insufficient in amount, or where the Planning Board and the subdivider agree that the interests of the residents of the subdivision and the town would be better served by community open space elsewhere, the Planning Board may waive the requirement for open space and the developer shall pay a per lot or housing unit fee to the North Berwick Land Acquisition Fund for the purposes of purchasing valuable open space areas elsewhere in town. Such fee shall be in accordance with the Town of North Berwick Community facilities Impact Analysis fee structure as established by the Board of Selectman pursuant to section 6.10 of the North Berwick Zoning Ordinance. This fee shall be sufficient to enable the Town to maintain the existing level of conservation lands per household in North Berwick. Lots for which the developer makes payment for shall be deemed paid in full for the open space aspect of the fee at the time of construction of the single-family residence or unit regardless of an increase in the impact fee from the time the subdivision is approved.

e. Recreational Area and Facilities. All subdivisions shall provide for the recreational needs of the occupants of the development. Subdivisions with less than fifteen (15) dwelling units shall pay a recreational fee-in-lieu of land dedication. Such fee shall be in accordance with the Town of North Berwick Community facilities Impact Analysis fee structure as established by the Board of Selectman pursuant to section 6.10 of the North Berwick Zoning Ordinance. Such fee shall be sufficient to enable the town to maintain the existing level of recreational facilities per household in North Berwick. Lots for which the developer makes payment for shall be deemed paid in full for the recreational facilities aspect of the fee at the time of construction of the single-family home or housing unit regardless of an increase in the impact fee from the time the subdivision is approved

f. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter at breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

10.3 Blocks

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossing and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 11.2 (m). Maintenance obligations of the easement shall be included in the written description of the easement.

10.4 Lots

a. All lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.

b. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.

c. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

d. Wherever possible, side lot lines shall be perpendicular to the street.

e. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to preclude future re-subdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

f. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

g. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ration of lot length to width shall not be more than three to one.

h. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers shall be assigned to lots on one side the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board. No individual dwellings shall be permitted to have a mailbox or newspaper receptacle on their individual lot. All mail/newspaper receptacles shall be placed in cluster kiosk configurations with the North Berwick Postmaster approving the mailbox configuration and construction in addition to the Planning Board. All kiosks will be enclosed and have a separate access for postal delivery separate from the front access utilized by the owners to obtain their mail. The kiosks will be off the road with parking for two vehicles in the immediate vicinity of the kiosk.

10.5 Utilities

a. All utilities shall be installed underground except as otherwise approved by the Board.

b. Underground utilities shall be installed prior the installation of the final gravel base of the road.

c. The size, type and location of street lights, electric and gas lines, telephone, and other utilities shall be shown on the Plan and approved by the Board.

10.6 Required Improvements

a. Monuments:

1. Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

2. Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.

3. Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall located the point or points described above.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by a suitable monument. The term suitable monument shall be:

a. A granite monument
b. A concrete monument
c. An iron pipe
d. An drilled hole in ledge

b. Water

1. When a subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the sub-divider.

a. the sub-divider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The sub-divider shall be responsible for paying the costs of system improvement necessary to serve the subdivision.

b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.

2. When the location of a subdivision does not allow for a financially reasonable connection to a public water supply system, the Planning Board may allow the use of individual wells or a private community water system.

a. Dug wells shall not be permitted in major subdivisions and shall be prohibited by deed restrictions and a note on the Plan.

b. If a central water system is provided by the sub-divider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R 231), and the source shall be developed prior to approval of the Final Plan.

c. The sub-divider shall construct ponds and dry hydrants to provide for adequate water storage for fire- fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The ponds shall be located on common land, see Article 10.8. Any maintenance required by an inspection done by the Fire Department will be the responsibility of the property owners of the subdivision. The pond shall hold a minimum of 10,000 usable gallons, have a depth between 7.5 and 13 feet and be centrally located within the subdivision. The board may waive the requirements upon submittal of evidence that the soil types in the subdivision will not permit their construction or when the board is satisfied that water sources for fire fighting already exists in the immediate vicinity of the subdivision. As an alternative, regarding the construction of fire ponds, the sub0divider may install residential sprinkler systems in each residence of the subdivision. The sprinkler systems shall conform to the National Fire Protection Association (NFPA) Residential Sprinkler System specifications. (NFPA13R)

c. Sewage Disposal

1. Public System

a. A sanitary sewer system shall be installed at the expense of the sub-divider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.

b. The sewer district shall review and approve in writing the construction drawings for the sewage system.

2. Private Systems

a. the developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Plumbing Rules. In addition, test pit information shall be submitted indicating a suitable reserve area of soil for each lot.

b. In no instance shall a disposal area be permitted on soils or on a lot which required a New System Variance from the Plumbing Rules.

d. Surface Drainage

1. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water run-off to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch-basins or other means of channeling surface water within the subdivision and over other properties. This storm water management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing water-courses or proposed drainage ways shall be provided and indicated on the Plan at least thirty feet wide, conforming substantially with the lines existing natural drainage.

3. The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or run-off problems either in the subdivision or in other properties. Where the peak run-off from the subdivision onto other properties is increased either in volume of duration, easements from the abutting property owners, allowing such additional discharge shall be obtained.

4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Section 11.4, shall be submitted.

10.7 Land Features

a. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

b. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

c. To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a water body, and extending one hundred feet inland from all points along the normal high water mark shall be limited in accordance with the following:

1. No more than 30% of the length of the strip shall be clear-cut to the depth of the strip.

2. Cutting of this 30% shall not create a clear-cut opening greater than thirty feet wide.

3. In the remaining 70% length of the strip, no trees larger than four inches diameter at breast height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.

10.8 Dedication and Maintenance of Common Open Space and Services

a. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a home owners association, by an association which has as its principal purpose the conservation of preservation of land in essentially its natural condition, or by the municipality.

b. Further subdivision of the common land or its use for other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses maybe erected on the common lot.

c. The common open space shall be shown on the Final Plan with appropriate notation on the Plan to indicate that:

1. It shall not be used for future building lots, and

2. A part or all of the common open space may be dedicated for acceptance by the municipality, or the development rights may be required to be placed in a conservation easement.

d. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

e. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
f. The homeowners association shall have the responsibility of maintaining the common property.

g. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.

h. The developer or sub-divider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

ARTICLE 11 - STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTIONSTANDARDS

11.1 General Requirements

a. All streets within a park shall meet the standards found in the Town of North Berwick Street Design & Construction Standards Ordinance.

ARTICLE 12 - PERFORMANCE GUARANTEES

12.1 Types of Guarantees

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

a. Either a certified check payable to the Town of North Berwick or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

b. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers;

c. A irrevocable letter of credit (see appendix B for sample) from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager;

d. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

12.2 Contents of Guarantee

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

12.3 Escrow Account

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

12.4 Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the sub-divider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

12.5 Letter of Credit

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

12.6 Conditional Agreement

The Board, at its discretion may provide for the sub-divider to enter into a binding agreement with municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for the Final Plan on the condition that no more than two lots may be sold or built upon until either:

a. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this ordinance and the regulations of the appropriate utilities; or

b. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed. Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8.

12.7 Phasing Development

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

12.8 Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

12.9 Default

If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the sub-divider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

12.10 Private Roads

Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan: "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

12.11 Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required by Section 10.7 of this ordinance, as well as any other improvement required by the Board.

ARTICLE 13 - WAIVERS

13.1 Special Circumstances

Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or this ordinance.

13.2 Required Improvements Not Requisite for the Public Health, Safety, or Welfare

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

13.3 Granting of Waivers

In granting waivers to any of these standards in accordance with Section 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of this ordinance are met.

Appendix A Title 30-A, Part 2, Subpart 6-A, Subchapter 4, Subdivisions

§4401. Definitions (CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Densely developed area. "Densely developed area" means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2. Dwelling unit. "Dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2-A. Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:
A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and [1989, c. 404, §1 (new).]

B. Not considered part of a great pond, coastal wetland, river, stream or brook. [1989, c. 404, §1 (new).]

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

[1989, c. 404, §1 (new).]

3. Principal structure. "Principal structure" means any building or structure in which the main use of the premises takes place. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §1 (rpr).]

4. Subdivision. "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.
A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.
[2001, c. 359, §1 (amd); §8 (aff).]

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. A lot of 40 or more acres shall not be counted as a lot, except:
(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 326, §1 (amd).]

D. [2001, c. 359, §2 (rp); §8 (aff).]

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new); §8 (aff).]

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new); §8 (aff).]

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new); §8 (aff).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate. [2001, c. 359, §3 (new); §8 (aff).]

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §3 (new); §8 (aff).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection. [2001, c. 359, §3 (new); §8 (aff).]

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §2 (amd).]

H. (TEXT EFFECTIVE UNTIL 10/1/02) Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority that:
(1) Expands the definition of subdivision to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of subdivision except as provided in this subchapter.
This paragraph is repealed October 1, 2002. [2001, c. 359, §4 (rpr); §8 (aff).]

H. (TEXT REPEALED 10/1/02) [T. 30-A, §4401, sub-§4, paragraph H (rp).]

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. [2001, c. 359, §5 (amd); §8 (aff).]
[2001, c. 359, §§1-5 (amd); §8 (aff).]

5. New structure or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the

Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

Q. The Saco River from the Little Ossipee River to the New Hampshire border; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

R. The St." Headnote=" Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

S. The St." Headnote=" George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

T. The St." Headnote=" John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis

town line to the Allagash and St. Francis town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

U. The Sandy River from the Kennebec River to the Madrid and Township E town line; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §3 (amd).]

X. The West Branch of the Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §3 (amd).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §3 (amd).]

§4402. Exceptions

This subchapter does not apply to: [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law; [1997, c. 51, §1 (amd).]

3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971; [1997, c. 323, §1 (amd).]

4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration; or [1997, c. 323, §2 (amd).]

5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:
A. That has been enjoined pursuant to section 4406; [1997, c. 323, §3 (new).]

B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds; [1997, c. 323, §3 (new).]

C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or [1997, c. 323, §3 (new).]

D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds. [1997, c. 323, §3 (new).]
[1997, c. 323, §3 (new).]

§4403. Municipal review and regulation

This section governs municipal review of proposed subdivisions. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1-A. Joint meetings. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in section 4404, subsection 19.

The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

[1997, c. 226, §1 (amd).]

2. Regulations; review procedure. The municipal reviewing authority may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

(1) Preapplication sketch plan;

(2) Preliminary plan; and

(3) Final plan.

Each stage must meet the time requirements of subsections 4 and 5. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

3. Application; notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The municipal reviewing authority shall notify by mail a public drinking water supplier if the subdivision is within its source water protection area. [1999, c. 761, §11 (amd).]

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 121 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 13907. [1995, c. 93, §1 (new).]

[1999, c. 761, §11 (amd).]

4. Public hearing; notice. If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §6 (amd).]

5. Decision; time limits. The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. Granting approval of the proposed subdivision; or [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. Granting approval upon any terms and conditions that it considers advisable to:
(1) Satisfy the criteria listed in section 4404;

(2) Satisfy any other regulations adopted by the reviewing authority; and

(3) Protect and preserve the public's health, safety and general welfare.
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §7 (amd).]

6. Burden of proof; findings of fact. In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

7. Conditioned on variance. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

§4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that: [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
A. The elevation of the land above sea level and its relation to the flood plains; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. The nature of soils and subsoils and their ability to adequately support waste disposal; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. The slope of the land and its effect on effluents; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

D. The availability of streams for disposal of effluents; and [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

E. The applicable state and local health and water resource rules and regulations; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §8 (amd).]

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §8 (amd).]

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §8 (amd).]

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §8 (amd).]

12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 429, §1 (amd); c. 497, §8 (amd).]

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 429, §1 (amd); c. 497, §8 (amd); c. 878, Pt. A, §85 (rpr).]

14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district; [1989, c. 404, §2 (new); c. 429, §2 (new); c.497, §9 (new); c. 772, §3 (amd); c. 878, Pt. G, §5 (rpr).]

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9; [1991, c. 838, §12 (amd).]

16. Storm water. The proposed subdivision will provide for adequate storm water management; [1991, c. 838, §12 (amd).]

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; [1997, c. 226, §2 (amd).]

18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision; and [1997, c. 226, §3 (amd).]

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe

conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located. [1997, c. 226, §4 (new).]

§4405. Access to direct sunlight

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

§4406. Enforcement; prohibited activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 769, §1 (amd).]

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

(a) Indicate the name of the current property owner;

(b) Identify the property by reference to the last recorded deed in its chain of title; and

(c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6, where applicable, whichever date is later, or the variance is void.
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 362, §2 (amd); c. 769, §1 (amd).]

B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:
(1) Indicate the name of the current property owner;

(2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;

(3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;

(4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and

(5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void. [1989, c. 769, §1 (new).]

C. A building inspector may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 769, §1 (amd).]

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 769, §1 (amd).]

E. Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452. [1991, c. 548, Pt. D, §5 (rpr).]

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488, subsection 5, have been and will be satisfied. [1989, c. 769, §1 (new).] [1991, c. 548, Pt. D, §5 (amd).]

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:
A. A granite monument; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. A concrete monument; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. An iron pin; or [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

D. A drill hole in ledge. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

3. Utility installation. A public utility, water district, sanitary district or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officers and the utility, except that if a public utility, water district, sanitary district or utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with this subsection, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to this section. [2001, c. 40, §1 (amd).]

4. Permit display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted. [1991, c. 838, §15 (new).]

§4407. Revisions to existing plat or plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §11 (amd).]

1. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:
A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan; [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]
[1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

APPENDIX B
SAMPLE LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT

Letter of Credit No. XXXXXXXX
Dated: January XX, 20XX

Town of North Berwick
21 Main Street
P.O. Box 422
North Berwick, ME 03906-0422

Re: Name of Developer
Name of Delvelopment
Location
North Berwick, Maine

Dear Sir or Madam:

Name of Bank (the "Bank"), hereby issues its Irrevocable Letter of Credit No. XXXXXXXX (this "Letter of Credit") in your favor in the amount of Three Hundred Five Thousand and 00/100 Dollars ($305,000), or as such amount is reduced in accordance with the provisions of this Letter of Credit (the "Stated Amount"), for the account of Name of Developer (the "Borrower").

This Letter of Credit is effective immediately and expires on the earliest to occur of:

(a) 12:00 noon, Eastern Standard Time, on December XX, 20XX, or if that date is not a Banking Day, at 12:00 noon on the first Banking Day after that date (or such later date to which the
Expiration date of this Letter of Credit shall have been extended pursuant to a notice, delivered by the Bank to you);

(b) Upon the Bank's receipt of written notice from the Town of North Berwick that the Borrower has completed the construction specified on Exhibit A attached hereto;

(c) When the Bank shall have honored a draft or drafts in the aggregate equal to the Stated Amount;

(d) The date on which the Stated Amount is reduced to zero;

(e) Upon the surrender by you to the Bank of this Letter of Credit for cancellation. You shall promptly surrender this Letter of Credit to the Bank upon such expiration.

Notwithstanding any provision herein to the contrary, Borrowers shall complete construction of the work specified in Schedule A no later than December XX, 20XX.

Letter of Credit #XXXXXXXX
January XX, 20XX

For all purposes of this Letter of Credit, the term "Banking Day" when used in this Letter of Credit shall mean any day other than a Saturday, Sunday, Federal Holiday, or other day which banks are closed in the State of Maine.

We hereby irrevocable authorize you to draw on us, up to the aggregate amount of the Stated Amount, in accordance with the terms and conditions set forth in the Letter of Credit in one or more drawings by one or more of your drafts in the form of Exhibit B attached hereto and signed by the Town Manager of the Town of North Berwick and accompanied by a certificate in the form of Exhibit C attached hereto also signed by the Town Manager of the Town of North Berwick. Partial drawings under this Letter of Credit are permitted.

Demand for payment under this Letter of Credit may be made on any Banking Day. Any Demand for payment and all other communications to the Bank relating to this Letter of Credit shall make specific reference to this Letter of Credit by number and shall be in writing and addressed and presented to Name of Approver, Position with Bank, Name of Bank, Address of Bank, or to any other addressee which may be designated by the Bank in a written notice delivered to you. Any draft presented as specified herein, together with the certificate required in connection with such draft, and in strict conformity with the terms and conditions of this Letter of Credit, before 3:00 p.m., Eastern Standard Time, on a Banking Day, payment shall be made to you of the amount demanded (up to the Stated Amount, as reduced from time to time), in immediately available funds, not later than 12:00 noon, Eastern Standard Time, on the next succeeding Banking Day. Any presentation made after 3:00 p.m., Eastern Standard Time, shall be construed as a presentation made on the next Banking Day.

Demand for payment shall not exceed the Stated Amount as reduced from time to time. The Stated Amount shall be reduced by the amount of each partial drawing hereunder and upon completion of work to the satisfaction of the Town Manager, as evidenced by written notice from the Town Manager to the Bank. The amount of this Letter of Credit is based upon an estimate of probable costs as set forth on Exhibit A.

This Letter of Credit is **not** transferable.

This Letter of Credit sets forth the full terms of our undertaking and this undertaking shall not in any way be modified, amended, amplified or limited by referenced to any document, instrument or agreement referred to in this Letter of Credit (except by the Uniform Customs and Practice for Documentary Credits defined below) or in which this Letter of Credit is referred to or to which this Letter of Credit relates; and any such reference shall not be deemed to incorporate in this Letter of Credit by reference any document, instrument or agreement, unless specifically provided for in this Letter of Credit.

Letter of Credit #XXXXXXXX
January XX, 20XX

Except as otherwise expressed stated in this Letter of Credit, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision, International Chamber of Commerce, Publication No. 500 (the "UCP"), which is hereby incorporated into the text of this Letter of Credit by reference. As to matters not covered by the UCP, this Letter of Credit and as to the obligations of the Bank upon presentation of a sight draft by the Town shall be governed and construed in accordance with the laws of the State of Maine.

Very truly yours,

Name of Bank

_____

Its: Position

EXHIBIT A
COSTS OF INFRASTRUCTURE IMPROVEMENTS
NAME OF DEVELOPMENT
NORTH BERWICK, MAINE

Site prep and clearing	3,000.00
Erosion control	2,000.00
Earthwork	55,000.00
Base and subbase aggregates	25,000.00
Water mains	120,000.00
Earthwork for UG E I C	3,000.00
Loam and seed	10,000.00
Fine grade and pave	10,000.00
Base Pavement	20,000.00
Driveway and walks	15,000.00
Surface Pavement	10,000.00
Subtotal	273,000.00
Contingency	32,000.00
Total	305,000.00

EXHIBIT B

Draft

Pay to the order of the Town of North Berwick the sum of_____
Dollars and Cents ($_____) drawn on Name of Bank, as issuer of its Irrevocable Letter of Credit No. XXXXXXXX, dated January XX, 20XX.

Town of North Berwick

By:
Its: Town Manager

EXHIBIT C

Certificate To Accompany Draft In Connection
With Irrevocable Letter of Credit No. XXXXXXXX

Reference is made to that certain Irrevocable Letter of Credit No. XXXXXXXX, dated January XX, 20XX (the "Letter of Credit"), in the amount of Three Hundred Five Thousand and 00/100 Dollars *($305,000),* issued by Name of Bank for the account of Name of Developer (the "Borrower") and for the benefit of the Town of North Berwick ("the Beneficiary").

The undersigned, duly authorized representatives of the Beneficiary, hereby certify that:

Borrower has failed to complete construction in accordance with the standards of the Town of North Berwick and the approved plan on or before December XX, 20XX.

You are hereby directed to make payment to us in the amount of_____ Dollars ($) under the Letter of Credit.

IN WITNESS WHEREOF, this Certificate has been duly executed on this _____day of 20XX6.

Town of North Berwick

By:_____
Its: Town Manager

APPENDIX C
SAMPLE STORM DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That _____,of_____ ,County of York, being the owner of a certain lot or parcel of land in the Town of North Berwick, County of York and State of Maine, which premises are more fully described in a certain subdivision plan entitled_____,by_____, dated_____ and recorded in the York County Registry of Deeds in Plan Book_____Page_____, which description of said premises is included herein by reference. For and In consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of ,State of Maine, the receipt of which Is hereby acknowledged Grantor(s) do(es) hereby give, grant and quit-claim unto the said Inhabitants of the Town of North Berwick an easement and right-of-way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and_____ (____) feet in length across Lots numbered _____ and shall be located as shown on the above- mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right-of-way unto the said Inhabitants of the Town of North Berwick for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of North Berwick the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within sold easement without the express written consent of the Town of North Berwick

IN WITNESS WHEREOF, the said _____ have hereunto set my (our) hand(s) and seal(s) this _____ of _____, In the year of our Lord two thousand and _____.

SIGNED, SEALED AND DELIVERED
in presence of

_____ _____

_____ _____

STATE OF MAINE
_____.ss. 20__
Personally speared, before me, the above-entioned_____
and acknowledged the foregoing Instrument to be _____ free act and deed.

_____
Notary Public/Justice of the Peace

APPENDIX D
MODEL NOTICE OF DECISION

Date:

To: _____

_____

_____

Dear _____

This letter is to inform you that the North Berwick Planning Board has acted on your application for a subdivision as follows:

FINDINGS OF FACT

1. The owner of the property is _____
2. The property is located at _____, in the _____ zoning district, identified as Assessors Map _____, Lot _____, and contains_____ *(acres, sq ft.)*.
3. The applicant is _____ who has demonstrated a legal interest in the property by providing a copy of a *(deed, option, purchase and sales agreement.)*
4. The applicant proposes to establish a _____ lot subdivision on the subject property. The lots range in size from _____*(sq ft., acres)* to _____ *(sq ft., acres)*.
5. A completed application was submitted on _____
6. A public hearing was held on _____
7. Water is to be supplied by *(private wells, the North Berwick Water District)*
8. Sewage is to be disposed of by *(individual subsurface disposal systems, the North Berwick Sanitary District)*. Site evaluations for each lot, meeting the requirement of the Maine Plumbing Rules were completed by Licensed Site Evaluator, on _____ *(or)* The North Berwick Sanitary District has approved the plans for sewer lines and indicated it will be able to adequately treat the waste.
9. A storm water drainage plan has been prepared by _____, P.E.
10. The applicant has submitted a *(certified check, certificate of deposit, a performance bond, a letter of credit)* adequate to cover the costs of all required improvements.
11. _____
12. _____

CONCLUSIONS

1. The criteria of Title 30, M.R.S.A., S4956, subsection 3 have been met. *(or)* The following criteria of Title 30, M.R.S.A., S4956, subsection 3 have not been met:
   _____, _____, _____,

2. The standards of the Towns subdivision ordinance have been met, except for the following which have been waived by the Planning Board:
   _____, _____, _____,

   (or) The following standards of the Towns subdivision ordinance have not been met:
   _____, _____, _____,

3. _____

4. _____

DECISION

Based on the above facts and conclusions, on _____ the Planning Board voted to (approve, deny) your application for a subdivision.

(If Approved)

CONDITIONS OF APPROVAL

In order to further promote the purposes of the State Subdivision Law, the Towns Subdivision Ordinance, Zoning Ordinance, and Comprehensive Plan, the Planning Board has voted to impose the following conditions on the approval of this Subdivision:

1. _____

2. _____

3. _____

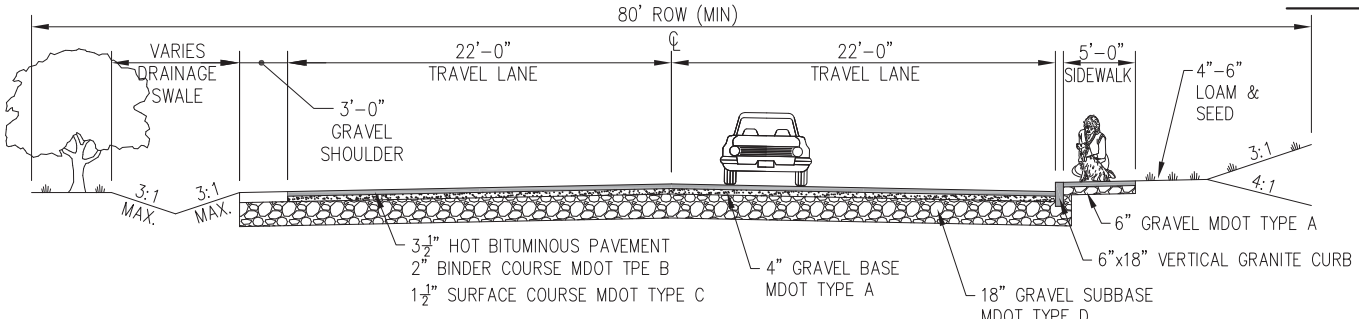
(If Denied)

In accordance with Section _____of the _____ Subdivision Ordinance, you have the right to appeal this decision to the Board of Appeals within thirty days of this notice.

Sincerely,

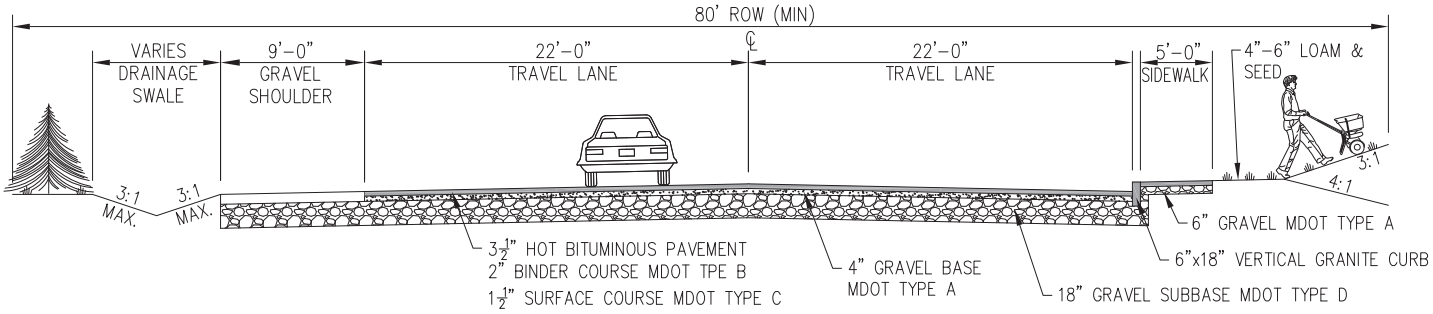
_____
Chairman

Cc: Code Enforcement Officer
Municipal Officers



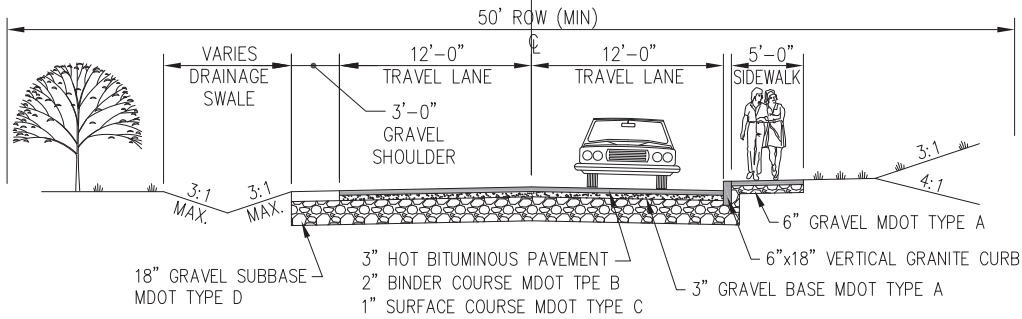
ARTERIAL TYPICAL CROSS-SECTION

NOT TO SCALE



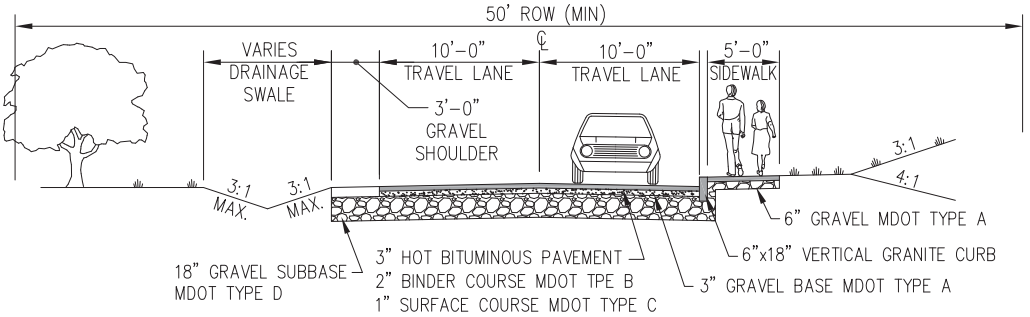
INDUSTRIAL/COMMERCIAL CROSS-SECTION

NOT TO SCALE



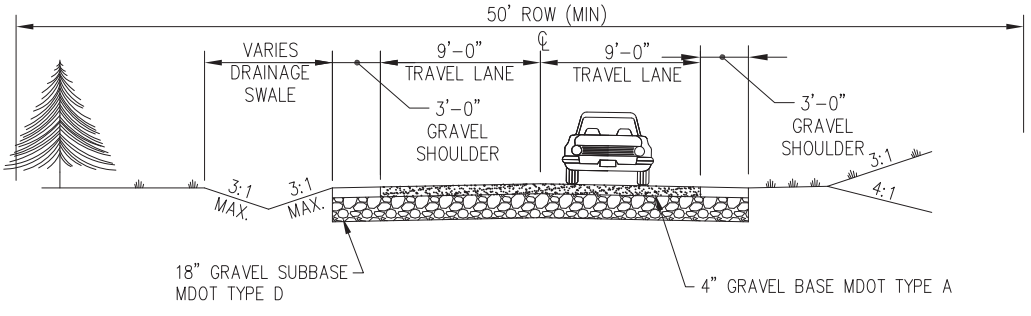
COLLECTOR TYPICAL CROSS-SECTION

NOT TO SCALE



MINOR TYPICAL CROSS-SECTION

NOT TO SCALE



PRIVATE DRIVE TYPICAL CROSS-SECTION

NOT TO SCALE

MAJOR STREETS

MINOR STREETS

PRIVATE STREETS

THIS APPLICATION FORM IS NOT A FORMAL PORTION OF THE NORTH BERWICK SUBDIVIISION ORDINANCE, BUT IS PROVIDED HEREIN AS A CONVENIENCE TO APPLICANTS. THIS FORM MAY BE CHANGED AS THE PLANNING BOARD SO DICTATES.

TOWN OF NORTH BERWICK
APPLICATION FOR SUBDIVISION APPROVAL
PLEASE PRINT CLEARLY

SUBDIVISION NAME_____
MAP_____ LOT_____
DATE_____

APPLICANT INFORMATION:

1. NAME OF PROPERTY OWNER: _____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
2. NAME OF APPLICANT: _____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
3. IF APPLICANT IS A CORPORATION, ARE YOU LICENCED IN MAINE?_____
   ATTACH A COPY OF STATE'S REGISTRATION
4. NAME OF APPLICANTS AUTHORIZED AGENT:_____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
5. NAME OF SURVEYOR: _____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
   REGISTRATION #: _____
6. NAME OF ENGINEER: _____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
   REGISTRATION #: _____
7. NAME OF FIRM PREPARING PLAN: _____
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____
   REGISTRATION #: _____
8. NAME OF PERSON ALL CORRESPONDANCE R.EGUARDING THIS APPLICATION SHOULD BE SENT TO:
   ADDRESS: _____
   _____
   _____
   TELEPHONE #: _____

9. WHAT LEGAL. INTEREST DOES THE APPLICANT HAVE IN THE PROPERTY TO BE DEVELOPED (ownership, option, purchase and sales agreement etc.)?

_____

10. WHAT INTEREST DOES THE APPLICANT HAVE TN ANY ABUTTING PROPERTY?

11. LAND LOCATION (REGISTRY OF DEEDS) BOOK___PAGE _____
(TAX MAP) MAP _____LOT _____

12. CURRENT ZONING OF PROPERTY: _____

13. 1S ANY PORTION OF THIS PROPERTY WITHIN 250 FEET OF THE HIGH WATER MARK OF ANY POND, LAKES OR RIVER? ___YES ____NO

14. ACREAGE TO BE DEVELOPED? _____

15. INDICATE THE NATURE OF ANY RESTRICTIVE COVENENTS TO BE PLACED ON THE DEEDS.

_____

_____

16. HAS THIS LAND BEEN PART OF A PRIOR SUBDIVISION? ____YES ____ NO

17. IF YES, HAS THERE BEEN OTHER DIVISIONS OF THIS LAND IN THE PAST FIVE YEARS? ____YES ____ NO

18. IDENTIFY USE (S) OF LAND, (FARM LAND, WOOD LOT, ETC.)

_____

19. DOES THE PARCEL INCLUDE ANY WATERBODIES? ____YES ____ NO

20. 1S ANY PORTION OF LAND WITHIN AN IDENTIFIED FLOODPLAIN? ____YES ____ NO

GENERAL INFORMATION

21. PROPOSED NAME OF DEVELOPMENT: _____

22. NUMBER OF LOTS OR DWELLING UNITS: _____

23. ANTICIPATED DATE FOR START OF CONSTRUCTION: _____

24. ANTICIPATED DATE FOR COMPLETION OF CONSTRUCTION: _____

25. DOES THIS DEVELOPMENT REQUIRE EXTENSION OF PUBLIC INFRASTRUCTURE?
____YES ____ NO ____ ROADS ____ STORM DRAINAGE ____ SIDEWALKS
____ WATERLINES ____ SEWER LINES ____FIRE PROTECTION EQUIPMENT
____OTHER

26. ESTIMATE COST FOR THE INFRASTRUCTURE IMPROVEMENTS. $_____

27. IDENTIFY METHOD OF WATER SUPPLY TO THE PROPOSED DEVELOPMENT

____ INDIVIDUAL WELLS

____ CENTRAL WELL WITH DISTRIBUTED LINES

____ CONNECTION TO PUBLIC WATER SYSTEM

____ OTHER, PLEASE STATE ALTERNATIVE_____

28. IDENTIFY METHOD OF SEWAGE DISPOSAL TO THE PROPOSED DEVELOPMENT

____ INDIVIDUAL SUBSURFACE SYSTEMS

____ CENTRAL ON SITE DISPOSAL WITH DISTRIBUTION LINES

____ CONNECTION TO PUBLIC SEWER SYSTEM

____ OTHER, PLEASE STATE ALTERNATIVE

29. IDENTIFY METHOD OF FIRE PROTECTION FOR THE PROPOSED DEVELOPMENT

____ HYDRANTS CONNECTED TO PUBLIC WATER SYSTEM

____ DRY HYDRANTS LOCATED ON AN EXISTING POND OR WATER BODY

____ EXISTING FIRE POND

____ OTHER, PLEASE STATE ALTERNATIVE.

30. DOES THE APPLICANT PROPOSE TO DEDICATE TO THE TOWN ANY STREETS, RECREATION OR COMMON LANDS?

STREET (S) ____ YES ____ NO ESTIMATED LENGTH_____

RECREATION AREA(S) ____YES ____ NO ESTIMATED ACREAGE_____

COMMON LAND ____YES ____ NO ESTIMATED ACREAGE_____

LIST BELOW THE NAMES AND MAILING ADDRESS OF ABUTITNG PROPERTY OWNERS WITHIN 500 FEET OF PROPERTY: PLEASE PRINT CLEARLY OR ATTACH TYPED LIST STATING HERE THAT ATTACHMENT HAS BEEN PLACED.

31. DOES THE APPLICANT INTEND TO REQUEST WAIVERS OF ANY OF THE SUBDIVISION REQUIREMENTS OR STANDARDS? IF YES, LIST THEM AND STATE REASONS FOR THE REQUEST.

_____

_____

_____

_____

_____

_____

32. I HAVE READ AND UNDERSTAND ALL PROVISIONS CONTAINED IN THE NORTH BERWICK SUBDIVISION AND ZONING ORDINANCES AND AGREE TO FULLFILL ALL PROVISIONS. TO THE BEST OF MY KNOWLEDGE, ALL THE ABOVE STATED INFORMATION SUBMHTED IN THIS APPLICATION IS TRUE AND CORRECT.

_____ _____

SIGNATURE OF APPLICANT DATE

ORDINANCE TO REGULATE ERATION AND PARKING OF VEHICLES IN THE TOWN OF NORTH BERWICK

ARTICLE I GENERAL

SEC. 1. TITLE: This Ordinance shall be known and may be cited as the Ordinance to Regulate Operation and Parking of Vehicles of the Town of North Berwick Maine.

SEC. 2 AUTHORITY: This Ordinance is adopted by the Selectmen pursuant to Title 30 Section 2151(3) of the Maine Revised Statutes Annotated.

SEC.3. PURPOSE: This Ordinance is designed to control operation and parking of vehicles in the Town of North Berwick, Maine.

SEC.4. . INTENT: The Selectmen of North Berwick Maine intend to maintain in said Town suitable parking signs and marking indicating time, manner, and place of parking motor vehicles in accordance with the ordinance, and such additional signs and markings as they deem necessary to control and direct traffic and parking within the municipality. No person shall park of leave motor vehicles unattended contrary to this ordinance and such signs and/or marking. This ordinance shall be deemed to be in addition and supplementary to, and not in conflict with nor a repeal of, prior or existing ordinances or articles of the Town of North Berwick, but shall be an additional provision for the regulation of traffic and parking in these zones and areas provided for herein.

ARTICLE II DEFINITIONS

SEC. 1 DEFINITIONS:

(a) VEHICLE - Every device in upon or by which any person or property is or may be transported or drawn upon a highway, including but not limited to motorized vehicles.

(b) MOTOR VEHICLE - Every vehicle which is self propelled but not operated on rails.

(c) AUTHORIZED EMERGENCY VEHICLE - Vehicles of the Fire Department, Police Department, ambulances and emergency vehicles operated for municipal business.

(d) BICYCLE - Every device propelled by human power upon which a person may ride, having
two tandem wheels, including any device generally considered as a bicycle.

(e) TRAFFIC - Pedestrians ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any street for purposes of travel.

(f) RIGHT OF WAY - The privilege of immediate use of the roadway.

(g) STOP - Complete cessation of movement.

(h) PARK - When prohibited means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually unloading or loading.

(i) ANGLE PARKING - The motor vehicle shall be parked obliquely to the curb with the right wheel resting at the curb.

(j) PEDESTRIAN - Any person on foot.

(k) DRIVER - Any person who drives or is actually in control of a vehicle.

(I) STREET, HIGHWAY, OR ROADWAY - That portion of a public way open to the public for the use of vehicular traffic,

(m) DRIVEWAY OR PRIVATE ROAD - Every way or place in private ownership and. used for vehicle travel by the owner but not of other persons.

(n) SIDEWALK - That portion f a street between the curb or ditch and the adjacent property lines intended for the use of pedestrians.

(o) INTERSECTION - The area embraced within the prolongation or continuation of the lateral side lines of two highways which join one another.

(p) THROUGH STREETS - Every street or highway so marked by appropriate STOP SIGNS.

(q) UFFICIAL TRAFFIC SIGNS - All signs, signals, marking and devices placed or erected by officials having jurisdiction for the purpose of regulating, warning or guiding traffic.

ARTICLE III ENFORCEMENT

SEC. 1 AUTHORITY OF POLICE DEPARTMENT: It shall be the duty of the North Berwick Police Department to enforce this ordinance.

SEC. 2 ORDERS TO BE OBEYED: No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer.

SEC. 3 REPORTING VIOLATIONS: It shall be the duty of the Police Officers of North Berwick, acting in accordance with instructions issued by the Chief of Police to report:

a. The State Vehicle Registration number of the vehicle in violation.

b. The date and time such vehicle is parked in violation of any of the provisions of this ordinance.

c. Any other facts, the knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

d. Each officer shall also attach to such vehicle in violation a notice to the owner or operator thereof, that such vehicle has been parked in violation of a provision of this ordinance and instructing such owner or operator to report to the police station in regard to such violation.

ARTICLE IV EMERGENCY VEHICLES

SEC. 1 EXEMPTION TO EMERGENCY VEHICLES: The provisions of this ordinance shall not apply to authorized emergency vehicles as defined in this ordinance while the driver of such vehicle is operating the same in the necessary performance of public duties.

ARTICLE V THROUGH STREETS

SEC. 1 THROUGH STREETS DESIGNATED: All streets on which have been erected stop signs per order of the Selectmen or the Maine Department of Transportation shall be considered to enter upon through ways.

ARTICLE VI PARKING

SEC. 1 METHOD OF PARKING: The Owner or Operator shall not park or leave unattended any vehicle on any street or highway in violation of the provisions of this ordinance, or any amendment thereof. All parking shall be parallel to curb unless otherwise specified. Angle parking, as defined in this ordinance, may be used where specified.

SEC. 2 OBEDIENCE TO SIGNS OR MARKINGS: No person shall park or stand a vehicle other than in manner indicated by official markings or signs.

SEC. 3 GENERAL PARKING REGULATIONS: It shall be unlawful for the owner or operator of any vehicle to park or leave unattended any vehicle at the following locations:

a. On sidewalk and foot crossings.
b. In front of a public or private driveway
c. Within 25 feet of street intersection
d. Within ten feet of hydrant
e. Along side or opposite a street or highway excavation.
f. On the roadway side of any vehicle stopped or parked parallel to the ditch or curb.
g. With the left of the vehicle adjacent to the ditch or curb.
h. Upon any place where official signs or markings prohibits stopping or parking.

SEC. 4 SPECIAL PARKING REGULATIONS: It shall be unlawful for the owner or operator of any vehicle to park or leave unattended any vehicle at the following locations:

a. The East and West side of Elm Street (Route 4), between the intersection of Madison Street, northerly to New England Telephone pole #7 (North Berwick lumber) as designated by the signs reading “No Parking”.

b. The East and West Side of High Street between the intersection of Wells Street (Route 9) northerly to the Hurd School.

c. The East and West side of Lebanon Road between the intersection of Route 4 northerly to the old school driveway as designated by the signs reading “No parking”.

d. The North and South Side of Wells Street between the intersection of Route 4 easterly to Market Street.

e. The North and South side of Madison Street between the intersection of Market Street westerly to Maple Ct as designated by the signs reading “No Parking”.

f. The east side of Main St between the town/school administration building driveway northerly to Wells St (Route 9) as designated by the signs reading “No Parking”.

g. The west side of Main St between the Cumberland Farms Plaza northerly to Wells Street (Route 9) as designated by the signs reading “No Parking”.

h. The entire east side of Market St. and the west side of Market St. between the intersection of Madison St. northerly to Wells Street (Route 9) as designated by the signs reading “No Parking”.

i. Any side of the Memorial triangle at Main and Market Sts.

j. The east and west side of Mcrril Mills Road between the intersection of West Road #2 northerly to Valley Road as Designated by the signs reading “No Parking”.

k. The southern side of Church Street.

l. The east and west side of Burma Road.

SEC. 5 DOUBLE PARKING: No operator or owner shall park or leave unattended any vehicle in any manner which causes two or more vehicles to be parked or left abreast in a double parked manner.

SEC. 6 EXEMPTIONS: This Article shall not apply to Police, fire, rescue, highway department, and funeral vehicles whether official, or private vehicles used at that time in conjunction with official business of police, fire, rescue, highway, or funeral business. The Selectmen may issue special designated permits to events that may necessitate a need for special parking. Such permits shall be granted after consultation with the Police Chief, Fire Chief, or their designees.

SEC. 7 OVERTIME PARKING: The owner or operator of any vehicle shall not park or leave unattended any vehicle in defiance of any posted time restricted parking.

SEC. 8 ALL NIGHT PARKING No vehicle shall be parked on the west side of Market Street from the Fire Station to Kennebunk Savings Bank between the hours of 12 o'clock midnight and 6:00 o'clock a.m. No vehicle shall be parked on any street in the Town of North Berwick between the hours of 12 o'clock midnight and 6:00 o'clock a.m. from November 1st through March 31st. This regulation shall not apply to physicians on emergency and professional calls. No vehicle shall be parked at any time on a public way in such a manner as to interfere with snow plowing or snow removal.

SEC. 9 PARKING NEAR FIRE HYDRANTS DURING FIRES: No vehicle shall be parked within 100 feet of a fire hydrant being used at a fire.

SEC. 10 FACING DOWN HILL: When vehicles are parked or left unattended facing downhill, the front wheels shall be turned toward the curb and the emergency brake shall be locked on.

SEC 11 OBSTRUCTING TRAFFIC: No vehicle shall be parked or left unattended on any street or highway in such a way as to obstruct traffic or to create a traffic hazard

SEC. 12 PARKING ON STREETS NOT MARKED: On all streets in North Berwick upon which no parking signs or street markings appear regulating parking, parking shall be at the right curb or side and parallel to the street.

SEC. 13 PARKING FEE: To establish a uniform fine assessment and collection procedure for violations of this ordinance pertaining to prohibited vehicle parking provisions, the following fine assessment is established: Any violation shall be assessed a $10.00 fee payable to the Police Department. If the fine is not paid within 30 days form the date of the violation, the amount due will be $20.00. If the fine is not paid within 45 days from the violation, the legally registered owner may be summoned to the 10th District Court in Springvale, Maine, to answer to a complaint of violation of this ordinance. In a court action resulting from the violation of this ordinance, the amount of the fine may be increased by the presiding judge at his discretion to cover the additional municipal costs resulting

from court action and to prevent future violation of the ordinance by the individual in question.

ARTICLE VII

SEC. 1 SEPERABILITY: The invalidity of any provision or portion of this ordinance shall not invalidate any other part.

ARTICLE VIII BICYCLES

SEC. 1 RIDING ON SIDEWALKS: No person shall ride or propel a bicycle on the sidewalk in the business section; nor on any other sidewalk adjacent to a street except in a prudent manner and at a reasonable rate of speed, yielding the right of way to pedestrians and giving audible signal of approach.

ARTICLE IX PENALTIES

SEC. I PENALTIES FOR VIOLATIONS: Whoever violates any of the foregoing ordinance except Article VI shall, upon conviction, be punished by a civil penalty not more than $_____. The Maine District Court shall have jurisdiction of all offenses hereunder.

ARTICLE X REMOVAL

SEC. 1 VEHICLES MAY BE REMOVED Members of the Police Department and Highway Department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety under circumstance hereinafter enumerated at the expense of the Owner:

a. Any vehicle unattended left upon any bridge when such vehicle constitutes an obstruction to traffic.

b. When a vehicle upon a roadway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

c. When any vehicle is left unattended upon a street or highway and is so parked illegally as to constitute a violation of this ordinances or constitute a definite hazard or obstruction to the normal movement of traffic.

d. When a vehicle is parked on a public way in a manner that interferes with snow plowing or snow removal.

ARTICLE XI TITLE

SEC. 1 This ordinance may be known and cited as THE ORDINANCE TO REGULATE TRAFFIC IN THE TOWN OF NORTH BERWICK and it shall supersede all Previous traffic ordinances.

WASTE DISPOSAL FACILITY LICENSING ORDINANCE

OF NORTH BERWICK, MAINE

MARCH 12, 1988

Board of Selectmen
North Berwick, Maine

Attest:

A true copy of an ordinance entitled "Waste Disposal Facility Licensing Ordinance of North Berwick" as certified to me by the municipal officers of North Berwick on the 29th day of February, 1988.

Janet E. Belmain
Town Clerk
North Berwick, Maine

WASTE DISPOSAL FACILITY LICENSING ORDINANCE

TOWN OF NORTH BERWICK

Article 1. Purposes

1.1 To provide the Town of North Berwick with a means of overseeing the activities of waste disposal facilities to ensure that they comply with regulations the Town deems essential to protect the health, safety, and welfare of its residents and natural resources of the Town pursuant to Title 30, M.R.S.A. § 1917, 383, 1310.

1.2 To protect air, surface and groundwater resources of the Town of North Berwick from contaminants which can reasonably be expected to accompany the activites of waste disposal facilities and thereby to preserve the quantity and quality of these resources for present and future use.

Article 2. Definitions

2.1 Board: The Planning Board, in conjunction with Department heads, Chairmen of districts, departments, and other Municipal Boards, appointed by the North Berwick Board of Selectmen.

2.2 Disposal: The discharge, deposit, injection, dumping, leaking, spilling, or incineration of any waste into or on any land or water so that the waste or any constituent thereof may enter the envioronment, be emitted into the air, or discharged into any waters, including groundwaters. After ten days of being placed into or on any land or water, a waste shall be considered disposed of for purposes of this ordinance.

2.3 Expansion: Any change in size or operation of a licensed facility. Examples of expansions include but are not limited to: an increase in the volume of waste processed annually; an enlargement of the land area affected; an increase in height of the facility; implementation of new technologies that affect processing.

2.4 Hazardous waste: As defined in 38 M.R.S.A. § 1303 (5), means a waste substance or material, in any physical state, designated as hazardous by the Board of Environmental Protection under 38 M.R.S.A. § 1303-A. It does not include wastes resulting from normal household or agricultural activities.

2.5 Liquid waste: Any free-flowing, semi-solid, or liquid waste generated by a municipal, commercial, or industrial wastewater treatment facility, water supply treatment plant, air pollution control facility, manufacturing facility or any other such waste having similar characterisitcs and effect which is not licensed for discharge under 38 M.R.S.A. § 414.

2.6 Recyclable waste: Materials which are segregated from solid waste and salvaged for alternate use or re-use by the generator or a third party, including but not limited to glass, metal, cardboard, paper, plastics, and by-products of manufacturing, processing, or packaging processes.

2.7 Septage: Waste, refuse effluent, sludge and may other materials from septic tanks, cesspools, or similar facilities.

2.8 Sludge: Processed septage free of any coliforms from any licensed treatment facility.

2.9 Solid waste: Useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material, and landscape refuse, but shall not include septage, sludge or agricultural wastes.

2.10 Special waste: Any non-hazardous waste generated by sources other than domestic and typical commercial establishments that exist in such an unusual quantity or in such a chemical or physical state, or any combination thereof which may disrupt or impair effective waste management and thus require special handling, transportation, and disposal procedures. Special wastes include:

A. Oil, coal, wood and multi-fuel boiler and incinerator ash;
B. Industrial waste and industrial process waste;
C. Waste water treatment plant, papermill, and other sludge wastes;
D. Debris and residuals from non-hazardous chemical spills and clean-up from such spills;
E. Contaminated soils and dredge spoils;
F. Asbestos and asbestos-containing wastes;
G. Sand blast grit and paint wastes;
H. Hospital and other potentially infectious or pathogenic wastes;
I. High and low pH wastes;
J. Spent filter media and residue.

2.11 Waste: This term shall include hazardous waste, solid waste, liquid waste, special waste, sludge, and septage. This term shall not include domestic waste disposed of in subsurface wastewater disposal systems which meet the State of Maine Subsurface Wastewater Disposal Rules.

2.12 Waste disposal facilty: Any land area, structure, location, equipment or combination thereof used for the disposal of waste. A land area or structure shall not be considered a waste disposal facility solely because:

a. It is used by its owner for disposing of septage from his residence;
b. It is used by an individual homeowner or lessee to open burn leaves, brush, dead wood, and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted pursuant to Title 38, M.R.S.A. § 599 (3);
c. It is used by its residentail occupant to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted pursuant to 38 M.R.S.A. § 599 (3);
d. It is used for sludge spreading under a program which meets the standards of the Maine DEP's Rules for Land Application of Sludge and Residuals and is approved and permitted by the Maine Department of Environmental Protection.

Article 3. Licensing

3.1 No person, firm, or corporation shall construct or operate a waste disposal facility within the municipality without obtaining a license from the town. Therefore, the disposal of any solid waste, liquid waste, hazardous waste, special waste, septage or sludge (hereafter referred to as "waste") is strictly prohibited except at the site of waste disposal facilities which

have secured all applicable federal, state and local licenses and permits. All recyclable wastes used for agricultural purposes will be subject to DEP standards and reviewed on an individual basis by the Planning Board.

3.2 Said license shall not be transferred without prior written approval of the Board where the purpose and consequence of the transfer is to transfer any of the obligations of the holder of the license as incorporated in the license. Such approval shall be granted only if the transferee demonstrates to the Board that the transferee has the technical capacity and financial ability to comply with conditions of the license and the proposals, plans, and supporting d cuments contained in the application for license.

3.3 The license shall be posted on the premises.

3.4 All licenses shall expire three (3) years from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this ordinance. It shall be the responsibility of the licensee to reapply for license renewal in a timely manner. A licensee applying for license renewal may continue to operate the waste facility while the application is pending, provided said licensee applied for license renewal in a timely manner. Upon reapplication for license renewals, licensees will be subject to comply with new technology as it pertains to specific landfill/incinerator sites.

3.5 Once a site has been licensed, there shall be no expansion under that license. Any expansion shall be considered a new application, and shall be treated as such, requiring a complete process review. If expansion is intended at a future date, this intent must be stated at time of initial filing for a permit.

3.6 Waste disposal facilities in full operation on the effective date of this ordinance may continue in operation for a maximum period of three years while implementing the provisions of this ordinance. The owner/operator of an existing waste disposal facility shall appear before the Board within 180 days of passage of this ordinance to provide information on future plans for the facility. A license shall be issued for the normal license term of three years. Renewal of this license shall be contingent upon a showing that the facility complies with the terms of this ordinance.

Article 4. Applications:

4.1 The applicant shall have the burden of proof that the facility is in compliance with the requirements of this ordinance.

4.2 An application for a new license shall be submitted to the Board, including the following information:

a. The name and address of the applicant; the names and addresses of any persons or entities associated with the applicant for the purpose of waste disposal, past and present; the names and addresses of any waste disposal facilities with which the applicant is currently or has previously been involved.
b. A complete history of professional performance in past operations related to waste management or disposal.
c. A complete copy of the application submitted to the Maine Department of Environmental Protection under the requirements of the Site Location of Development Rules (chapter 400 et seq.) and DEP's Solid Waste Managment

Rules (chapter 400 et seq.). This copy shall include all submissions required under Chapter 372 et seq. of the Site Location of Development Rules and Chapter 400 of the Solid Waste Management Rules.

d. If not included in 4.2.b, a description of methods to control leachate generation and movement.
e. If not included in 4.2.b, plans for final closure of the facility and post-closure maintenance of the site, including information on the timing of closure, cover materials to be used, frequency of maintenance following closure, and methods to control methane generation and movement.
f. Plans for an alternate water supply to replace private wells which could be affected by the disposal facility, including proof of the availability of an alternate source of supply, and estimates of the cost to develop this alternate supply (as outlined in Article 8.2).
g. General characterization of wastes proposed for disposal; estimate of the proportions of different types of waste proposed for disposal; compatability of different wastes with each other; compatability of wastes with the liner.
h. A description of emergency response measures planned for fires, explosions, and any other event which could reasonably be expected to occur at the facility;
i. Any plans for future expansion.

The Board shall, within no more than 45 days of receiving a license application, notify the applicant whether the application is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of the specific information necessary to complete it. In reviewing applications determined to be complete, the Board may require additional relevant information which is necessary to determine whether the proposed facility fulfills the purpose of the ordinance and its specific standards of review, as listed in Article 5.2.

4.3 An application for a new license shall be accompanied by a fee of 2% of the estimated construction cost of the waste disposal facility. Construction cost, defined as the cost to design, engineer, and construction of the waste disposal facility including all on- and off-site improvements, shall be estimated by the design engineer and approved by the Board or its agent. Such fee shall be used by the Board to hire engineers, geologists, planners and/or any other experts necessary to assist with proposal review. Any accumulated interest on the fee may also be used by the Board for such purposes. The unexpended balance on the account shall be returned to the applicant after a final decision on the application is rendered. An application for a license for an existing facility or for a facility which will not involve construction shall be accompanied by a fee of 2% of the fair market value of the land and facility.

4.4 An application to renew a license shall be submitted to the Board accompanied by a fee of $2,000.00, payable to the Town, a written report on the facility's operation since the previous license was issued demonstrating the facility's continuing compliance with the ordinance, any documents showing changes in other state or federal licenses, and any groundwater monitoring results from the previous license period.

4.5 Once a facility has been licensed, it shall not expand under that license. Any expansion shall be considered a new application and shall undergo a complete process review.

Article 5. Procedures:

5.1 A hearing shall be held by the Board within 180 days of the receipt of a complete application for a new license or 90 days for a license renewal or modification. When considering an application for a new license, license renewal, or license modification, the Board may extend this period to no more than 360 days if more time is necessary to conduct a thorough review of the application. At the hearing, the Board shall receive evidence on the location and operation of the proposed facility, including but not limited to: location and design, volume of traffic generated, condition of screening, proximity of residences to the site, proximity of drinking water wells, adequacy of methods to control leachate generation and movement, adequacy of methods to control methane generation and movement, compatability of liner and wastes, emission control, and other factors relevant to the proposed facility and its operation.

5.2 Within thirty (30) days of the hearing, the Board shall issue, renew, or modify a license only if, based on clear evidence, it makes the following written findings:

1. The proposed facility meets the specific requirements set forth in this Ordinance;
2. Adequate provision has been made, utilizing best available proven technology, for the containment and treatment of leachate and the prevention of ground and surface water contamination;
3. Wastes proposed for disposal are compatible with each other and with the construction of waste facility;
4. The proposed use will provide adequate access for emergency vehicles to the site and buildings on the site;
5. The provisions for buffers and on-site landscaping adequately protect neighboring properties from detrimental features of the facility which cannot be avoided by reasonable modification of the plan;
6. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare, or other causes which could be avoided by reasonable modification of the plan;
7. Adequate provision has been made for routing truck traffic through the town in a manner which will not create safety hazards;
8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;
9. Adequate provision has been made, utilizing best available technology, to control erosion and sedimentation;
10. Appropriate provision has been made to control stormwater runoff or other drainage problems on the site;
11. Adequate provision has been made for the transportation, storage, and disposal of hazardous materials as defined by state law;
12. The proposed facility will not have an adverse impact on significant scenic vistas, significant wildlife habitat, or significant wetlands as identified in the Comprehensive Plan;
13. The closure plan and long-term maintenance plan provide adequate protection that the waste disposal facility will not create future health or safety hazards.

The Board shall issue a written report stating its findings of fact, its decision, the reasons for its decision, and, if a license is issued, any conditions attached to the license. Upon consideration of the factors listed above, the Board may attach such reasonably necessary conditons to a license as it finds necessary to fulfill the purposes of this ordinance.

5.3 Except where otherwise stated in this ordinance, a license shall not take effect until the applicant has secured and complied with all applicable federal, state, and local licenses and permits.

Article 6. Performance Standards

6.1 The facility shall comply with all operational and performance standards included in the Maine DEP's Solid Waste Management Rules (chapter 400 et seq.).

6.2 The facility shall provide a landscaped buffer strip to visually screen the use, where no natural vegetation can be maintained due to verying site conditions, the landscaping may consist of fences, walls, tree planting, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, waste collection and disposal areas. The buffer areas shall be maintained and vegetation replaced to ensure continuous year-round screening.

6.3 Finished height of each landfill cell shall not exceed 3 feet above original topography.

6.4 Access to the disposal site shall be strictly controlled, and all access roads to public or private ways shall be secured when the facility is not open for operation to ensure that unauthorized or unsupervised disposal does not occur.

6.5 The operator shall continuously supervise the unloading of refuse to ensure that only permitted wastes are handled at the facility. The operator shall maintain a record of every vehicle which brings waste to the facility, including the following information:

a. name of driver;
b. name of person, firm, or corporation which owns the vehicle;
c. license plate of vehicle;
d. type/characterization of waste; and
e. source and origin of waste.

Article 7. Performance Guarantees

7.1 The Board may, as a condition of the license, establish any reasonable requirements to ensure that the owner has the ongoing technical ability to meet state air and water pollution control standards, such as:

a. Require the owner to employ a capable engineer or other professional who is sufficiently knowledgeable and experienced in the disciplines necessary to ensure that state air and water pollution control standards are met continuously during operation of the facility.

b. Require a training program for the appropriate personnel to ensure proper installation, operation, and maintenance of pollution control equipment, and proper operation of the facility.
c. Require provision for an independent consultant to conduct on-site inspection at any time, at the developer's expense, to ensure proper execution of plans as approved, including any conditions imposed by the Board.

If an independent consultant is required by the Board, the developer shall establish an account, in an amount to be determined by the Board, to provide for the hiring of engineering, geological, or other expertise to monitor and inspect construction of the facility. The unexpended balance on the account shall be returned to the applicant.

7.2 The owner must submit with his application proof of adequate provision for accidental occurrances during the active life of the facility and for a reasonable period following closure. This provision can consist of either (a) liability insurance, or (b) establishment of a trust fund, which shall be equivalent in coverage or dollar amount to the cost of installing or extending an alternate or replacement water supply to serve the area susceptible to contamination by landfill leachate and meeting the requirements listed in 8.2.a and 8.2.b. A certified geologist shall identify and map the area susceptible to contamination by the waste disposal facility based on local groundwater flow patterns, directions of flow, volume of water present and other relevant factors. Geologists and engineers shall identify and provide proof of the availability of an alternate water source adequate in amount to supply the susceptible area, and shall provide an estimate of the cost of providing this area with a replacement water supply.

a. Liability insurance shall provide coverage equivalent in amount to the cost of providing a public water supply as set forth in 7.2. This coverage shall meet the following criteria:

1. Coverage must be provided for sudden and accidental occurences during active life and for a reasonable period following closure.
2. Coverage must be provided for non-sudden and accidental occurences during active life and for a reasonable period following closure.
3. If a liability insurance policy is written as a "claims made" policy, an endorsement must provide for a discovery period of at least twelve months beyond the date of expiration or cancellation of the policy. The endorsement must also provide that the underwriter will notify the public in the following manner:

   At least sixty days, but no more than ninety days, prior to the date upon which the policy will expire or be cancelled, give written notification to all owners of property abutting the facility and to the chief elected official of the Town, that insurance for the facility will expire or be cancelled, give date of expiration or cancellation, and that claims against the insured must be filed within 12 months from the date of expiration or cancellation, specifying where and how claims can be filed.

b. A trust fund shall meet the following criteria:

1. The total cost to provide a replacement water supply for the susceptible

area shall be divided by the total estimated volume of waste to be handled by the facility over its lifetime to determine a per unit of volume contingency fee. Prior to opening the facility, the owner shall deposit a minimum of 10% of the total cost of the replacement water supply in the trust fund. After opening the facility, the owner shall deposit monthly into the trust fund the fee per unit of volume multiplied by the total volume received duirng the previous month, until such time as the total amount necessary to provide the replacement water supply has accumulated in the fund.

2. The trust fund shall be administered jointly by the owner and the town.
3. The trust shall be handled by a trust company which manages no less than $200 million worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "prudent man" standard of investment. Real estate investments are prohibited. Accumulated interest shall be re-invested in the fund.
4. The cost of installing a replacement water supply shall be re-evaluated annually and the per unit of volume contingency fee adjusted to reflect changes in actual costs and inflation as a condition of the license.
5. The trust fund shall be reserved for 20 years after final closure of the facility. At that time, a portion of the trust fund shall be allocated for a detailed assessment of the facility's present and estimated future impact on groundwater quality, based on a comprehensive groundwater quality testing program. Fund administrators shall formulate a long-term groundwater management plan based on the results of assessment and the recommendations of the qualified geologist or engineer experienced in hydrogeology who conducted the assessment and shall distribute or maintain the funds in accordance with the aforementioned plan.

7.3 For all facilities proposing on-site disposal of waste, the owner shall establish a closure/post-closure trust fund adequate in terms and amount to assure a closing of the site at the end of its useful life in accordance with all state and federal requirements and maintenance of the site subsequent to its closure. The total amount of the trust fund shall be based upon a registered Professional Engineer's estimate, approved by the Board or its agent, of closure costs and post-closure maintenance costs. The owner or operator shall pay into this fund according to the following requirements:

a. The total estimated closure cost and an endowment sufficient in amount to generate in interest the annual post-closure maintenance cost, plus a 10% contingency, shall be divided by the total estimated volume handled by the facility over its lifetime to determine a per unit of volume closure fee. The owner/operator shall deposit monthly into the trust fund an amount equal to the per unit of volume closure fee multiplied by the volume deposited in the landfill during the previous month, until such time as the total amount necessary for closure and long-term maintenance has accumulated in the fund. Estimated closure and post-closure maintenance costs and total landfill capacity shall be reassessed annually and adjusted to reflect current conditions as a condition of the license.
b. The trust fund shall be administered jointly by the town or an agent approved by the town and the owner.
c. The trust shall be handled by a trust company which manages no less than $200 million worth of funds. Funds in the account shall be invested in SEC-approved securities only, using the "Prudent man" standard of invest-

ment. Real estate investments are prohibited.

d. The trust shall remain active for a minimum of 20 years following closure to cover long-term maintenance costs. At the end of the twenty years, an assessment shall be made of the integrity of the cap and the need for future maintenance. Fund administrators shall formulate a long-term management plan based on the results of the assessment and the recommendations of the the qualified engineer experienced in hydrogeology who conducted the assessment, and shall distribute or maintain the funds in accordance with the aforementioned plan.

7.4 The requirements of Article 8 may be waived if the Board makes written findings that alternative performance guarantees proposed by the applicant are adequate, appropriate, and fulfill the purposes of this ordinance.

Article 8. Right of entry

8.1 Any duly authorized representative or agent of the Town may, upon presentation of appropriate credentials, at any reasonable time, enter and inspect the facility, obtain samples of any waste, inspect and copy records, reports, information, or test results realting to the disposal of solid waste, take photographs, or other actions necessary to ensure complaince with the ordinance.

8.2 An agent or representative of the Town shall be permitted to independently sample monitoring wells installed around the landfill.

Article 9. Enforcement

9.1 All rpovisions of this oridnance are enforceable by duly authorized Police Officers, the Code Enforcement Officer, the Municipal Officers or their agents.

9.2 Any person who violates any provision of this ordinance is subject to fines as provided in Article 11.

Article 10. Revocation of a license

10.1 Any license issued herein may be suspended, subsequent to notification procedures listed in 10.2, or by order of the Police, Code Enforcement Officer, or Municipal Officers for the following causes:

a. Violation of this ordinance.
b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly tot he provisions of this ordinance.
c. Violation of any license conditions.
d. Falsehoods, misrepresentations, or omissions in the license application.
e. Failure to construct or operate the facility in accordance with the plans.
f. Failure to meet air and water pollution control standards.

10.2 Whenever the Municipal Officers or Code Enforcement Officer determine that a violation has occured by virtue of one of the conditions listed in 10.1.a - 10.1.f, they shall give written notice of such violation to the person, firm or corporation responsible.

a. The citation shall include a description of the violation and shall allow reasonable time for remedial action.

b. The citation may contain an outline of remedial action, which, if taken, will effect compliance.

c. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or license suspension pursuant to the provisions of this ordinance.

10.3 If the violator does not meet the terms of the citation, the Municipal Offiers, Code Enforcement Officer, or Police shall, after due notice, a public hearing, and a finding that any of the conditions or the provisions of this ordinance have been violated, notify the license holder in writing of the suspension of the license.

10.4 The Municipal Officers, Code Enforcement Officer, or Police may issue an emergency suspension of a license if continued oeration of a facilty poses a clear and present danger to the public health, safety, and welfare. An emergency suspension may be issued for a maximum of 14 days until such time as a hearing before the Board may be held.

10.5 The person, firm or corporation whose license has been suspended is entitled to appeal to Superior Court.

Article 12. Penalties

12.1 Any person, firm, or corporation violating any of the provisions of this ordinance or any conditions of the license, shall upon conviction be punished by a minimum fine of $1,000 and a maximum fine of $10,000 for a first offense. If not corrected within 30 days, a violation shall be considered a continuing violation and shall be fined a minimum fine of $5,000 and a maximum of $50,000 per day. Reasonable attorney's fees and court costs incurred by the Town in prosecuting a violation shall be awarded to the Town if the Town is the prevailing party.

Article 13. Severability

13.1 The provisions of this ordinance shall be severable and if any portion of it shall be held invalid, the remainder of this ordinance and its application thereof shall not be affected.

Article 14. Conflicts

14.1 If any provision of this ordinance conflicts with any provisions in another municipal ordinance or state statute, the stricter provision shall apply.

Article 15. Appeal

15.1 An aggrieved party may appeal any decision under these regulations to Superior Court.

Town of North Berwick, Maine

Zoning Ordinance

Revised April 6, 2013

A View of Debtone Farm

NOTICE

This is to advise all persons that the Town of North Berwick Maine has adopted the Building Officials and Code Administrators (BOCA), Basic National Building Code, the BOCA National Property Maintenance Code and the Life Safety Code, NFPA 101. The more stringent of these codes, plus all subsequent revisions of that code, plus the Maine State Plumbing Code and all other state laws and regulations, shall be met.

NORTH BERWICK ZONING ORDINANCE

Adopted by Town Vote: March 11, 1978

Revised by Town Vote:

March 10, 1979
March 8, 1980
November 4, 1980
July 28, 1981
March 13, 1982
March 30, 1982
March 12, 1983
March 10, 1984
November 6, 1984
March 8, 1986
March 14, 1987
July 30, 1988
March 11, 1989
March 12, 1990
June 2, 1990
June 22, 1991
June 20, 1992
June 19, 1993
September 16, 1995
May 18, 1996
April 26, 1997
April 25, 1998
April 24, 1999
April 29, 2000
April 28, 2001
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This publication is produced by the North Berwick Planning Board for the use of the citizens of North Berwick and applicants to the Board. If you find errors, omissions or have suggestions for improvement to this publication make them known in writing to North Berwick Planning Board, P.O. Box 422, North Berwick Maine 03906. The cost for this publication covers only the cost of printing.

This Zoning Ordinance was printed in April, 2013.

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ARTICLE 1 - GENERAL

1.1 Short Title

This ordinance shall be known and may be cited as the "Zoning Ordinance of North Berwick, Maine" and will be referred to herein as the "Ordinance."

1.2 Purposes

a. To promote the general welfare of the town;

b. To establish a fair and reasonable set of standards for evaluating each development proposal impartially, and on its own merits;

c. To provide local protection from those particular nuisances which are not governed by State law or regulations;

d. To help preserve the peaceful rural surroundings which make North Berwick an enjoyable place to live;

e. To balance the right of land-owners to use their land with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off, and other nuisances;

f. To encourage new development to be integrated harmoniously into the community;

g. To establish a local appeals system whereby aggrieved parties may appeal decisions to the Town's Zoning Board of Appeals under this ordinance;

h. To protect property values;

i. To reduce the adverse off-site impact of development thereby increasing the cost of municipal facilities, maintenance and improvement; and

j. To accomplish the above objectives with the least possible regulation.

1.3 Basic Requirements

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in North Berwick shall be in conformity with the provisions of the Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land or water area is located.

1.4 NON-CONFORMANCE

1.4.1 Purposes

The intent of the zoning ordinance is to regulate non-conforming lots, uses and structures. When non-conforming uses fall into disuse, the intent of these regulations is not to allow them to be reestablished after a 12 month period of dormancy. These regulations are designed for the betterment of the community and for the improvement of property values. The ordinance intends to be realistic so that:

a. non-conforming vacant lots of record can be reasonably maintained or repaired;

b. non-conforming uses can continue to be changed to other less non-conforming or to conforming uses.

1.4.2 Reserved for Future Use

1.4.3 General

a. **Continuance, Enlargement, Reconstruction**: Any use of land, or any building, structure, or parts thereof, legally existing at the time of the adoption of this Ordinance, or at any time a Zone is changed by amendment hereafter, which does not conform to the requirements of this Ordinance or its amendments, may continue, and may not be extended, reconstructed, enlarged or structurally altered except as specified below.

b. **Transfer of Ownership**: Ownership of lots, structures and uses that remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the non-conforming structure or lot, subject to the provisions of this Ordinance.

c. **Restoration or Replacement**: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernization that do not involve expansion of the non-conforming use or structure and where damage is less than 20% of the value of the entire structure; and such other changes in a non-conforming use or structure as Federal, State or Local building and safety codes may require.

d. **Major Damage** : Any non-conforming use or structure that is destroyed by any cause other than the willful act of the owner or his agent, or that sustains damage that exceeds 20% of the value of the entire structure by causes other than the willful act of the owner or his agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:

(1) any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Plumbing Code, and is within the existing lines of non- conformity; and

(2) any non-conforming use shall not be expanded in area.

e. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

1.4.4 Non-Conforming Uses

a. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

b. A Structure Non-Conforming As To Use: A building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated.

c. Internal Expansion: A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use before the adoption of the Ordinance, or of any amendment making such use non-conforming.

d. Expansions Within Shoreland Zone: Expansions of non- conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structure as permitted in Section 1.4.5 paragraph b(1).

e. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board.

f. Change of Use Within Shoreland Zones: An existing non- conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 1.4.5 paragraph (h).

g. Factors for the Determination in Change of Use: The determination of appropriateness for changing from one non-conforming use to another non-conforming use shall include consideration of the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or byproducts, fumes, odors, or nuisances likely to result from such changes of use. The performance standards in Article 5 of this Ordinance shall apply to such requests to establish new non-conforming uses.

h. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a parcel of land.

i. Discontinuance of Non-conforming Land and Structures: A non- conforming use of land that is incidental to or accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

j. Non-conforming Earth Removal Operations: In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required set-back lines.

1.4.5 Non-Conforming Structures: (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

a. Enlargements Controlled: A non-conforming structure shall not be added to or enlarged unless:

(1) Such addition or enlargement conforms to all the regulations now in effect for the zone in which it is located;

(2) Such addition or enlargement does not increase the non- conformity of the structure; or

(3) A variance is obtained from the Board of Appeals.

(4) The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a non-conforming structure. But the addition of a deck does constitute the expansion of a non-conforming structure and therefore the deck shall meet all the dimensional requirements of the Ordinance.

(5) The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure, so long as additional bedrooms are not located in the basement and the first floor space of the structure is not increased.

(6) Construction or expansion of a foundation under an existing dwelling that expands habitable space shall be considered an expansion and shall be subject to the State of Maine subsurface waste water rules requiring new soils documentation, if within 250 feet of the shoreline.

b. Enlargement Controlled in the Shoreland Zones:

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 1.4.5(b)(1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 1.4.5(g) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

(2) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in Section 1.4.5(b)(1)(a)(iii) and Section 1.4.5(b)(1)(a)(iv) above, may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

(a) The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland.

(b) A well-distributed stand of trees and other natural vegetation as defined in Section 5.2.17(n)(2)(b), extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property.

If a well-distributed stand of trees and other vegetation meeting the requirements of Section 5.2.17(n)(2)(b) is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or its designee, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet, horizontal distance, of the shoreline or tributary stream.

(c)Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.

(d)A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.

(i)Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.

(ii)Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland, Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

(3) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50 foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

(4) Filing and reporting requirements. Written plans required pursuant to Section 1.4.5(b)(1)(d) must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.

c. Revival of Conforming Use: Conforming use of the structure may be revived at any time.

d. Lack of Required Parking of Loading Space: A building or structure that is non-conforming as to the requirements for off- street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure.

e. Manufactured Housing: Manufactured homes that fail to meet the standards set forth in Section 5.2.12(c), which were lawfully established before the effective date of this Ordinance, shall be considered lawfully non-conforming and may be continued; may be maintained, repaired, improved and expanded; and may be moved to a different location on the same lot or parcel of land, provided that it meets all the setback requirements of this Ordinance after being moved, but may not be moved to another lot or parcel in the Town. Non-conforming manufactured housing may not be replaced by other non-conforming manufactured housing except that manufactured housing which is non-conforming because it is less than the minimum width required by the district in which it is located or because it fails to meet the standards in Section 5.2.12(c) may be replaced by manufactured housing that is at least 14 feet wide and that meets the standards in section 5.2.12(c).

f. Relocation Within Shoreland Zones: 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 sub-surface waste water 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.

(1) 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 property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish this relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

g. Reconstruction or Replacement Within the Shoreland Zones: 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 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 18 months 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 to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 1.4.5 paragraph b(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1.4.5 paragraph b(1)above.

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

(2) 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 1.4.5 (f) above, the physical condition and type of foundation present, if any.

h. Change of use of a Non-conforming Structure Within Shoreland Zones: 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.

(1) 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 other functionally water-dependent uses.

i. Change of Use of Historic Mill Buildings in the General Development Sub-District. Any 19th century mill building, designated as "historic" under a North Berwick Historic District Ordinance that is located in any part closer than 25 feet to the high water line within the Shoreland - General Development Sub- District shall be treated by the Planning Board with respect to any changes in non-conforming uses as follows:

(1) If all the waste water from the building is collected and treated by the municipal waste water system, changes in non-conforming uses may be permitted as outlined in subsection (2) below:

(2) Because in its former use as a manufacturing mill there were a large number of people working within the mill, conversion of the mill building to either retail, office, residential uses, or a mix of the said uses, shall be deemed by the Planning Board as not expanding the non-conforming use of the mill building. Except, any new residential use of the mill building after the effective date of this sub- section shall only be permitted if each dwelling-unit contains at least 400 square feet of floor space.

(3) Sub-section 1.4.5 (i) shall prevail over any conflicting requirements of Article 1.4.

1.4.6 Non-Conforming Lots

a. **Vacant Lots**: A non-conforming vacant lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of yard or other requirements not involving area or width shall be obtained only by action of the Zoning Board of Appeals.

b. **Built Lots**: A non-conforming lot that was built upon before the enactment or subsequent amendment of this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance must be obtained from the Zoning Board of Appeals.

c. **Contiguous Built Lots**: If two or more contiguous lots or parcels are in single or joint ownership of record before 10 March 1984, and parts of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size and the Maine Subsurface Waste Water Disposal Rules are complied with.

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

d. **Contiguous Lots-Vacant or Partially Built**: If two or more contiguous lots or parcels are in single or joint ownership of record as of 10 March 1984 and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if ~~two~~ one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet all dimensional standards, except where rights are vested.

1.4.7 Vested Rights

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permit, or an application for required state permits and approvals. Such rights usually arise when actual construction has begun, or, in the case of pending application commences. Such construction must be legal at the time it is commenced and the owner must have and be in compliance with all validly issued permits, both state and local.

1.4.8 Restoration of Unsafe Property

Nothing in this Ordinance shall prevent the strengthening or restoration to safe condition any part of any building or structure declared unsafe by the Building Inspector or Code Enforcement Officer.

1.5 GENERAL

1.5.1 Legal Authority

Adoption of this ordinance is pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001, the Zoning powers described in Title 30-A, M.R.S.A., Section 4503, and Title 30-A M.R.S.A., Section 4358, Regulation of Manufactured Housing. The Shoreland Zoning sections of this ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

1.5.2 Effective Date

a. Effective date of Ordinance and Ordinance Amendments: This Ordinance shall be known as the "Zoning Ordinance of North Berwick Maine" adopted and effective by vote of the Town meeting on 11 March 1978 and subsequent amendments adopted pursuant to this ordinance. The Shoreland Zoning Sections of this Ordinance shall not be effective unless approved by the Commissioner of the Department of Environmental Protection.

b. Repeal of Municipal Timber Harvesting Regulation: The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-A(5), the following provisions of this ordinance are repealed:

- Section 5.2.17(m) in its entirety; and
- Section 3.2 Definitions, the definitions of "forest management activities" and "residual basal area".

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards."

1.5.3 Amendments

This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town.

If an amendment is by petition, 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 Planning Board, once notified by the Selectmen that the Town Counsel's review is complete, shall within forty-five (45) days of initial receipt of a proposed amendment schedule a public hearing.

The Planning Board shall conduct a public hearing on any proposed amendment. After the Public Hearing, the proposed amendment shall be presented to voters at the Town Meeting so long as all requirements of 30-A MRSA section 4352 and the printing requirements for the Town Meeting have been met. If these requirements have not been met in time for an impending Town Meeting, the proposed amendment shall be scheduled for action at the next Town Meeting.

1.5.4 Validity and Severability

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

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

1.5.5 Repetitive Petitions

No proposed change in this Ordinance that has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within two years after the date of such unfavorable action, unless adoption of the proposed change is recommended by the Planning Board.

1.5.6. Fee Schedule

The Board of Selectmen shall by Order adopt a schedule of fees called for in this Ordinance. Prior to the adoption or revision of the fee schedule, the Board of Selectmen shall hold two public hearings. Notice of the public hearings shall be published in a newspaper of general circulation in the Town at least twice. The first notice shall be published no more than 30 days and no less than seven days in advance of the first hearing and the second notice shall be published no less than seven days in advance of the second hearing. A copy of the current fee schedule shall be kept n the office of the Town Clerk and made available to the public.

ARTICLE 2 - ESTABLISHMENT OF DISTRICTS

2.1 Zoning Districts

To implement the provisions of this Ordinance, the Town of North Berwick is divided into the following Districts:

a. Resource Protection District
b. Shoreland Limited Residential District
c. Shoreland - Stream Protection District
d. Shoreland - General Development I District
e. Village Center Overlay District
f. Village A District
g. Village B District
h. Village C Overlay District
i. Residential District 1
j. Residential District 2
k. Farm and Forest District
l. Commercial II District
m. Industrial District
n. Limited Commercial District
o. Aquifer Protection Zone A
p. Aquifer Protection Zone B

2.2 Location of Districts

Districts are located and bounded as shown on an Official Zoning Map entitled "Zoning Map of North Berwick, Maine", dated April 2001, and any other official zoning maps and overlays showing zoning boundaries. One copy of each official zoning map shall be signed by the Town Clerk and Planning Board Chair and filed in the Office of the Town Clerk. The Official Map shall be signed by the Town Clerk and Chairman of the Planning Board at the time of adoption or amendment and filed in the Town Clerk's Office. Additional copies of official zoning maps and overlays may be seen in the Selectmen's office.

2.3 Uncertainty of Boundary Location

a. Boundaries indicated as approximately following or being offset from the center lines of streets, highways, or alleys shall be construed to follow or be off-set from such center lines:

b. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;

c. Boundaries indicated as approximately following town limits shall be construed as following town limits;

d. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or bodies of water shall be construed to follow such center lines;

e. Boundaries indicated as being parallel to or extensions of features indicated in subsections (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

f. Where the physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsection (a) through (e) above, the Board of Appeals shall interpret the District boundaries using the tax maps annotated with the zoning districts.

g. 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 Residential or General Development I Districts need not be included within the Resource Protection District.

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(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 wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

(6) all land within 250 feet of each side of all watercourses designated on the North Berwick official zoning map or Shoreland Zoning Map.

(7) all land above the 700 foot elevation contour on Bauneg Beg Hill, and other land specifically shown on a map designated as the Town of North Berwick Shoreland Zoning Map, which is a supplement to the zoning map of the Town of North Berwick, Maine.

h. The Shoreland-General Development I District shall include the land 75 feet on either side of the normal high water line along the Great Works and Neoutaquet Rivers, horizontal distance, as mapped on the most recently adopted official zoning map that includes Shoreland Overlay Districts of North Berwick.

i. The Shoreland- 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 General Development I District. Limited Residential District shall include the land within two hundred fifty (250) feet, horizontal distance, of the normal high water line of Bauneg Beg Pond, including associated wetlands along the shoreline. If the 100 year flood plain extends further than 250 feet from the shoreline, then the Shoreland-Limited Residential District shall extend as far as the 100 year flood plain.

j. 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, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

2.4 Division of Lots by District Boundaries

2.4.1 Zoning District Boundaries: Where a Zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions of paragraph 2.4.2 below.

2.4.2 Extension of Use: Extension of use shall be considered a Conditional Use, subject to approval of the Planning Board and in accordance with the criteria set forth in Section 6.7.6 Factors Applicable to Conditional Use.

ARTICLE 3 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.1 Construction of Language

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

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

Terms not defined shall have the customary dictionary meaning.

3.2 Definitions

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

Abutting Land: "abutting land" means real estate which shares a common boundary, or portion of a boundary, with land that is held in common ownership by an applicant to the Board when the abutting real estate is within 500 feet of the land being considered. Abutting land includes, but is not limited to, land separated by a road and within 500 feet of land that is held in common ownership with land being considered.

Accessory structure or use: a use or structure that is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof of a common wall is considered part of the principal structure.

Affordable Housing: Means decent, safe and sanitary dwellings, apartments or other living accommodations for low-income and moderate- income households. The Maine State Housing Office of Community Development in consultation with the Maine State Housing Office shall define "affordable housing" by rule. Affordable housing includes, but is not limited to:

a. Government assisted housing;
b. Housing for low-income moderate-income families;
c. Manufactured housing;
d. Multifamily housing; and
e. Group and Foster Care facilities.

Aggrieved party: an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

Alteration: any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

Amusement Center: any private commercial premise which is maintained or operated for the amusement, patronage, or recreation of the public, containing four (4) or more pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs or whether activated through remote control by the management.

Animal breeding and care: The keeping and raising of animals including but not limited to fowl, for any non-commercial use. This term shall not include Household pets.

Animal Husbandry: the keeping and raising of animals, including fowl, for sale or for any commercial use. This definition also includes kennels.

Apartment: see "Dwelling Unit", "Living Unit", "Multi-Family Dwelling".

Auto Service Station: a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Automobile Graveyard: a yard, field or other open area used as a place of storage for 3 or more unregistered, unserviceable, discarded, worn- out or junked motor vehicles, including all vehicles which can not pass the State inspection test in their existing condition or are otherwise inoperable.

Automobile Sales: a yard, field or other open area used for the sale of more than four (4) vehicles in a twelve (12) month period. All vehicles owned and registered by that person for at least six (6) months are not included in this definition.

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

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

Bed and Breakfast: a State licensed facility offering three or more rooms for overnight stay to the general public. A full or continental breakfast is included however **no** evening meal is offered

Billboard: a sign, structure or surface larger than thirty-two (32) square feet, which is available for advertising purposes for goods or services.

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

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

Bottle Club: an establishment where no alcoholic drinks are sold, but where members, guests or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership to the bottle club and/or for "set-ups".

Building: a structure for the support, shelter, or enclosure of persons, animals, goods, or property of any kind. Building shall not include shipping containers.

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

Business Enterprise: is an activity which is conducted primarily on the customer's or client's property by tradesmen/professionals, including but not limited to carpenters, plasterers, brick layers, electricians, plumbers, general excavators, builders, paving contractors, landscaping, snow plowing, commercial lawn care, catering, and by those involved in "Essential Services" as defined elsewhere in the Ordinance. Business Enterprise does not include personal services as defined in "Personal Services".

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

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

Category 3 survey: A survey done by a registered land surveyor, comparable to a mortgage loan inspection survey, which verifies that property boundaries can be located, and which accurately shows the location of all buildings. The survey is sufficiently detailed to show that all zoning requirements are met, and includes an examination of the current deed of the parcel.

Cellar: a portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

Channel: a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Club: any voluntary association of persons organized for social, religious, benevolent, recreational, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and not the general public; and not generally engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Code Enforcement Officer: a person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

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

Conditional Use: a use permitted only after review and approval by either the Planning Board or Code Enforcement Officer. A conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. These uses may be permitted if specific provisions of such Conditional Use is made in this Ordinance.

Conforming Use: a use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill drainage, and the like, shall be considered a part of construction.

Cultural Center: a Cultural Center is a place or location, the primary purpose of which is the display or presentation of artistic, scientific, historical, literary or other cultural exhibits and productions to the public. Cultural Centers may include such uses as theaters, playhouses, concert , performance art galleries, museums or libraries and may expect to accommodate large gatherings of people on a regular basis.

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

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

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

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

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

District: a specified portion of the municipality, delineated on the Official Zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

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

Dwelling: any building or structure or portion thereof designed or used exclusively for residential purposes.

a. **Single-Family Dwelling**: shall mean any building or structure containing only one (1) dwelling unit for occupancy by not more than two (2) families.

b. **Two-Family Dwelling**: shall mean any building or structure containing only two (2) dwelling units, such buildings being designed exclusively for residential use and for occupancy by not more than two (2) families in each dwelling unit.

c. **Multi-Family Dwelling**: shall mean a building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by not more than (2) families in each dwelling unit.

Dwelling Unit: "Dwelling unit" means any part of a structure which, through sale lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units.

Earth: topsoil, sand, gravel, clay, peat, rock, or other minerals.

Earth Removal: any operation within any twelve (12) month period which removes more than twenty-five (25) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed. away from the extraction site.

Edge of Travel-Way: The painted fog line, if the fog line is not present the face of curbing, or edge of pavement.

Electric power transmission or distribution lines and related equipment: Such systems may include towers, poles, wires, cables, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. Notwithstanding the height limitations in this ordinance, the maximum height for transmission towers located within or adjacent to an existing transmission corridor is 110 feet.

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

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 necessary for the furnishing of such services.

Eutrophication: the process of nutrient enrichment of waterbodies.

Excavation: any breaking of the ground except common household gardening and ground care.

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

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

Family: one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Fast Food Restaurant: an establishment whose primary businesses is the sale of "fast food" for consumption on or off the premises. The term "fast food" shall be interpreted as food which is:

a. primarily intended for immediate consumption;

b. available upon a short waiting time; and

c. pre-packaged or presented in such a manner that it can be readily eaten off the premises where it is sold.

Filling: depositing or dumping any matter on or into the ground or water.

Flea-Market: the indoor or outdoor sale of new or used merchandise, customarily involving tables or space leased or rented to individual vendors. A flea market is a principal commercial use, and is differentiated from "yard sales" and "used merchandise sales" which are defined separately.

Flood: a temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Flood Plain: the lands adjacent to a waterbody which have been or may be covered by the regional flood.

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

Flood Proofing: a combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures, and contents of buildings.

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.

Food and Drink:

a. **Eating Establishment**: a business which sells prepared food, and which does not serve alcoholic beverages. Depending on their character, they may also be considered to be "automobile-oriented businesses".

b. **Drinking Establishment**: a business or club where alcoholic beverages are consumed on the premises, such as a tavern.

c. **Eating and Drinking Establishment**: a business where food and alcoholic beverages are sold for consumption on the premises.

d. **Mobile Food Wagons**: a vehicle or trailer which is used for selling prepared foods which remains at any establishment for a time period of one hour or more.

e. **Restaurant**: an establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures to take out food or beverage for consumption outside the enclosed building.

Footing: the support upon which a foundation is built. Footing may also include the support upon which a house, garage, deck or other structure of comparable size or bulk is built when there is no foundation.

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

Forest Management Activities: timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.

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

Freshwater Wetland: "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

a. Of 10 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

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

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Front Lot Line or Frontage: the linear distance of the line separating the lot from any publicly or privately maintained road or drive which is a commonly traveled thoroughfare open to the public, but not including private driveways.

Frontage, Shore: the horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation.

Functionally water-dependent uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

Grade: in relation to buildings, the average of the finished ground level at the center of each wall of a building.

Gravel Pit: a plot of land from which the sub-soil is removed for sale or for use on another parcel.

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

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

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

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

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

High Water Elevation, Normal: along lakes, ponds and tidal waters, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation of the bank of a channel at which the water has left a definite mark.

Home Occupation: an occupation which is carried on in a dwelling unit or structure accessory to a dwelling unit that is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Home occupations may include the selling of products raised or produced on the premises. This shall not permit the reselling of goods and products purchased or obtained elsewhere. Home occupations may be conducted from a single office which provides professional services located within the home.

Increase in nonconformity of a structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Industrial Complex: a building or group of buildings in which three or more different firms or businesses are located. This term shall also include "industrial parks".

Junkyard: a yard, field or other area exposed to the elements and used as a place of storage or deposition for:

a. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;

b. Discarded or scrap lumber;

c. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other ferrous or nonferrous material; and,

d. Garbage dumps, waste dumps and sanitary fills.

Kennels: the term "kennel" shall apply to three or more dogs owned singly or jointly and living on a single premise, for any purpose, including but not limited to breeding, hunting, show, training, hobby, trials or exhibition purposes. This definition shall not apply to dogs under the age of six months.

Kennels (Boarding): a boarding kennel means any place, building, tract of land, abode; or vehicle wherein or whereon privately owned dogs or other pets, or both, are kept for their owners in return for a fee, and to animal shelters for lost or stray dogs.

Lagoon: an artificial enlargement of a waterbody, primarily by means of dredging and excavation.

Large Scale Box Stores: Any retail business establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion or renovation of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

Livestock: Domesticated animals, reared in an agricultural setting for sustenance or labor. This term shall include poultry.

Lodging House: a building in which more than two but not more than five rooms are offered for overnight accommodation, with or without meals, for compensation. This definition includes boarding houses and tourist homes.

Lot: a parcel of land in single or joint ownership, described on a deed, plot plan, or similar legal document. Separate contiguous parcels, any one or all of which are non-conforming to the minimum land area or yard (setback) requirements of this Ordinance, shall be considered to become part of the single lot for the purpose of this ordinance, and the lot shall not thereafter be divided in such a way as to leave or create any lot area or yards not meeting the minimum requirements of this Ordinance. This provision shall not apply to situations where the contiguous lots all support principal structures, or where the contiguous lots have frontage onto different streets.

Lot area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Corner: a lot with at least two continuous sides abutting upon a street.

Lot Coverage: the percentage of the lot covered by all buildings.
Lot, Interior: any lot other than a corner lot.

Lot Lines: the lines bounding a lot as defined below:

a. **Front Lot Line**: on an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

b. **Rear Lot Line**: the lot line opposite the front line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front line of least dimension.

c. **Side Lot Line**: any lot line other than the front lot line or rear lot line.

Lot Width: the horizontal distance between the side lot lines, measured at the setback line.

Lot of Record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by City or County Officials.

Lot, Shorefront: any lot abutting a waterbody.

Lot, Through: any interior lot having frontages on two more or less parallel streets, or between a street and waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

Manufactured Housing: a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two type of manufactured housing are included. Those two types are:

a. Those units constructed after June 15, 1976 commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

1. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Marina: a shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

Manufacturing: the making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing.

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

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

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

Misplaced Structure: a structure built prior to May 18, 1996 which is found to be in violation of the setback requirements in effect at the time of construction.

Mobile Home Park: a parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

Motel: a building or group of buildings designed for overnight accommodation of travelers. This definition includes hotels, tourist courts and motor lodges, but excludes lodging houses.

Multi-Family Dwelling: See Dwelling, c.

Native: indigenous to the local forests.

Neighborhood-Variety/Convenience Store: a store of less than 1,000 square feet of gross floor space intended to service the convenience of a residential neighborhood with a limited variety of foods, beverages and dry goods, but not limited to, basic foods, newspapers, emergency home repair articles and other household items.

Net Residential Acreage: the gross acreage excluding the area needed for streets or access, and the areas which are unsuitable for development.

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

Non-Conformance: the term "non-conformance" shall refer to aspects of a lot (area, width, frontage, coverage), a building (setbacks, height) or a land-use which do not conform with the applicable standards or requirements of the Ordinance. Non-conforming aspects are permitted only because they were in lawful existence prior to the adoption of the zoning ordinance.

Non-conforming use: use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.
Non-Conforming Structure: a structure that does not meet any one or more of the following dimensional requirements; set-backs, height, yard, and lot coverage. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Lots of Record: a single lot or record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, width, or depth requirements, of the District in which it is located.

Normal high-water line: that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. -

Nursery Schools: a house or other place in which a person or persons maintains or otherwise carries out, for consideration, a regular program which provides care for 3 or more children. This term includes day-care centers and also private kindergarten(s) approved by the Commissioner of Educational and Cultural Services.

Nursing Homes: any building in which three (3) of more aged, chronically ill, infirm or incurable persons are housed and furnished meals and nursing care for compensation.

Open Space Use: a use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

Parking Space: a minimum area of two hundred (200) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

Personal Service: is a service by any individual offering skills to the public, including, but not limited to home and office cleaning service, baby sitters, general laborer, solicitation of which is conducted strictly over the telephone, where no materials are stocked and sold, and where customers or clients are not expected to go to a home or office.

Permanent Sign: any work, name, identification, description, emblem, insignia, symbol, banner, pennant, trade flag, or representation which is affixed to, painted or displayed upon a building, structure, post or tree, and which is exposed, in whole or in part, to public view, and which is designed to convey a message relating to any object, product, place, activity, person, business, service, institution, facility, organization, entertainment or amusement available either on the lot where the sign appears or in some other location.

Pet Shop: a pet shop shall mean any place, building, tract of land, abode or vehicle wherein and whereon any dogs, cats, rodents, fish, reptiles, pet birds, exotic birds or exotic animals are offered for sale which are not bred by the vendor.

Piers, docks, wharves, 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.

Pier: a structure built out into the water, with piles, for use as a landing place by watercraft.

Planned Unit Development: land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other and for other uses and improvements on the land. Development may be a single operation or programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

Pond: any inland body of water which has a surface area in excess of 10 acres, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately-owned ponds which are held primarily as waterfowl and fish breeding areas for hunting and fishing.

Premises: one or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

Principle Building: the building in which the primary use of the lot is conducted.

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

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

Primary Use: the primary use to which the premises are devoted, and the main purpose for which the premises exists.

Private Drive or Way: a privately owned access way or right-of-way, not intended to be dedicated to the Town and providing frontage for no more than two dwelling units.

Private Road: a privately owned access way or right-of-way that does not meet any of the standards contained in the Street Design and Construction Standards Ordinance. These roads are nonconforming and provide frontage for more than two dwelling units and cannot be dedicated to the Town.

Professional Office: An office of professional practice of which licensure qualifications and standards are required for compliance with State Law.

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

Public Road or Way: any street, thoroughfare or highway which is maintained by any level of government for use by the general public.

Public Utility: any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Race Track: any area designated for or used by motor vehicles for the express purpose of racing competitions, whether organized on a commercial or non-profit ("club") basis.

Recreational Vehicles: a vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pick-up campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to the; building code or federal manufactured housing standards, the unit must remain with its tires on the ground, and must be road-worthy (ie. posses a current registration sticker from any state division of motor vehicles). A recreational vehicle shall not be occupied as a dwelling for more than 90 consecutive days, or more than 120 days in any calendar year.

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

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

Registered Cultivation Facility: A location at which marijuana is cultivated pursuant to 22 M.R.S.A. § 2428. The location is considered to be, and must abide by all ordinance provisions regarding, a Registered Cultivation Facility whether it is at the same location as it is associated Registered Dispensary or at a different location pursuant to 22 M.R.S.A. § 2428(2)(A)(3). A Registered Cultivation Facility is not considered an accessory use within the meaning of this Chapter.

Registered Dispensary: A registered as defined by 22 M.R.S.A. § 2422. No Application for Certification of Occupancy shall be approved for a nonprofit dispensary unless it has been issued a valid registration certified by the State pursuant to 22 M.R.S.A. § 2428(2) and meets all other State and local laws and regulations.

Regional Flood: the maximum known flood of a waterbody; either the 100 year frequency flood, where calculated, or the flood of record.

Relative: child, parent, grandparent, brother, sister, and such relationships resulting from adoption or remarriage (step-parent), step- child, step-brother, step-sister, etc.)

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

Residential Use: The use of a lot for one or more dwellings.

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

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

Restaurant: an establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures to take out food or beverage for consumption outside the enclosed building.

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

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

Road: a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by repeated passage of motorized vehicles.

Sanitary Landfill: an engineered method of disposing of solid wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, and covering them with soil each working day in a manner which protects the environment. By definition, no burning of solid waste occurs at a sanitary landfill.

Seasonal Trailer Park: any premises established for overnight use by recreational vehicles, and for which a fee is charged.

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

a. in the case of electric service:

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

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

b. in the case of telephone service:

1. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

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

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

Shipping Container: A fully enclosed container, typically assembled with steel or aluminum, used by the shipping industry for the transportation or storage of goods and materials, including without limitations, trailers and semi-trailers when their primary use is for storage at one location rather than for transportation.

Shopping Center: any concentration of retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space and at least 65 parking spaces.

Shore frontage: the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

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

Shoreline: the normal high-water line, or upland edge of a wetland.

Sign: any work, name, identification, description, emblem, insignia, symbol, banner, pennant, trade flag, or representation which is affixed to, painted or displayed upon a building, structure, post or tree, and which is exposed, in whole or in part, to public view, and which is designed to convey a message relating to any object, product, place, activity, person, business, service, institution, facility, organization, entertainment or amusement available either on the lot where the sign appears or in some other location.

Sign (Flashing): a sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate the time and temperature shall not be considered as flashing signs.

Roof-Sign: a sign which is located above, or which projects above, the eaves line or the parapet wall of the building.

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

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

Storage Yard: A Commercial establishment offering self-storage facilities or storage space.

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.

Structure: anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. Structure shall not include shipping containers.

Subdivision: "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 23, 1971. This definition applies whether the division in accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction of 3 or more dwelling units on a single previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

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

1. Both dividing are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least 5 years prior to the 2nd dividing occurs; or

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

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

c. A lot of 40 or more acres shall be counted as a lot.

d. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land unless the intent of that transfer is to avoid the objective of this section, does not create a lot or lots for the purposes of this definition.

e. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

f. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

g. For the purpose of this Ordinance, the term subdivision shall include such functional divisions of land as shopping center, industrial complexes, condominiums, apartment, mobile home parks, motels and campgrounds, where there are three or more units involved.

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

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

Supply Yard: a commercial establishment storing or offering for sale building supplies including but not limited to lumber, raw earthen materials, steel supplies, coal, heavy equipment, food and grain, and similar goods. The term does not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

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

Swamp: SEE Freshwater Wetland

Temporary Sign: A sign that is not permanently attached to a building, structure, or mounted in the ground and designed to be transported, or rolled by means of wheels. Temporary signs shall include signs that are manufactured to stand as an "A" or "T" frame when displayed and self supporting double paneled signs that are connected with panels which are not parallel. Temporary sign shall also be known as a Portable Sign.

Timber Harvesting: the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction or agriculture. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 5.2.17 (n), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities: timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Trailer Utility: a vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

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

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

Two-Family Dwelling: See Dwelling, b.

Upland edge: the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Use: the purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Used Merchandise Sales: this term refers to so-called "garage sale businesses", which may be described as the indoor or outdoor sale of used articles, conducted for more than five consecutive days or for more than two week-ends during the period May 1 through September 30. This term shall include extended yard sales, but shall not include flea markets or shops for second-hand clothing or second-hand books. Used merchandise sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking.

Variance:

a. a relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owning to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

b. As used in this Ordinance, a variance is authorized only for height, lot area, and size of structures or size or yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity's in the Zoning District or uses in adjoining Zoning Districts.

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

Vehicle Sales: any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

Veterinary Animal Hospital or Clinic: a place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for the treatment, observation, and or recuperation. It may also include boarding that is incidental to the principal activity or use.

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

Water body: any great pond, river, or stream.

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.

Wetland, Inland: A freshwater wetland.

Yard: the area of land on a lot not occupied by principal building.

Yard, Front: the area of land between the front lot line and nearest part of the principal building.

Yard, Side: the area of land between the side lot line and the nearest part of the principal building.

Yard, Rear: the area of land between the rear lot line and the nearest part of the principal building.

Yard Sale: the term "yard sale" shall include so-called garage sales, porch sales, tag sales, and the like. Unless they occur more than five consecutive days or for more than two weekends during the period 1 May through 30 September, they shall not be considered to be "used merchandise sales" as defined in this Ordinance and shall not require a permit. However, the sale of used articles, conducted for more than five consecutive days or for more than two weekends during the period 1 May through 30 September shall include extended yard sales, but not include flea markets or shops for second-hand clothing or second-hand books. "Used merchandise" sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking as determined and issued by the Code Enforcement Officer.

ARTICLE 4 - DISTRICT REQUIREMENTS

4.1 Purpose

4.1.1 Resource Protection Overlay District

In the interest of wise land use, public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables and steep slopes:

a. To further the maintenance of safe and healthful conditions and the general welfare, and to protect spawning grounds and other wildlife habitat;

b. To encourage open space uses such as forestry, agriculture and recreation;

c. To control the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface water and groundwater by sewage;

d. To prevent the destruction of natural wetlands which provide flood protection and storm water storage, recharge of groundwater supply, and augmentation of stream flow during dry periods;

e. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands;

f. To encourage those uses that can be appropriately and safely located in wetland areas;

g. To protect presently existing natural wetland wildlife habitat, and

h. To protect the storage capacity of flood plains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.

This section applies to all areas as defined in Article 2.3(g).

4.1.2 Shoreland Limited Residential District

a. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses, to protect archeological and historical resources; to conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty; and to anticipate and respond to the impacts of development in shoreland areas.

b. To control the use and development of undeveloped shoreland areas, and to provide maximum protection to the land and water resources so that:

1. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;

2. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and

3. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.

c. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation, and the exact nature of the effects of shoreland development on the degradation process;

d. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication;

e. To minimize expenditures of public monies for flood control projects;

f. To minimize rescue and relief efforts undertaken at the expense of the general public;

g. To minimize flood damage to public facilities such as water mains, sewer lines, streets and bridges, and

h. To control building sites.

i. This section applies to all areas as defined in Article 2.3(i).

j. The more restrictive of either the Town of North Berwick Ordinances or the State of Maine statutes will be applied.

4.1.3 - Shoreland Stream Protection

Purpose

a. To provide water quality protection to year-round tributary streams to help prevent the accumulation of pollution at downstream points carried by these tributary streams;

b. To help maintain the upland water table by preventing stripping of vegetation along tributary streams thus protecting the land from draining off too quickly as well as protecting against land erosion and the siltation of upland streams.

c. This section applies to all areas as defined in Article 2.3(j).

4.1.4 - Shoreland - General Development I District

Purpose

a. To allow continued manufacturing and commercial uses of those commercial and industrial buildings in the Village within 250 feet of the Great Works and Neoutaquet Rivers, intensive recreational activities within 250 feet of the two said rivers, and also to allow continued mixed residential/non-residential uses of buildings within 250 feet of the two said rivers.

b. To provide minimum standards compatible with the existing uses, but which secure and maintain the water quality of the Great Works and the Neoutaquet Rivers.

c. This section applies to all areas as defined in Article 2.3(h).

4.1.5 - Village Center Overlay District

Purpose

a. To protect the historic character of North Berwick Village by allowing for mixed uses of existing and new buildings, high density use of buildings and satisfaction of some off-street parking requirements at sites other than at the building itself;

b. To provide special protection of designated historic buildings through the use of waivers for all density requirements except a minimum floor area per dwelling unit standard, and all off street parking requirements.

4.1.6 Village A District

a. To provide for areas of compact residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities;

b. To provide an area where the location of public facilities can serve the greatest number of people as economically as possible;

c. To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by controlling those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or traffic) could otherwise create nuisances or unsafe or unhealthy conditions; and

d. To protect the historical and architectural integrity of existing village development and to ensure that future development is compatible both in character and use.

4.1.7 - Village B District

Purpose

a. The purpose of this District is to provide the same benefits as the Village A District but at a slightly lower density of development.

b. This District provides a transition between the built-up Village and the rural residential areas surrounding the Village.

4.1.8 - Village C Overlay District

Purpose

a. To support the opportunities to purchase safe and sanitary housing by North Berwick households who earn 80% or less of the median household income in Town such as, but not limited to, local school teachers and Town employees;

b. To require that houses built and sold as affordable will remain so for at least 30 years under appropriate deed restrictions;

c. To require that the siting and appearance of affordable houses will be similar to other houses in the area, thus supporting the long-term property values of the neighborhood.

4.1.9 Residential Districts I & II

a. To provide for the public health and safety, environmental quality, and economic well-being of the community;

b. To provide areas for residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities; and

c. To provide areas for commercial, public and semi-public and other uses compatible with and complementary to residential development.

4.1.10 Farm and Forest District

a. To provide for very low-density rural housing;

b. To protect the land from suburban development pressures, encourage the preservation of agricultural and forest land capable of economic production and to avoid the irretrievable loss of land best suited for food production;

c. To help maintain the Town's essentially rural and open character; and

d. To help enable landowners to qualify for property tax abatement under the Farm and Open Space Land Law (Title 36, M.R.S.A., Sections 585-593) and the Tree Growth Tax Law (Title 36, M.R.S.A., Sections 571-584-A)

4.1.11 Business/Commercial and Industrial Districts

a. To provide for the public health and safety, environmental quality, and economic well-being of the community;

b. To encourage the location of commercial and industrial uses on those lands within the community which are best suited for such development;

c. To provide effective controls on those uses which, by virtue of their size or external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions;

d. To avoid the blight, congestion, and inconvenience caused by inappropriate and poorly-located development of commercial and industrial facilities; and

e. To avoid the economic disadvantage of providing essential services to commercial and industrial facilities which would occur if commercial and industrial facilities developed in a strip fashion along highways and major thoroughfares.

4.1.12 RESERVED FOR FUTURE USE

4.1.13 Aquifer Protection District

The purpose of this district is to protect the quality and quantity of the municipality's present and future ground water resources by regulating activities and land use practices. The protection of ground water is critical to promoting the health, safety and general welfare of the residents of this municipality.

4.2 GENERAL REQUIREMENTS

The following requirements shall apply to all districts:

a. **Principal Building**: If more than one principal building is constructed on a single parcel of land, all dimensional requirements shall be met separately for each principal building.

b. **Accessory Buildings**: No garage or other accessory building shall be located at a distance less than the front set back. When located to the rear of the main building, the accessory building shall be set back at least 10 feet from the side or rear lot lines, provided that all accessory buildings, other than a boathouse, shall be set back at least 100 feet from the normal high water elevation of a body of water. When a garage is located to the side of the principle building, the set back shall be at least the minimum setback requirements of the principle building.

c. Principal and Accessory Structures within Shoreland Zones

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

In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, General Development I 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 lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(4) The total footprint 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, except in the General Development I District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70) percent.

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 5.2.17(n)(2)(a), may traverse the buffer;

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

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

d. **Required Yard Space Shall Serve Only One Lot**: No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

e. **Visibility at Corner Lots**: All corner lots shall be kept free from visual obstruction of a distance of 25 feet measured along the intersecting street lines.

f. **Building Height**: On any new building, the highest part of any eaves or parapet wall shall not be more than 35 feet above the average ground grade on any side of the building which is accessible to fire-trucks. Features of buildings and structures, such as chimneys, silos, towers, ventilators, and spires may exceed 35 feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features or structures, unless a greater setback is required by other provisions of the Ordinance.

g. **Swimming Pools**: No person or firm shall begin construction of or erect a swimming pool below grade, or an above-grade swimming pool more than 3 feet in height without first obtaining a permit, except that small portable "splash-pools" containing less than 15" of water shall be exempt from this requirement. The code Enforcement Officer shall issue a permit only after satisfying himself from plans or specification presented by the applicant that the proposed swimming pool will conform with the following requirements:

1. **Pools to be Kept Enclosed**: Every swimming pool shall be enclosed by a fence or wall at least 4 feet in height with no openings larger than 2 inches, and built so as to deter children. Any building related structure or inaccessible banking of earth may be included as part of the required enclosure. All gates and door openings through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely latched at all times when not in use. Any swimming pool constructed or erected prior to the effective date of the Ordinance is not subject to these regulations.

2. **Set-Back Requirements**: No swimming pool shall be constructed closer than 10 feet from the side or rear lot line, nor closer to the front line of any lot than would be permitted for buildings or other structures by other provisions of this chapter. All mechanical equipment for the purposes of filtering, heating, pumping, cleaning, filling, draining or any other maintenance related activity shall not be located closer to a property line than the minimum yard dimensions of the zoning district in which the pool is located.

h. **Maintenance of Minimum Yard Requirements**:

1. **General**: All structures, whether attached to principal structures or not, and whether open or enclosed, including but not limited to porches, carports, balconies or platforms above normal grade level, shall not project into or otherwise lessen the required minimum front, rear or side yard setbacks.

2. **Multi-Family Dwelling**: Driveways and parking spaces may be located within the side or rear yard setback requirements, provided that no vehicle is parked closer than five feet from the lot line, and provided the parking spaces and driveways are visually screened from abutting residential properties, in accordance with the standards in Section 5.1.8 of this Ordinance.

i. **Waiver of Minimum Yard Requirements**: The Code Enforcement Officer shall be authorized to waive minimum yard requirements, and to issue a Building Permit without a variance, under the following circumstances only:

1. Unenclosed, roofed structures (such as porches and carports) which are lawfully existing upon the date of adoption of this Ordinance Amendment (March 10, 1984) shall be permitted to be enclosed provided that the new walls will not extend closer to the lot line than five feet from any lot line.

2. Along existing residential streets which were developed prior to the enactment of the present front yard requirements, a new dwelling may be permitted to be built with a front setback from the street line equal to the average front setbacks of the existing houses on the immediately adjacent lots with the exception of new structures in the Farm and Forest District. However, in no case shall new construction be allowed closer than 15 feet from the front lot line, without a variance.

LAND USES

KEY: NO = Not permitted YES = Permitted NA = Not Applicable CU = Conditional Use Permit Required
CEO = Code Enforcement Officer Permit Required (see Section 6.8 for details of Planning Board and CEO reviews)

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
RURAL Agriculture: Non-livestock, nurseries, gardening	YES	YES	CEO	CEO	CEO	YES	YES	YES	YES	YES	YES
Agriculture: livestock	NO	CEO	CEO	CEO	NO	NO	CEO	YES	CEO	CEO	CEO
Animal breeding or care	NO	CEO	NO	NO	NO	NO	CEO	CEO	NO	NO	NO
Seasonal sale of produce & plants raised locally	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES
Private recreational facilities including parks, playgrounds, golf courses, driving ranges, & swimming pools, but excluding campgrounds	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	NO
Publicly owned Recreational Facilities	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Campgrounds	NO	NO	NO	CU	NO	NO	CU	CU	NO	NO	CU
Timber Harvesting	NO	CU	CU	CU	CU	NO	YES	YES	NO	NO	YES
Earth Removal	NO	NO	NO	CU	NO	NO	CU	CU	CU	CU	CU
Harvesting of wild crops for profit (Timber harvesting not included)	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Kennels	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
Boarding kennels	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO	NO
Veterinary Clinics	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
RESIDENTIAL Single family dwelling	YES	YES	NO	CU	NO	CU	YES(1)	YES(1)	CU	YES	NO
Two family dwelling	YES	YES	NO	CU	NO	CU	YES(1)	YES(1)	CU	YES	NO
Affordable 1 & 2 family dwellings(4)	NO	CU(3)	NO	NO	NO	NO	NO	NO	CU	CU	NO
Multi family dwelling (4)	YES(4)	CU(4)	NO	CU	NO	CU(4)	CU(1)	CU(1)	CU	CU	NO

	Village Center	Village A,B	Resrce protect.	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
RESIDENTIAL Planned Unit Development, Cluster Development	CU	CU	NO	CU	NO	CU	CU(1)	CU(1)	NO	NO	NO
Mobile home parks	CU	NO	NO	NO	NO	NO	CU	NO	NO	NO	NO
Manufactured housing, single width (14' - 20')	CEO	NO	NO	NO	NO	NO	CEO	NO	NO	NO	NO
Manufactured housing, double width (>20')	YES	YES	NO	CU	NO	NO	YES(1)	CU(1)	CU	YES	NO

(1) Residential subdivisions proposed to be located on open fields or pastures (whether or not they are actively used), shall be laid out according to the clustering approach described in sections 5.2.5 and 5.2.13 below.

(2) Residential district 1 only

(3) Village C overlay district only. See table 4.3 for dimensional requirements and Article 5.2.16 Affordable Housing Standards.

(4) Nothing herein prevents affordable housing from being built outside the Village C overlay district that are not subject to the requirements of Article 5.2.16.

BUSINESS/COMMERCIAL/INDUSTRIAL Home occupation	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Personal Services	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES
Neighborhood-Variety/Convenience Store **	YES	CU	NO	CU	NO	NO	CU	CU	YES	YES	CU
Automobile Service stations, Motor Vehicle sales and Auto Repair Garages, Car Washes	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Drive-in or Take-out eating establish-ments, & Drive-in facilities offering goods and services to customers waiting in parked motor vehicles, except drive-in theaters, Auto Serv. Stations	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Drinking Establishments	CU	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO
Eating and Drinking establishments	CU	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Eating establishments	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	CU
Restaurants	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	CU
Adult Businesses	NO	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO

** A store of less than 1,000 sq.ft. of gross floor space intended to service the convenience of a residential neighborhood with a limited variety of foods, beverages, and dry goods, but not limited to basic foods, newspapers, emergency home repair articles, and other household items.

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
BUSINESS/COMMERCIAL/INDUSTRIAL Fast Food Restaurants	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Mobile Food wagons	CEO non-motor	NO	NO	NO	NO	CEO non-motor	NO	NO	CEO	NO	YES
Lodging, Hotel, Motel, Boarding house, Inn, Motor Lodge, etc.	CU	CU	NO	CU	NO	CU	CU	NO	CU	CU	CU
Bed and Breakfast	CU	CU	NO	CU	NO	CU	CU	CU	CU	CU	NO
Bottle Clubs	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Other Clubs serving alcohol	CU	NO	NO	NO	NO	CU	NO	NO	CU	NO	NO
Clubs not serving alcohol	YES	YES	NO	YES	NO	CU	YES	NO	YES	YES	YES
Amusement centers, amusement parks	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Pet shops	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO
Race tracks	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Commercial Facilities having less than 2500 sq.ft. per story	YES	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Commercial Facilities having more than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Shopping Centers	NO	NO	NO	NO	NO	CU	NO	NO	CU	NO	CU
Storage Yard	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	CU
Supply yards	NO	NO	NO	NO	NO	NO	NO	CU	CU	NO	CU
Shipping containers	NO	NO	NO	NO	NO	NO	NO	NO	SEE NOTE "Y"	NO	SEE NOTE "Y"
Business Enterprise	YES	YES	NO	NO	NO	CU	YES	YES	YES	YES	YES
Motor Vehicle grave yards, junkyards	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	CU
Professional & Administrative offices having less than 2500 sq.ft. per story	YES	CU	NO	NO	NO	CU	CU	NO	CU	CU	CU
Agricultural Business - less than 2500 sq.ft., Feed & Farm store & Nurseries	NO	NO	NO	NO	NO	CU	YES	YES	YES	YES	YES
Registered Dispensary	CU	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
Professional & Administrative offices having more than 2500 sq.ft. per story	CU	CU	NO	NO	NO	CU	CU	NO	CU	CU	CU
Industrial facilities & wholesale distribution & warehousing having less than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	CU	NO	CU
Industrial facilities & wholesale distribution & warehousing having more than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	NO	NO	CU
Waste processing or disposal facilities other than sewage collection/treatment facilities and sanitary landfills	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO	CU
Solid-waste recycling facility	CU	NO	NO	NO	NO	NO	CU	CU	YES	YES	YES
Large Scale Box Stores	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
PUBLIC,SEMI-PUBLIC,INSTITUTIONAL Emergency public health&safety facil.	CU	CU	NO	NO	NO	NO	NO	CU	YES	YES	YES
Church or other place of worship, Parish house, Rectory, Convent, & other religious institutions	YES	CU	NO	CU	NO	CU	CU	CU	YES	YES	CU
Private, public, parochial schools, and Day Care Facilities	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Public buildings such as libraries, museums, and civic centers	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Hospitals, Nursing Homes	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	NO
Recreational or community activity blg	YES	CU	CU	CU	NO	CU	CU	CU	CU	CU	CU
Cemeteries	NO	CU	NO	NO	NO	NO	CU	CU	NO	NO	NO
Small non-residential facilities for education, scientific or nature inter-pretation.	YES	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Utilities, including sewage collection & treatment facilities & Essential Services.	CU	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Sanitary Landfills	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
Private sewage disposal systems (CEO approval)	YES	YES	NO	CU	NO	YES	YES	YES	YES	YES	YES
Cultural Center	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
SHORELAND Boathouses	CU	CU	CU	CU	NO	CU	CU	CU	YES	YES	YES
Piers and docks	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Forest management, except marketing	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Commercial & Industrial facilities which by nature of their operation require shore front location, such as boatyards, marinas, etc.	CU	CU	NO	CU	NO	CU	CU	CU	NA	NO	NA
Shoreland agriculture	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland clearing	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland filling, grading, lagooning, dredging or other earthmoving activity	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland timber harvesting	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
MISCELLANEOUS Signs	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Billboards	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Uses accessory to permitted uses	YES	YES	CU	YES	CU	CU	YES	YES	YES	YES	YES
Structures accessory to permitted uses	YES	YES	CU	YES	CU	CU	YES	YES	YES	YES	YES
Uses similar to permitted uses	CU	CU	CU	YES	CU	CU	CU	CU	YES	YES	YES
Structures accessory to uses which are similar to permitted uses	CU	CU	CU	CU	CU	CU	CU	YES	YES	YES	YES
Uses accessory to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Structures accessory to conditional use	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Uses similar to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Structures accessory to uses which are similar to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Non-intensive recreational uses	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

Table 4.3 DIMENSIONAL REQUIREMENTS

Lots in all districts shall meet or exceed the following minimum requirements. (Additional area may be required by other provisions of this ordinance.)

	see notes all zones	Resrc prot. distr. (i)	Shrlnd limit. resid. dist.	Shrlnd Gen. devel.	Shrlnd stream prot.	Comm II & Industrial	Resid. distr. 1	Resid. distr. 2	Farm & Forest	Vill. Ctr. & Comm'l	Vill. A distr.	Vill. B distr.	Vill. C overlay
Minimum lot size (sq.ft.) without public water & sewer	j, p	a,o,r	60,000 o,r	40.000 o,r,s	60,000 o,r	40,000 k	40,000 k	80,000	160,000	20,000 k, m	20,000 k	30,000 k	20,000 k, m
" With public water & sewer	p	o, r	o, r	o,r,s	o, r					10,000 k, m			10,000 k, m
Minimum road frontage (feet)	b,e		200	100	100	100	150	200	300	25	100	125	und. distr.
Minimum shore frontage (feet)	b	q	200(q)	200(q)	200(q)	200	200	200	300	200	200	200	200
Minimum yard dimensions (feet) Front setback	c		50	50	50	50/30 (1)	50	80	100	10	35	50	50
Side setback	l		25	20	20	100/20 (d,g,2 Indus)	35	60	75	0 (d)	20 (g)	25 (g)	und. distr.
Rear setback			25	25	25	20(d,g)	50	60	75	10 (d)	25 (g)	30 (g)	und. distr.
Rear setback when abutting a Residential Use			30	30	30	100(g)	60	75	100	10	30	35	25
Shoreland setback from normal high water	t		100	75(n)	100	200	100	100	100	75		100	100
Maximum lot coverage Residential for structures	h		10%	70%	25%	25%	10%	5%	5%	80%	25%	25%	30%
" Non-residential for structures	h		10%	70%	40%	50%	20%	10%	10%	80%	40%	40%(l)	35%
Max. buidling height (feet)			35	35	35	35	35	35	35	35	35	35	35
Max. floor to area ratio (FAR)										240%			

(1) 50/30 = 50 feet from abutting residential lot
30 feet from abutting non-residential lot

(2) 100/20 = 100 feet from abutting residential district
20 feet from abutting non-residential district

NOTES TO TABLE 4.3

a. No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure exists on the effective date of adoption or amendment of this ordinance, no lot containing such structure shall be created which does not contain a minimum of 80,000 square feet.

b. All lots hereinafter created shall posses a minimum frontage on (1) public road, or on (2) a private drive or other thoroughfare or access route which meets the specifications for road construction in the Town of North Berwick Street Design & Construction Standards Ordinance. However in administering the minimum requirement for road frontage, the following provisions shall apply:

1. New building lots located at the end of a loop or along curves in a street may be designed so that they have 100 or more feet of street frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for lot frontage in that zoning district, and provided that the radius of the curve is not more than 300 feet, measured at the front lot line.

2. In situations where there is, in the opinion of the Planning Board, no reasonable future possibility of accessing the back land (ie. the property lying behind an existing row of lots with street frontage) with new roads, due to severe or unusual topographical features (such as swamps, ravines, steep slopes, waterbodies or watercourses), a maximum of two new building lots may be created without street frontage provided all the following conditions are met:

a. only lots of record, existing on or before the date of the Ordinance amendment (March 10, 1984) may be used to create two new lots without road frontage;

b. if the lots posses less than 30 feet of street frontage, they shall be accessed by a deeded right-of- way whose width, taken in combination with any street frontage legally connected with the lots, totals at least 30 feet. This right of way shall be provided with a common driveway meeting the following specifications: a 12" base of sand and gravel (with no stone greater than 4") shall be 18 feet wide plus two 2-foot shoulders; this shall be covered with 3" of 3/4" crushed stone except on the shoulders), and drainage ditches and culverts shall be provided wherever appropriate;

c. the new lots shall meet all other requirements of this Ordinance.

3. A lot abutting a lake, pond, river or stream in any District shall have a minimum shore frontage of 200 feet, except in the Farm and Forest District where the minimum shore frontage shall be 300 feet. Shore frontage shall be measured in a line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

4. New building lots located at the curved terminus of a Cul-de sac may be designed so that they have 75 feet or more of street frontage along the front lot line provided that the lot width at the location where the zoning district front setback requirement is at least equal to the distance normally required for street frontage in that zoning district.

c. A front yard abutting a street, as defined in the Town of North Berwick Street Design & Construction Standards Ordinance, shall be measured from the edge of the right of way line and conform to the front yard depth requirements of that district. Where the location of the front property line is in doubt, it shall be deemed to be located at a distance from the centerline of the road, which (distance) is one-half the known or assumed width of the road right-of-way, which width, when unknown, is assumed to be a three rod road (i.e. 50 foot right-of-way).

d. An industrial use that is permitted under the provisions of the Ordinance may reduce its sides and rear yard setbacks to a point that abuts a railroad right-of-way or spur track.

e. A corner lot, located at the juncture of two (2) roads, shall have the front lot line, or frontage, established by one of the following criteria:

1. Establish frontage on the more traveled road and if the more traveled road is not obvious, the Code Enforcement Officer shall determine the front lot line.

2. Establish the frontage on the more traveled road should the other road be a privately maintained road or drive.

3. Establish frontage on the road providing the required frontage, should the second road not provide the linear distance specified for the district.

f. **Reserved for Future Use.**

g. Any side and rear yards of any lots containing commercial or industrial uses in the Commercial, Commercial II, Industrial, Village A or Village B Zones that abut an existing residential district, the Farm and Forest Zone or the Residential 1 or Residential II Zones, shall have a minimum depth of 100 feet from the abutting side or rear lot lines. All side and rear yards abutting another commercial or industrial site shall have a minimum depth of 20 feet from side and rear lot lines. No parking areas, buildings, storage areas, loading and unloading areas and waste collection and disposal areas shall be permitted within this buffer. Side or rear yard setbacks may be reduced to a point that abuts the right-of-way of a railroad (including spur lines).

h. Within lots that existing development met or exceeded the maximum lot coverage in Table 4.3 as of June 21, 1992, the floor space on the ground floor may be expanded up to 25 percent subject to Planning Board approval. Parking areas may be expanded up to 50 percent subject to Planning Board approval. However, such expansion shall not violate any current setback requirements. Decks shall not be included as "floor space" for structures conforming as to all current dimensional requirements. In addition to this Subsection, all buildings, whether located within any Zoning District or Shoreland Zoning District, shall also be subject to the regulations of Subsection 1.4.5.

i. In Resource Protection District, home occupation shall be allowed as a Conditional Use in all houses existing at the date of adoption of this Ordinance.

j. The minimum lot size specified in Table 4.3 above shall be provided for each dwelling unit except as specified in Subsections "m." and "n." below.

k. Government subsidized elderly housing, designed and built specifically for the elderly, shall be permitted at the ratio of 8,000 square feet of land per 1 bedroom unit and 16,000 square feet of land per 2 bedroom unit in the following districts: Village, Commercial, Commercial II and Residential I.

l. Side yards may be reduced to 1/2 of the required side setback dimension listed in Table 4.3 for non-conforming lots of record which were created AND built upon prior to March 11, 1978.

m. Minimum Lot Area (Village Center District & Village C Overlay District)**:** The minimum lot area associated with each dwelling unit in multi-unit buildings (3 or more units), shall be 2,500 square feet where public water and sewer are provided. The minimum lot area associated with each dwelling unit in multi-unit buildings (3 or more units) where public water and/or sewer is not provided, shall be 5,000 square feet. There shall be no minimum lot required for dwelling units in designated historic buildings (such as designated in a historic district ordinance) in the Village Center District if the building is served by both public water and sewer. Any dwelling unit within said buildings shall have at least 400 square feet of floor area. This subsection shall prevail over any conflicting, more strict provision of this zoning ordinance.

n. Setbacks (Shoreland - General Development I District) The setback from the normal high water line within the Shoreland - General Development District may be reduced to twenty-five (25) feet under the Shoreland - General Development Overlay District regulations. For existing uses in designated historic buildings or over the water, a special exemption may be granted by the Planning Board pursuant to Article 1.4.5 paragraph (i) for changing to other non-conforming uses.

o. (Shoreland Districts) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

p. Lots located on opposite sides of a public or private road or drive shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after 22 September 1971.

q. (Shoreland Districts) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

r. Dimensional Requirements (Shoreland Zone(s)) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use. Except clustered housing may be included within the shoreland districts provided that the overall dimensional requirements, including frontage and lot area per dwelling unit are met. Only land area within the shoreland zone shall be considered.

s. Exceptions to Dimensional Requirements (Shoreland General Development District)**:** Except, a special exception approved by the Planning Board may be given for changing existing non-conforming uses within designated historic buildings within the Shoreland General Development District to new residential non- conforming uses resulting in greater residential density than in subsection (r) above. See Article 1.4.5 paragraph (i).

t. Shipping containers are allowed only when accessory to permitted uses and only in the Industrial and Commercial Districts and are otherwise not allowed, except as a Conditional Use to permitted construction activities. In the Industrial and Commercial Districts, shipping containers shall comply with the following:

(l) Industrial District: Shipping Containers shall be regulated as a building or structure with respect to their placement on property, and they must meet all applicable space and bulk requirements of the district. Shipping containers shall not be stacked one on top of the other

(2) Commercial District: Shipping Containers shall be regulated as a building or structure with respect to their placement on property, and they must meet all applicable space and bulk requirements of the district. Shipping containers shall not be stacked one on top of the other and shall not be placed in parking stalls. The use of the shipping containers shall not be allowed on a lot for more than thirty (30) days in a six (6) month period. If the sum of the square footage of the shipping containers on one lot exceeds 2,000 square feet, they shall be regulated as a conditional use.

ARTICLE 5 - PERFORMANCE STANDARDS

These standards shall apply to all new expanded uses of land and buildings, which are listed as Permitted or Conditional Uses in Article 4 of this Ordinance. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste materials, or which would be dangerous to the health or safety of the community or to the community's disturbance or annoyance, notwithstanding and other provisions of this Ordinance and applicable State and Federal Laws and Regulations.

Plans for the effective control and/or elimination of same shall be presented to the Planning Board for approval. When the effects of use are uncertain, The Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of the Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

5.1 BASIC REQUIREMENTS

5.1.1 Traffic and Highway Access

a. **Traffic:** The proposed development shall provide for safe access to and from public and private roads or drives. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. "Curb Cuts" shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the Town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

5.1.2 Noise

Excessive noise at unreasonable hours shall be required to be muffled as so not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table, below). The maximum permitted sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

SOUND PRESSURE LEVELS LIMITS MEASURED IN dB(A)'s

	7 a.m. - 8 p.m.	8 p.m. - 7 a.m.
Non-Industrial Establishment	60 dB(A)	55 dB(A)
Industrial Establishment	70 dB(A)	65 dB(A)

a. Where the emitting and receiving premises are in a different zones, the limits governing the stricter zone shall apply to any regulated noise entering the zone.

b. The levels specified may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes, in any one day.

On a site abutting any residential use, construction activities occurring between 8 p.m. and 7 a.m. shall be subject to maximum permissible sound level specified for industrial establishments.

Construction activities shall be subject to the maximum permissible sound level specified for industrial establishments for the periods within which construction is to be completed pursuant to any applicable building permit. The following uses and activities shall be exempt from the sound pressure level regulations:

a. Noises created by construction and maintenance activities between 7:00 a.m. and 8:00 p.m.

b. The noises of safety signals, warning devices, and emergency pressure relief valves and either emergency activity.

c. Traffic noise on public roads, or noise created by airplanes and railroads.

5.1.3 Air Emissions

Emissions of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall comply with applicable Federal and State regulations.

a. No emission of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which is composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emission from a chimney stack is prohibited. The emission of nonfarming odorous matter in such quantities, as determined by the Code Enforcement Officer to be offensive at the lot boundaries is prohibited.

5.1.4 Odor

No non-farming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

5.1.5 Glare

No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

5.1.6 Storm Water Run-Off

Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on- site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodways, or rights-of-way shall be maintained as nearly as possible.

5.1.7 Erosion Control

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best-management" practices:

a. Stripping of vegetation, soil removal, and regrading or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.

b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

c. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

d. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.

e. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.

f. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100 feet of any property line.

g. During grading operations, methods of dust control shall be employed.

5.1.8 Setbacks and Screening

a. Setbacks and Screening: Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, motor vehicles, auto parts, motor vehicle parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties. (Such as a dense evergreen hedge, 6 feet or more in height). Where potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

b. Buffer Areas: No industrial or commercial buildings or uses shall be established in, or abut, a residential district or use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to young children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to insure continuous year- round screening.

5.1.9 Explosive Materials

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least seventy- five (75) feet from any lot line, Town way or interior roadway. Under ground storage tanks for highly flammable or explosive materials shall be set back at least 75 feet from every property line.

5.1.10 Water Quality

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life. All above ground storage facilities for fuel, raw chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil", and diesel fuel, not exceeding 275 gallons in size may be exempted from this requirement, in situations where neither a high seasonal water table (within 15 inches of the surface) nor rapidly permeable sandy soils are involved.

5.1.11 Flood Protection

In order to minimize flood damage to persons and property, no fill or structures shall be placed in areas subject to periodic flooding, including the 100-year flood. Enlargement of existing structures already situated in such areas shall be so constructed that the lowest floor of the enlarged portion is at least two (2) feet above the base elevation of the 100-year flood. In determining areas which are subject to flooding, the Planning Board shall refer to all official, published maps of flood-prone areas, the Soil Conservation Service map of flood-plain soils, and all local flood records.

5.1.12 Soil Suitability for Construction

In any instance where the Code Enforcement Officer doubts the capability of the soil to adequately accommodate proposed construction, they may require that a soil test be made, at the owner's expense, in order to identify the soil type(s), by a Soil Scientist registered in the State of Maine. If the soil type which is identified is classified as having "poor" or "very poor" suitability for the proposed use, in the "Soil Suitability Guide for Land Use Planning in Maine". The Code Enforcement Officer may require the developer to submit written evidence from a professional civil engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence or other failure will not result.

5.1.13 Off-Street Parking and Loading

1. General (not applicable to single-family and duplex houses)

    a. Parking requirements fall into two categories on-street parking and off-street parking. On-street parking only applies to the Commercial and Commercial II district. All other districts must meet required parking with off-street parking.

    b. On-street parking is acceptable parking only if there is adequate space for vehicles to remain clear of the traveled way and not interfere with the safe and orderly flow of traffic on that public way.

    c. The following standards shall apply to all new uses or establishments and also to all existing uses or establishments which expand or increase their volume or intensity of usage more than 25% in any 10-year period.

    d. All new or enlarged off-street parking facilities shall also conform to all other relevant standards and criteria contained in Section 5.1 of this Ordinance.

    e. An area of 200 square feet shall be considered sufficient for each automobile parking space.

f. Off-street parking shall be located so that vehicles can be turned around within each such area without backing into the street.

g. Required off-street parking for all land uses shall be located on the same lot as the principle buildings or facility, or within 100 feet measured along lines of access. All on-street parking shall be within 500 feet of the establishment it serves.

h. No off-street parking area shall have more than 2 openings onto the same street, each opening not to exceed 26 feet in width.

i. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and also to avoid generating traffic on local access streets of a primarily residential character.

j. A system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street.

k. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines in order to provide visibility for entering or leaving vehicles.

l. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.

m. All parking and loading areas for industrial establishments shall be located at the side or rear of the principal building. A visitor parking area may be located between the front of the principal industrial building.

n. In any district where permitted or allowed, commercial, or industrial uses shall provide as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers shall not be located for loading or storage upon any public way.

2. **Parking Lot Design Criteria** (Non-Residential)

a. **Vehicular Entrance and Exit**

1. Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

2. Entrance/exit design should be reviewed by and be in conformance with the standards of Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

b. **Interior Vehicular Circulation**

1. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.

2. Painted arrows and/or elevated signs should be used as necessary to define desired circulation patterns.

3. Customer/employee and service traffic should be separated to the greatest extent possible.

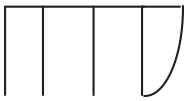
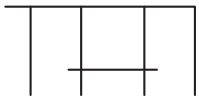
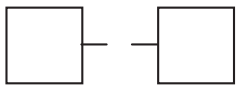
4. One-way travel lanes may be used as a traffic control device in conjunction with roadway dividers.

5. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

c. **Other Requirements**

Landscape: The existing landscape shall be preserved in its natural state insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped with a continuous border of shrubbery along all lot-lines abutting residential properties according to the buffering standards in 5.1.8 above. Large parking lots shall be provided with at least one tree (of 3" caliper) for every 35 car spaces (4 trees per acre), to be located at representative points throughout such lots. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide, planted with shade trees (minimum 3" caliper, planted at least 50 feet along the road frontage) and dense medium height shrubs (three feet in height on maturity to screen parked vehicles). All such planting shall be maintained as effective visual screen. Shrubs or trees which die shall be replaced within one growing season.

3. **Parking Stall and Aisle Layout**

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Depth
				
90	9'-0"		18'-5"	24'-0"
60	8'-6"	10'-5"	19'-0"	16'-0" one way
45	8'-6"	12'-9"	17'-5"	12'-0" one way
30	8'-6"	17'-0"	17'-0"	12'-0"

1. Painted stripes should be used to delineate parking stalls. Stripes should be a minimum of 4" in width. where double lines are used, they should be separated a minimum of 1'-0" on center.

2. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.

3. Bumpers and/or wheel stops should be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

4. Minimum Required Off-Street Parking Requirements

Activity	Minimum Required Parking
Dwellings (multi family)	1 space/unit
Motels, Hotels, Lodging Facilities, Campgrounds.	1 space/guest room or site plus 1 space for each employee based on average employee occupancy.
Churches, Theaters, Cultural Centers, Private or Public Assembly, Drinking Establishments, Restaurants	1 space/6 seats plus 1 space for each employee based on the average employee occupancy.
Hospitals, Nursing Homes	1 space/3 beds plus 1 space for each employee based on the average employee occupancy
Offices, Professional, and Public Buildings, Retail, Trade, Commercial Sales, and Service Establishments	1 space/300 sq.ft. work area excluding bulk storage areas plus 1 space for each employee based on the average employee occupancy.
Auto Service Station and Repair Garage:	2 spaces/enclosed bay plus 1 space for each day time employee.
Schools:	
Nursery School and Child Care Facility:	1 space/nursery room plus 1 space per instructor or aide.
Elementary and Junior High	1 space/adult employee plus 15 parking spaces for each 100 students, or major fraction thereof, of total enrollment.
Senior High	1 space/adult employee plus 20 parking spaces for each 100 students, or major fraction thereof, of total enrollment
Commercial (dance, art, ceramics,etc)	1 space/instructor plus 1 space per 5 students or major fraction thereof, total enrollment.

a. The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.

b. For any structure or use not specifically provided for above, the Planning Board shall determine the number of parking spaces required.

c. In specific cases where it is demonstrated that a particular building can be occupied or carried on with fewer parking spaces than required under this section, the Planning Board may reduce the requirements for parking upon finding that such reduction will not detract from neighborhood values, public safety, inconvenience the public, or increase congestion in the street. The granting of such reduction shall not be construed as the granting of a variance to relieve undue hardship.

5.1.14 Subsurface Sewage Disposal

No plumbing permit shall be issued for a subsurface sewage disposal system unless the soil conditions meet the criteria contained in the State Plumbing Code, Part II, latest edition. Further, the disposal of waste water by means other than a public system must comply with the laws of the State of Maine and the Town concerning water pollution.

5.1.15 Other On-Site Disposal Systems

Other systems of sanitary waste disposal may be permitted in all districts as a Conditional Use only after approval by the Planning Board and the Department of Human Services:

a. Alternative systems shall be presented to Planning Board on a plan prepared by a professional engineer registered in the State of Maine and shall be subject to review and approval of the Maine Department of Environmental Protection and/or the Maine Department of Human Services.

b. Proposed discharge of sanitary wastes to any water body shall be subject to the issuance of State of Maine Department of Environmental Protection licenses further, no such off-site discharge shall be allowed unless same is buried or not visible to a point below normal low water, and is secured against damage and uncovering by the tides, erosion or other foreseeable action.

5.1.16 Private Wells

Private wells shall be set back at least 50 feet from the center of any public road.

5.2 SPECIFIC ACTIVITIES

5.2.1 Medical Marijuana – The State of Maine enacted the Maine Medical Marijuana Act, 22 M.R.S.A.§ 2421, ET SEQ. The Act contemplates the creation of a not-for-profit dispensaries for the provision of marijuana for medical use as well as the creation of cultivation facilities to provide marijuana to legally qualified individuals. Marijuana has both legitimate medical uses and a history of widespread illegal use and trafficking. In order to preserve the safety, health and welfare of the citizens of North Berwick and others, the dispensing and cultivation of marijuana requires careful attention and control, including but not limited to reasonable security and oversight requirements.

a. Security and oversight requirements:
   1. There shall be no outdoor cultivation of marijuana.
   2. Alarm Systems - Registered dispensaries and registered cultivation facilities shall have door and window intrusion alarms with audible and police notification components.
   3. Exterior security lighting – registered dispensaries and registered cultivation facilities shall have spot lights with motion sensors covering the full perimeter of the facility.
   4. Video surveillance – registered dispensaries and registered cultivation facilities shall have recorded video surveillance covering all plants and the entire exterior. Fore registered cultivation facilities, the recorded video surveillance shall operate 24 hours a day, seven days a week and for registered dispensaries shall, at a minimum, operate at all times that the facility is not open to patients. Records of surveillance shall be kept for a minimum of 30 days.
   5. Registered dispensaries and registered cultivation facilities may not continue to employ an employee who is convicted of any state or federal controlled substance law while employed at the registered dispensary or registered cultivation facility. If a principal officer or board member of a registered dispensary or registered cultivation facility, that registered dispensary or registered cultivation facility shall immediately be considered in violation of this ordinance.
   6. A registered dispensary may not be open to the public between the hours of 8:00 pm and 7:00 am.
   7. Sufficient measures must be in place at all times to prevent smoke or order from exiting a registered dispensary or registered cultivation facility.

b. Registered dispensaries must be located in area defined as Village Center Overlay District as of July 1, 2012 with a minimum of 200 feet from any public or private school, public library, playground or public park and a minimum of 200 feet from any church, chapel, parish house, other place of worship, daycare measured by straight line from the dispensary property line to the property line of the protected location.

c. No more than one registered cultivation and dispensing facility may exist in the Town of North Berwick and is limited to 2500 square feet.

d. Hours of operation shall be between 8:00 am to 5:00 pm, Monday through Saturday.

5.2.2 Earth Material Removal

a. Filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock, peat or any other mineral or organic deposits, which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life, is prohibited.

b. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The Planning Board may waive any or all of the following requirements when less than 25 cubic yards of earth material per year is proposed to be removed, screened or stored.

c. Applications to the Planning Board for Conditional Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to Planning Board specification and in compliance with applicable State Laws, and accompanied by all required State Permits or licenses.

1. The applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site showing the property lines, based on a certified survey, and names of abutting owners and ways, indicating by not greater than 5-foot contour intervals, related to U.S. Geodetic Survey data, the location and slope of the grades existing and as proposed upon completion of the extraction operation, the boundary limits of the proposed extraction, and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits. In addition, a written statement of the proposed reclamation plan shall accompany the plan.

2. Said plans and statement shall be submitted with the recommendations of the Code Enforcement Officer to the Planning Board for its consideration with respect to the effect of proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies. The Planning Board may recommend changes to the applicant for resubmission to the Planning Board.

3. The Planning Board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The Planning Board shall require filing with the Town Clerk a commercial surety bond, a certified check, or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operations and to assure satisfactory performance of all conditions imposed or otherwise applicable.

4. Any operation involving the excavation, screening or storage of soil (including topsoil), peat, earth, loam, sand, gravel, rock or other mineral deposits in operation at the time this Ordinance becomes effective may continue to operate. When period of two (2) years has elapsed, in which no commercial sales have been made, a Conditional Use Permit shall be required before operations may be resumed.

d. The Planning Board shall specify such requirements in any conditional Use Permit issued for earth material removal as it deems necessary or desirable to assure compliance with the following requirements:

1. No part of any extraction operation shall be permitted within 150 feet of any property or street line. All property line setbacks will be in accordance with guidelines set by the D.E.P. or the requirements of this Ordinance, whichever are more restrictive.

2. All extraction pits shall be internally draining.

3. All areas of standing water exceeding two (2) feet in depth shall be entirely enclosed by a fence.

4. No slopes steeper than 3 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 4 feet high is erected to limit access to such locations.

5. The owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from proposed extraction operations. The town shall be listed on the policy and the policy shall be maintained throughout the period of operation.

6. Any top soil and subsoil suitable for purposes of revegetation shall be stripped from the location of extraction operations and stockpiled for use in restoring the location. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this Ordinance.

7. Sediment shall be trapped by diversion, silting basins, terraces and other measures designed by a professional engineer.

8. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the York County Soil and Water Conservation Commission.

9. Any proposed lagooning requires written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, prior to consideration by the Planning Board.

10. Hours of operation shall be determined by the Planning Board.

11. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Town Road Commissioner.

12. All access-egress roads leading to/from the extraction site to public ways shall be treated with water, or stone to reduce dust and mud for a distance of at least 100 feet from such public ways. If the public way is a paved surface, a paved entrance of at least 50 feet from the public way is required.

13. No equipment, debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

14. Excavation may not occur within 5 feet of the seasonal high water table. A benchmark sufficient to verify the location of the seasonal high water table must be established an at least one monitoring well on each 5 acres of unreclaimed land must be established.

15. Any pit greater than 5 acres needs additional permits from the Department of Environmental Protection.

16. Any expansion of an existing extraction operation requires a Conditional Use Permit.

17. Extraction operations shall not occur within 250 feet of Bauneg Beg Pond and the Great Works River and within 100 feet of any protected natural resource and the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

18. Reclamation shall occur in conjunction with the expansion of the extraction pit i.e. as the third acre of unreclaimed land is opened for extraction, reclamation shall begin on the first two acres. The reclamation plan shall ensure that:

a. All debris, stumps boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of 2 feet of soil.
b. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
c. At least 4" of top soil or loam shall be retained or obtained to cover all disturbed areas. Seeding or planting will occur between April 15 and June 15 or between August 30 and September 30. Seeding or planting shall ensure a permanent 90% ground cover.
d. Upon completion of all extraction operation reclamation of all unreclaimed areas and haul roads shall be complete within 12 months. Extraction operations shall be deemed complete when less than 100 cubic yards of material are removed in any 12 consecutive months.

5.2.3 HOME OCCUPATIONS

a. A home occupation is an occupation which is carried on in a dwelling unit or structure accessory to a dwelling unit that is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Home occupations may include the selling of products raised or produced on the premises. This shall not permit the reselling of goods and products purchased or obtained elsewhere. Home occupations may be conducted from a single office which provides professional services located within the home.

b. Exterior display shall be limited to a total of two (2) samples or models of products sold or manufactured on premises, regardless of number articles which are sold or manufactured. Exterior storage of materials and any other exterior evidence of the home occupation shall be located or screened so as not to detract from the residential character of the principal building. Signs shall be permitted only as provided for under Section 5.2.6 of this Ordinance.

c. The following requirements shall be satisfactorily demonstrated to the Planning Board before said Board shall issue a conditional use permit for any district where home occupations are permitted:

1. the home occupation shall be carried on by a member of the family residing in the dwelling unit, with not more than three employees who are not a member of the family;

2. the home occupation shall be carried on wholly within the principal or accessory structure;

3. the home occupation shall not occupy more than 30% of the total floor area of a residential structure; never to exceed 2500 square feet of floor area of a residential structure or an accessory structure;

4. objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, light, glare, or other nuisances shall not be permitted;

5. there shall be no artificial outdoor illumination of any kind for permitted home occupations on the property, including off-street parking areas, the house or any accessory structures, other than the normal and customary outdoor lighting for the single-family houses (such as a customary porch light or garage light or walk-way light).

6. no traffic shall be generated by such home occupation in a volume greater than would normally be expected during the daytime in a residential neighborhood, and the parking requirements stated in this Ordinance shall be met off the street.

e. if existing off-street parking is required to be expanded, it shall be adequately screened from the road and from adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road as defined by a line drawn parallel to the road which touches the point of the house nearest the road. Such off-street parking areas shall be set at least eight (8) feet from side and rear lot lines.

f. Only one home occupation shall be allowed per lot.

g. Should all the above conditions not be maintained on a continual basis once the conditional use permit has been issued, the Planning Board shall schedule a public hearing to determine whether the conditional use permit should be rescinded.

5.2.4 MOBILE HOME PARKS, SEASONAL TRAILER PARKS, AND CAMPGROUNDS

a. Licenses: No person, firm, or corporation shall establish or maintain a mobile home park, seasonal trailer park, or campground within North Berwick without a license issued in conformity with the provisions of this code. A mobile home park, seasonal trailer park, or campground existing prior to the adoption of this Code may be enlarged only if the extension complies with the terms as specified herein.

1. Application for a mobile home park, seasonal trailer park, and/or campground license shall be filed with the Code Enforcement Officer who shall, in turn, present said application to the Planning Board for review as a subdivision except that applications for license renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and as contained in the Subdivision Regulations of the Town Planning Board. The Planning Board shall inform the Code Enforcement Officer of its decision in writing and he shall act on the application.

2. Each application for a license or a renewal thereof shall be accompanied by a fee as established by the Planning Board for a mobile home park, trailer park or campground designed for the accommodation of not more than ten mobile homes, trailers or tent sites, and an additional fee as established by the Planning Board for each additional mobile home, trailer or tent site in excess thereof. Each such license shall expire on the first day of April next following the date of issuance. Before any license shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Town and State Ordinances and Laws have been complied with, they shall certify same.

3. Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.

4. The Planning Board is hereby authorized to revoke any license issued pursuant to the terms of the code if after due investigation they determine the holder thereof has violated any of the provisions of this or any applicable code, law or statute.

b. Design and Performance Standards for Mobile Home Parks

1. 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 North Berwick Zoning Ordinances, the provisions of this section shall prevail.

2. Lot Area and Lot Width Requirements: Notwithstanding the dimensional requirements table located in Article 4 of the North Berwick Zoning Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.

a. Lots served by public sewer:
Minimum lot area: 6,500 square feet
Minimum lot width: 50 feet

b. Lots served by individual subsurface waste water disposal systems:
Minimum lot area: 20,000 square feet
Minimum lot width: 100 feet

c. The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.

d. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements for that district.

3. Unit Setback Requirements.

a. On lots 10,000 square feet in area or larger, structures shall not be located less than 15 feet from any boundary lines of an individual lot. On lots less than 10,000 square feet in area, structures shall not be located less than 10 feet from any boundary lines of an individual lot.

b. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within a shoreland zoning district, structures shall meet the front setback and setback from high water mark requirements the dimensional requirements table in the North Berwick Zoning Ordinance.

4. Buffering: If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than fifty feet width which shall contain no structures or streets. The first twenty-five feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

5. Open Space Reservation: An area no less than 10% of the total area of those lots with a lot area of 10,000 square feet or less shall be reserved as open space. The area reserved as open space shall be suitable to be used for recreational purposes or use by the residents of the park for storage. Generally, the reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park.

6. All streets within a park shall meet the standards found in the Town of North Berwick Street Design & Construction Standards Ordinance.

7. Ground Water Impacts.

a. Submitted: Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed mobile home park on ground water quality. the hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology and shall contain at least the following information:

1. A map showing the basic soils types.

2. The depth to the water table at representative points throughout the mobile home park.

3. Drainage conditions throughout the mobile home park.

4. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

b. Standards for Acceptable Ground Water Impacts

1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

3. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

4. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

c. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

8. 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. 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 ownership and the fee to 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.

c. Seasonal Trailer Parks and Campgrounds: In any district where campgrounds or seasonal trailer parks are permitted under the terms of this Code, the following regulations and minimum standards shall apply:

1. A time limit is placed on the occupancy of any one camping space on a continuing basis as follows: Twelve weeks for the period May 15 to September 15 of each year, and two weeks for all other time. Only camping units such as defined herein (plus a towing vehicle), shall be permitted within any camper park, temporarily or otherwise.

2. A campground may not be constructed on less than 10 acres of land.

3. Each recreational vehicle, tent, or shelter site shall contain a minimum 4,000 square feet when within 250 feet of normal high water elevation of a body of water. Minimum frontage along the traveled way shall be 75 feet, and minimum frontage along any shore shall be 100 feet.

4. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and a fireplace approved by the Town's Fire Chief.

5. A trailer park or campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Plumbing Code and the State of Maine Department of Human Services. In no case shall fewer than one toilet, lavatory and shower be provided for each sex for every ten (10) camping and tent sites.

6. Trailers shall be so parked in spaces that:

a. there shall be a minimum of 15 feet between vehicles,

b. there shall be a minimum of 25 feet between all trailers and all public rights-of-way located inside the boundaries of the trailer park or campground, and that,

c. no camping unit or structure shall be located less than 100 feet from any residence.

7. No unoccupied camping unit shall be stored or exhibited for sale for commercial purposes within the park.

8. Seasonal trailer parks and campgrounds shall meet the same requirements for landscaped buffer strips, refuse disposal, and fire protection as specified in this Ordinance for Mobile Home Parks.

5.2.5 Planned Unit Development, Open Space Development and Motels

a. Purpose: The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed. To this end, all layout, dimensional, and area requirements contained in this Ordinance of Town's subdivision review standards may be altered without restriction, except height limitations.

b. Basic Requirements: Planned unit developments, open space developments and motels shall meet all the following criteria:

1. All planned unit developments, open space development, and motels shall meet the requirements for a residential subdivision, including Planning Board approval, except those requirements relating to layout, setback, frontages, and areas.

2. The minimum area of land in a planned unit development, open space development or motel shall be 10 acres.

3. Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking, the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

4. The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit developments shall be calculated on the basis described in the table below, For example, in developments where sewer service is not being provided, all of the "well- drained" and "moderately well-drained" land may be included in the density calculations, plus half of the "poorly- drained" land.

Land Which May be Included as "Suitable Land" When Calculating Net Residential Density

	On Sewer	Not On Sewer
Excessively Drained Well-Drained Moderately Well-Drained	100%	100%
Poorly Drained*	75%	50%
Very Poorly-Drained*	40%	--
Slopes Greater Than 33%	50%	--
Borrow Pits	67%	33%

* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

5. In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations (according to the table), less the land needed for roads, shall be divided by the minimum lot size normally required in the district.

6. No single group of dwellings which are attached either horizontally or vertically shall contain more than four (4) dwelling units.

7. The extent of soil types in the six categories listed in the table shall be certified by a registered soil scientist licensed in the State of Maine, on a high-intensity soil survey map.

8. No dwelling or motel unit shall be constructed on soil classified as being "very-poorly" drained.

9. Where a planned unit development or open space development abuts a watercourse or waterbody, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

10. All dwelling units in a planned development or open space development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.

11. All structures with required plumbing in a planned unit development, open space development or motel shall be connected to a public sanitary sewer system, if available, a central collection and treatment system or an individual treatment system in accordance with the sanitary provisions of this Ordinance.

12. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

c. Dedication and Maintenance of Common Open Space

1. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.

2. Further subdivision of common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.

3. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

a. It shall not be used for future building lots and that;

b. A part of all of the common open space may at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.

4. If any or all of the common space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.

5. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association or trust and the common land, shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.

6. This neighborhood association shall have the responsibility of maintaining the common open space(s).

7. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.

8. The developer of subdivider shall maintain control of such open spaces(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning board upon request of the neighborhood association or trust or the developer or subdivider.

5.2.6 Signs and Billboards

a. General: Billboards, and neon or gas-filled tubular signs (where such tubes are visible), shall be prohibited in all Districts. The following provisions shall apply only new signs in all Districts where permitted, unless stated otherwise.

b. Size, Location and Illumination

1. No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision, or where, by reason of its position, shape, color, illumination or wording the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

2. Illumination shall be conducted in such a manner as to deflect light away from residential properties and public roads.

3. No sign shall exceed fifty (50) square feet in area including all informational sides.

4. No commercial, industrial, institutional, public or semipublic land use may display more than 60 square feet of signs in total.

5. No permanent sign shall be located within fifteen (15) feet of any travel way or 15 feet of any lot line.

6. Free standing permanent signs (not attached to buildings) shall be attached to permanent posts.

7. The maximum height of a free-standing sign (not attached to a building) shall be fifteen feet to the topmost point.

8. Signs shall not be mounted on roofs or extend above the roof line (unless mounted on a parapet wall which extends above roof line).

9. Steady white light shall be required on signs to be illuminated. Plastic signs which are internally lit shall be allowed. When signs are to be externally illuminated, they may be any color. No sign shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

10. Flashing, moving, or animated signs shall be prohibited.

11. Strings of light bulbs, pennants, propellers, etc. shall not be permitted, except as part of a holiday celebration.

12. Signs shall be placed only on the same lot as the use or activity which they are advertising, except that strictly "directional" signs may be permitted to be located "off- premises" provided they conform to Maine D.O.T. regulations.

13. Home occupation signs may be up to six (6) square feet in area including all informational sides, relating to goods or services rendered on the premises.

14. Except as provided below, a temporary sign, not exceeding sixteen (16) square feet in surface area, including the surface area of all informational sides of such sign, is permitted in any zoning district.

15. A construction sign, not exceeding thirty-two (32) square feet in surface area, including all informational sides of both sides of such sign, is permitted in any zoning district on the property being developed. Such sign shall be removed within fourteen days (14) days after it has fulfilled its function.

16. One temporary real estate sign not exceeding ten (10) square feet in size including all informational sides, counting the surface area of both sides of such sign is permitted in any zoning district on each piece of property being sold, leased or developed. Such sign shall be removed within fourteen days after it has fulfilled its function or the property has been sold. Note: Setbacks for temporary real estate signs shall be 15’ from travel way.

17. A temporary political campaign sign, not exceeding thirty-two (32) square feet in surface area, including all informational sides shall be permitted in any district. Such sign shall be removed within five (5) days after the election. Temporary political campaign signs shall not be placed in a manner as to obstruct clear and free vision.

18. Temporary signs for garage sales, yard sales, or barn sales, shall be permitted provided such signs do not exceed four (4) square feet in area including all informational sides and are not higher than three (3) feet above ground grade within twenty-five (25) feet of any road intersection, 8’ from travel way and remain posted a maximum of five (5) days per event with a maximum of three (3) events per year. Temporary signs shall not be placed in a manner as to obstruct clear and free vision.

19. Temporary or portable signs shall be setback at minimum behind sidewalks. If sidewalk is not present the portable sign shall be setback at least eight feet (8’-0”) from the travel way. Sign shall not be placed in a manner as to obstruct clear and free vision.

20. Temporary or portable signs shall be maintained in good repair.

21. Non-commercial community events Temporary signs up to 12 square feet in area, be allowed for up to 30 days.

22. Temporary Seasonal sponsor signs up to 12 square feet in area shall be allowed at Town recreational facilities.

23. Temporary Season long event signs must be specifically permitted by the Code Enforcement Officer, and be removed within 5 days after completion of the event for which the permit is issued.

24. No signs shall be placed on Utility Poles.

c. Shoreland Districts Standards

These standards are in addition to all performance standards of the underlying districts. Where these standards are in conflict with any underlying standards, the more strict shall prevail. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Limited Residential:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area including all informational sides and shall not exceed one (1) sign per premise. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed six (6) square feet including all informational sides. Residential users may display a single sign not over three (3) square feet including all informational sides relating to the sale, rental, or lease of the premises.

3. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

4. Signs relating to public safety shall be allowed.

5. No sign shall extend higher than fifteen (15) feet above the ground.

6. Signs may be illuminated only by shielded, non-flashing lights.

5.2.7 Timber Harvesting

a. Basic Standards

1. Clearing land for agricultural field production or pasturage is exempted from the provisions of this section.

2. Harvesting operations shall be conducted in such a manner and at such time that minimal soil disturbance results. There shall be no harvesting of any trees within fifty (50) feet of any public or private cemetery, historic or otherwise and there shall be no damage of any kind to said cemeteries. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

3. Logging and wood lot roads shall be located, constructed and maintained in conformance with the recommended standards contained in the U.S. Forest Service's Guidebook, Permanent Logging Roads for Better Wood lot Management. Particular attention shall be paid to storm-water drainage and erosion prevention through proper grading, provision of box-culverts, and (on highly erodible soils) fertilizing, seeding and mulching roads which will not be used again for several years or more.

5.2.8 Animal Husbandry

a. Animal husbandry, kennels, and boarding kennels as defined in this Ordinance, shall require a lot area of at least five (5) acres.

b. Structures of pens for housing or containing the animals (such as chicken coops, barns, byres, stables, or dog-runs) shall be located not less than five-hundred (500) feet from the nearest residence existing at the time of permit issuance (other than the dwelling on the same lot).

c. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

d. The owner or operator of a use approved under this section shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in such a manner that they will not provide a breeding place for insects, vermin or rodents.

e. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied not less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

f. All enclosed kennels or veterinary buildings shall be constructed of masonry to provide for cleanliness, ease of maintenance, and noise control.

g. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or similar material to provide for cleanliness and ease of maintenance.

h. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located in accordance with the setbacks required for outdoor runs, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets State standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

i. all other relevant "good neighbor" performance standards in this Ordinance (such as for noise and odor) shall also be observed.

5.2.9 Residential Uses in Commercial Zones

New residential uses may be established in the commercial zone.

5.2.10 Recreational Vehicles

A recreational vehicle is a vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pick-up campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to this Ordinance, the building code, and federal manufactured housing standard, the unit must:

a. remain with its tires on the ground;

b. posses a current registration sticker or papers from any State Division of Motor Vehicles; and

c. not be occupied as a dwelling for more than ninety consecutive days, or more than 120 days in any calendar year, unless the vehicle is located in a licensed campground.

5.2.11 Agricultural Land and Development Standards

The purpose of this section is to allow landowners a reasonable return on their holdings, in such a way that the majority of existing open fields and pasture may remain undeveloped for use by future generations. Toward this end, all residential subdivision development proposals encompassing existing open fields or pasture may be at the discretion of the North Berwick Planing Board laid out according to the “open space” standards in Section 5.2.5 above, and in a manner consistent with the North Berwick Subdivision Ordinance.

a. New dwellings shall be clustered on non-open land to the most practical extent, so that fields and pastures remain undeveloped.

b. In districts where the required minimum lot size is one, two or four acres, dwelling unit shall be clustered so that they consume no more than 1/2 acre for 1 acre zoning and 1 acre for 2 or 4 acre zoning of land for every dwelling (including roads).

1. In districts where the required minimum lot size in one half acre, dwelling units shall be clustered so that they consume no more than one acre of land for every four dwellings (including roads). (This shall only apply to area served by Public Sewerage).

c. The above building densities shall be based on the following table, which shows the percentage of land in various drainage categories which may be counted as "suitable soil for development".

	On Sewer	Not On Sewer
Excessively Drained Well-Drained Moderately Well-Drained	100%	100%
Poorly Drained*	75%	50%
Very Poorly-Drained*	40%	--

1. In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included (on the basis of the above table), less the land needed for roads, is divided by the minimum lot size required in the district (four, two, one or half acre). A high density soil survey by a registered soil scientist shall be submitted to certify the extent and location of these soil types.

d. To the fullest extent practicable, all buildings and roads shall be located away from the soils which are most suitable for agriculture (based on the Soil Suitability Guide or Land Use Planning in Maine). This provision does not apply to the location of on-site septic disposal facilities, which must be placed on soil meeting the Maine State Plumbing Code.

e. Applicants for subdivision review under this subsection shall provide the Planning Board with copies of deed covenants (with prospective purchasers) or conservation easements (with the Town of North Berwick) describing land management practices (to be followed by the developer and/or community association of condominium owner which will ensure that the existing fields or pastures will be plowed or mowed at least once per year.

f. Farmland owners are not required to sell that part of their property which is to become open space provided that they convey the development rights of that open space to the Town in a conservation easement prohibiting future non-agricultural development.

5.2.12 Manufactured Housing

a. Purpose: The purpose of this Ordinance is to establish minimum standards for the placement of manufactured housing in accordance with the provisions of Title 30-A MRSA Section 4358., to require that manufactured housing be compatible with site built homes, and to provide opportunities for the location of affordable and safe housing within the community.

b. Prohibitions: No person, firm, corporation or other legal entity shall locate, or move from one lot or parcel of land to another, an older mobile home, trailer, or manufactured home which fails to meet the requirements of Appendix A, "Suggested Safety Standards for Older Mobile Homes" of the Maine Office of Comprehensive Planning's Guidebook for Local Officials dated September 1989.

c. Manufactured Housing Standards:

Must meet Part 11 Chapter 951 Manufactured Housing Act, Subchapter 1: General Provision 9006 Installation Standards

d. Siting of Manufactured Housing:

1. Any style may be located within mobile home parks.

2. Residential style units at least 14 feet in width (single wide) shall be located in Village Center and Residential Districts only.

3. Residential units at least 20 feet in width (double wide) may be located in all zoning districts except Resource Protection and Industrial Districts.

5.2.13 Aquifer Protection with the Aquifer Protection District

a. Definitions for this District:

Animal Feedlot: Animal husbandry on a plot of land which is used to hold more than the numbers of animals per acre given in the Dimensional Standards section.

Aquifer: Geologic unit composed of rock, gravel, sand, silt, or clay, which unit contains sufficient saturated permeable materials to conduct groundwater and yield economically significant quantities of groundwater to wells and springs.

Disposal: The deposit, injection, dumping, spilling, leaking, incineration, or placing of any material into or onto any land or water so that such material or any constituent thereof may enter the environment or any waters, including ground waters.

Hazardous Material: This term shall mean any gaseous, liquid or solid materials or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

Leachable Material: This term shall mean liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing contaminants into the ground water.

Motorized Vehicle: Any vehicle driven by an internal-combustion engine.

Open Space: Land which is not developed or altered by people for a specific use. Therefore, recreational areas such as baseball fields, golf courses, skimobile trails, etc. do not constitute open space.

Recharge Area: Area composed of porous sand, gravel, or other permeable material that collects precipitation or surface water and carries it to aquifers.

Sewered Development: Development served by the North Berwick Sewer District.

Sludge: Residential materials produced by water or sewage treatment processes, industrial processes, or by domestic septic tanks.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This include, but is not limited to, rubbish, garbage, scrap materials, junk, and refuse.

Street: Public and private ways such as highways, roads, and other rights-of-way.

Unsewered Development: Development which disposes of waste generated on the site by means of a privately owned and operated subsurface waste disposal system which leaches treated of untreated sewage into the ground.

b. Aquifer Protection Area

1. Delineation of Aquifer Protection Overlay. For the purposes of this ordinance aquifers and aquifer protection areas shall be delineated on a tax map and shall be entitled "Aquifer and Aquifer Protection District Map: Town of North Berwick." This map shall be deemed an integral part of this ordinance and shall be filed at the Town office. If there is any conflict between this section of the zoning ordinance and other sections, the most restructive ruling will prevail. When any portion of a lot is located in either Zone A or Zone B, all the land located in Zone A shall be governed by the regulations for Zone A, and all the land in Zone B shall be governed by the regulations for Zone B.

2. Aquifers and aquifer recharge areas are comprised of the following elements:

Zone A consists of aquifers, wells, and aquifer recharge areas, including the surface land overlying them, within an area in which leachable materials disposed of into or onto the land can travel to the well sites (existing or proposed) within 200 days travel time. Zone A as described above is delineated on the official aquifer protection district map.

Zone B consists of the area within which leachable materials disposed of into or onto the land can travel to the wells within more than 200 days but less than 2500 days. Zone B as described above is delineated on the official aquifer protection district map.

3. The delineation of aquifers and Zones A and B may be revised by amendment to this ordinance or to the official aquifer protection district maps upon recommendation of the Planning Board as aquifers and aquifer recharge areas are more accurately defined. Where the bounds as delineated are in doubt or dispute, the burden of proof shall be upon the owner(s) or occupier(s) of the land in question to show where they should be properly located. The Planning Board shall hold a public hearing in accordance with the procedures in section 6.8.5 to receive evidence from the owner/occupier, which shall include a report from a geologist licensed in the State of Maine with proven experience in hydrogeology. The Town may hire a hydrogeologist to review all information submitted by the applicant and charge the applicant the cost of the consultant. Or, at the request of the owner(s), the Town may engage a licensed geologist to determine more accurately the location and extent of an aquifer or aquifer recharge area, and may charge the owner(s) or occupier(s) for the cost of investigation. The Board shall also notify the No. Berwick Water District of the hearing at least 14 days prior to the date of the hearing. Within 30 days of the hearing the Board shall decide whether to recommend to the Selectmen that an amendment to the official Aquifer Map be placed on the next warrant.

4. Any time the map is revised, the date of the revision and the signature of the Chairman of the Planning Board certifying the revision shall be noted on the map.

c. Land Uses within the District

1. Zone A All uses are prohibited except the following:

a. Conservation of soil, water, plants, and wildlife

b. Outdoor recreation, including boating, fishing, nature study, and where otherwise legally permitted

c. Foot, bicycle, and horse paths or bridges

d. Normal operation and maintenance of water supply facilities including forest management by the water district.

e. Single family dwellings and accessory structures no closer than 500 feet to a public well. This requires CEO approval and notification to the water district.

f. Motor powered equipment necessary for home maintenance.

2. Zone B prohibited and conditional uses.

a. The following is a list of prohibited uses within the Acquifer Zone B Overlay:

1. Disposal or storage of solid waste, hazardous materials, leachable materials, road salt (except for winter road maintenance), or sludge.

2. Animal feedlots.

3. Commercial use, storage, or aerial spraying of herbicides, insecticides, or pesticides.

4. Mining, including sand and gravel excavation.

5. Boat and motor vehicle service or repair facilities.

6. Metal plating.

7. Commercial furniture stripping, painting, or wood preserving.

8. Commercial dry cleaning.

9. Truck or trailer terminals.

10. Nonresidential pipelines for transmission of oil, gasoline, or other hazardous materials.

11. Spray irrigation of industrial sewage, sludge, or wastewater.

12. Golf courses.

13. Sawmills and wood processing plants.

14. Medical and veterinary facilities.

15. Subsurface waste disposal systems with a capacity greater than 1,000 gallons per day.

b. Conditional uses within Zone B will be determined by the underlying district (i.e. Farm and Forest, Shoreland, etc.).

c. Any use that may affect the aquifer District and is not identified by these ordinances shall be subject to review. The review will be done by the CEO or at his discretion passed to the Planning Board.

d. Performance Standards

1. Manure Storage: Agricultural operations which generate or utilize manure must provide containment facilities for manure storage which shall be designed and operated according to the York county Soil and Water Conservation District Technical Guide, Standard and Specification Number 313. Manure containment facilities must be adequate to hold one years production and must be covered.

2. Application of Fertilizers: Application of nitrogen fertilizer or manure in excess of 250 lbs./acre/year of total nitrogen requires CEO approval and annual review. Manure spreading shall be carried out in accordance with Maine Guidelines for Manure and Manure Sludge Disposal on Land, (Cooperative Extension Service Miscellaneous Technical Report 142) and rate of application must not exceed the rate shown by soil type in the tables in the above cited report. Provision shall be made for control of runoff, erosion, and sedimentation. Application of fertilizer or manure to sand, or bare soil where the topsoil has been removed, is prohibited. Normal lawn maintenance and home garden care is permitted without a permit.

3. Runoff and Drainage: Unless it can be shown that an increase in runoff will have no off-site impact, peak runoff from the site in the developed state shall not be increased beyond that in the undeveloped state. Provision shall be made for on-site recharge of storm water runoff from impervious surfaces unless the Planning Board determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board. Dry wells shall not be used for control of surface runoff unless other methods of control are not feasible. Dry wells shall not be used for disposal of any leachable materials or hazardous materials and shall not be connected to floor drains.

4. Pollution Levels: The concentration of any pollutants introduced into the soil on the site will be attenuated to a contaminant concentration in the ground water that is less than one half of the difference between the background concentration before development, and the Safe Drinking Standard for that particular contaminant. Monitoring wells must be located within 500 feet of pollutant sources.

5. Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as spill control provisions in the vicinity of chemical of fuel delivery, transfer, and storage points secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or leachable materials. Handling and storage of toxic and hazardous materials shall meet performance standards established by the Maine Department of Environmental Protection.

6. Subsurface Waste Disposal Systems: Subsurface waste disposal systems are only permitted in Zone A when they are set back at least 500 feet from public wells. In Zone B no more than two dwelling units may be connected per subsurface waste disposal system, and no "engineered systems" as defined in the State of Maine Subsurface Wastewater Disposal Rules are permitted. Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning such systems, is prohibited.

7. Storage Tanks: All storage tanks for oil, fuel, or other materials shall be protected from corrosion and shall have a secondary containment system. Above ground or indoor tanks shall be constructed over an impermeable base surrounded by a berm or enclosed area large enough to contain the contents of the tank. Underground tanks shall be equipped with a double-liner built to the specifications for double-containment listed in Title 38, chapter 691, MRSA. All tanks which do not meet the above-listed specifications shall be nonconforming. All above ground and indoor tanks must be equipped with a secondary containment system by October 1, 1986. All underground tanks in place prior to March 1, 1986 shall be assumed to be nonconforming unless the owner provides the Code Enforcement Officer with evidence that the tank is double-lined. Nonconforming tanks shall be pressure tested annually in Zone B and once every 200 days in Zone A. Tanks failing to pass the pressure test shall be excavated and examined for leaks. If a leak exists, an investigation of amount and location of spilled substance shall be undertaken at the expense of the owner. If the spilled substance poses a significant threat to health and safety it shall be removed at the expense of the owner. all nonconforming underground tanks shall be excavated when 20 years old. If date of installation can not be identified, the tank shall be removed.

e. Dimensional Standards: The dimensional standards of the underlying district as shown in section 4.3 shall be applied in the aquifer protection district except for the minimum lot size for unsewered residential use and acreage standards established for animal husbandry.

1. The dimensional standard for unsewered residential use is 4 acres and 300 feet of frontage per dwelling unit.

2. Acreage standards for animal husbandry are as follows:

Dairy Cattle	1 animal/acre
Beef Cattle	3 animals/acre
Swine	4 animals/acre
Sheep	8 animals/acre
Goats	12 animals/acre
Horses - Riding	3 animals/acre
Horses - Draft	1 animal/acre
Chickens/Roosters - Layers	139 animals/acre
Chickens/Roosters - Broilers	155 animals/acre
Dogs	24 animals/acre

Animal husbandry at densities higher than those listed above is not permitted in Zone A or Zone B. Acreage shall be calculated based on the area utilized by the animals during the winter and may include areas utilized for manure spreading. No area shall be considered to be smaller than one acre. Persons keeping more than one kind of animal may prorate the acreage used among the animals to be kept. Persons keeping animals not listed in this section must be considered on an individual basis and therefore must obtain a conditional use permit for such uses.

f. Administration and Enforcement

1. No activity of land use may be conducted except in accordance with these provisions. Failure to conform with these provisions shall constitute a violation and shall be subject to the penalties set forth in Section 6.6 of the North Berwick Zoning Ordinance.

2. Conditional use permit review shall be conducted by the Planning Board. A conditional use permit shall be granted as the Planning Board determines that the intent of this Ordinance as well as its specific criteria are met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed. No activity of land use may be conducted in Zone B until a conditional use permit for such activity or use has been approved by the Planning Board.

3. Monitoring wells are required for:

a. any use deemed by the Planning Board to be an actual or potential source of pollution.

The number, location, and depth of monitoring wells shall be determined by a hydrogeologist chosen or approved by the Town and shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Monitoring wells shall be installed on the property, at the expense of the owner or occupier, within 500 feet of actual or potential pollution sources. The Planning Board shall determine, in consultation with the North Berwick Water District, when monitoring wells shall be sampled. Results from monitoring well samples shall be submitted to the North Berwick Water District.

g. Nonconformities

1. Nonconforming uses shall not be extended or expanded.

a. In the case of nonconformities, the buildings may be maintained, repaired, or renovated, but the expansion of the dwelling's footprint is prohibited.

b. In the case of earth removal operations, the removal of earth may not be extended as a non- conforming use beyond the required setback lines of the specific parcel upon which such operations were in progress when such use became non-conforming. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

2. A non-conforming use of a structure, building, or property may be changed to another non-conforming use by appeal to the Planning Board if the applicant presents the testimony of an expert witness that the proposed new use will be less detrimental to the aquifer protection district than the prior use is, and if the Board accepts that testimony as reliable.

3. A single lot in Zone B of record prior to March 1, 1986 may be built upon providing no subsurface waste disposal system is located within 300 feet of another septic system or if a variance is obtained from the Board of Appeals.

4. If any non-conforming use ceases for any reason for a period of one year or more, such land and buildings shall thereafter be used and developed only in accordance with the terms of this section of the Zoning Ordinance. This provision shall not apply to the resumption of use of a residential structure provided the structure has been used or maintained for residential purposes during the preceding five (5) year period.

5. Wherever a non-conforming use is changed to a permitted use, such use shall not thereafter revert to non-conforming status.

5.2.14 Street Design & Construction Standards

All streets in the Town of North Berwick will be built to the standards contained in Article 11.2 and 11.3 of the ordinance entitled Town of North Berwick Street Design & Construction Standards Ordinance.

5.2.15 Handicapped Accessibility

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 5 as determined by the Code Enforcement Officer:

a. Built according to BOCA and Life Safety Building Codes.

b. It shall not be wider than 6 feet at any point.

c. It shall be constructed of wood and or some other material which may be removed when the need for the ramp no longer exists.

d. The applicant shall present to the Code Enforcement Officer written evidence that someone who has resided in the house has become handicapped and needs the ramp.

e. The applicant shall present to the Code Enforcement Officer written evidence that it cannot be constructed within configuration of the property and location of the structure being accessed.

f. The applicant shall present to the Code Enforcement Officer 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.

5.2.16 Affordable Housing Standards (Village C Overlay District)

A single-family unit in the Village C Overlay District and Commercial District shall be deemed affordable if all the following standards are met:

a. The total cost for the dwelling unit does not exceed 28% of the income of a household earning 80% of the median household income in North Berwick. Total housing cost shall be defined as the mortgage payment for the dwelling unit based upon 90% of the dwelling's value, the housing insurance, and property taxes;

b. The deed for the property states that for 30 years from the date of the initial purchase of the property as an affordable housing property, the property shall not be sold by any owner for more than an affordable cost as defined in Article 5.2.16.a.

c. The determination of an affordable price for a property shall be determined by the Planning Board based upon the latest available data from the U.S. Census, a department of State of Maine government, and or the Southern Maine Regional Planning Commission;

d. Before plans for affordable dwelling units are approved by the Planning Board or Code Enforcement Officer, the Town attorney shall review and approve in writing the deed(s) for each property assuring that the standards of Article 5.2.15 are met. The cost for Town attorney review shall be born by the applicant in all cases regardless of approval or disapproval.

e. These affordable homes are intended primarily for owner occupancy, however, if rented, the rent shall be limited to no more than the same maximum monthly cost as stated in 5.2.16 paragraph (a).

f. The siting and appearance of affordable housing will be similar to other houses in the area.

5.2.17 Shoreland Districts Standards

These standards are in addition to all performance standards of the underlying districts. Where these standards are in conflict with any underlying standards, the more strict shall prevail.

a. <u>Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.</u>

(1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

(4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.

(5) No new structure shall be built on, over or abutting a pier, 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 body or wetland as an operational necessity.

(6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(7) 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.

(8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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

(1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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

(1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(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.

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

(1) Auto washing facilities

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical and bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) 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

(11) Photographic processing

(12) Printing

e. Parking Areas

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

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

(b) Internal travel aisles: Approximately twenty (20) feet wide.

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

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

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

Section 5.2.17 (f)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 5.2.17(f)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

(3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 5.2.17(o).

(5) Driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet. Road Grades shall conform to the Town of North Berwick Street Design and Construction Standards Ordinance.

(6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

(8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

(a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

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

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

g. Signs.

See Article 5.2.6 for sign Performance standards in Shoreland districts.

h. Storm Water Runoff

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

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

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

i. Septic Waste Disposal

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

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

j. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 5.2.17 (k)(4) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of Bauneg Beg Pond or the Great Works River, and within one hundred (100) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within one hundred and fifty (150) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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

(b) The final graded slope shall be three to one (3:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

l. Agriculture

(1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a Bauneg Beg Pond, Great Works River, a river flowing to a great pond classified GPA, and of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a Bauneg Beg Pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) 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.

(5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Bauneg Beg Pond; 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 Conservation Plan.

m. Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;
(2) There is no resultant soil disturbance;
(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
(4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(b) Beyond the 75 foot strip referred to in Section 15(m)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) Except in areas as described in Section 15(m)(1) above, timber harvesting shall conform with the following provisions:

(a) 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 clearcut 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 clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in Section 15(m)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

(c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, 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 or tributary stream shall be removed.

(d) 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.

(e) 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.

(f) 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.

(g) 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, horizontal distance, 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, horizontal distance. 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, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

n. <u>Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting</u>

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

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

(2) Except in areas as described in Section n(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:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 5.2.17(n)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

(4x1)+(2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 5.2.17(n)(2)(b) “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 5.2.17(n) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, 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.

Section 5.2.17(n)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

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

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

(4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 5.2.17(n).

o. <u>Erosion and Sedimentation Control</u>

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

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

(3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

(4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

(a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

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

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

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

r. Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

5.2.18 Adult Businesses

a. Purpose: The purpose of this Ordinance is to regulate the location and operation of "Adult Businesses" within the Town of North Berwick.

b. Definitions:

1. Adult business means:

a. 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.

b. 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.

c. Any business which provides massage for consideration.

d. Any business which presents as entertainment, or for the purpose of attracting customers, nude or semi-nude dancing or entertainment, meaning that the entertainers male or female or other persons employed in the business expose any portion of the human genitals or any portion of the female breasts at or below the areola thereof in such a fashion that any of those parts of the body are not covered by a fully opaque cloth or textile material.

2. Massage means: 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. sl4301(4).

3. Specified sexual activities means: (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 genital, pubic region, buttock or female breast.

c. Operation and Location:

1. No adult business shall be located:

a. In any zoning district other than the Commercial II District between the intersections of Route 4 and (and Route 4, 9 and Madison Street as depicted in the Limited Commercial Zone as of July 1, 2012.

b. In any location where the customer entrance to the adult business would be closer than 500 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:

1. occupied by a school, park, playground, church, public building or day care center.

2. occupied by another adult business.

c. In any location where the customer entrance to the adult business would be closer than 100 feet measured in a straight line without regard to intervening structures or objects, to the nearest point of the main entrance to a residence.

2. Outside displays, materials, or devices exhibiting specified sexual activities shall not be visible from the exterior of the building in which the adult business is located.

3. The hours of operation may not be between the hours of 10:00 PM and 6:00 AM.

d. Application and Permitting Procedures:

1. No adult business shall be located or commence operation within the Town of North Berwick without first being approved by the North Berwick Planning Board pursuant to the procedures and standards applicable to conditional uses located in the Town of North Berwick Zoning Ordinance. Planning Board review under this Ordinance shall be limited to the impacts and effects of the proposed use and determined by applying the conditional use and adopted zoning 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. Planning Board decisions under this ordinance may be appealed to the North Berwick Zoning Board of Appeals or may be taken directly to the Superior Court pursuant to North Berwick Zoning Ordinance.

e. Exceptions:

1. This Ordinance is not intended to regulate any established and existing school, church, museum, private or public library or governmental agency, nor their libraries or collections as they may exist under state, local, federal law or act as a vehicle of censorship in artistic endeavors.

2. This Ordinance is not intended to regulate any conduct expressly regulated by existing state statues.

f. Penalty:

1. Any conduct made unlawful by this Ordinance and any violation of this Ordinance shall be punishable by a fine of Five Hundred Dollars ($500.00) for each offense, payable to the town of North Berwick. Each day that such unlawful act or violation continues shall be considered a separate violation. The fine or fines shall be assessed as provided by Maine state law.

2. In addition to any other penalty provided by law, the commission of acts prohibited by this ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

g. Severability:

1. If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

5.2.19 Emergency Public Health and Safety Facilities

In addition to the requirements imposed by subsection 6.9.6, the following requirements shall be satisfactorily demonstrated to the Planning Board before said Board shall issue a conditional use permit for any emergency public health or safety facility, including but not limited to a fire department substation or an ambulance garage.

a. The facility shall serve the public impartially and equally;

b. The facility shall not be equipped or occupied by a family, but only for three (3) or fewer persons on call to operate the facility;

c. The facility may be located on a lot less than the minimum lot size required, but shall contain sufficient land area to meet all applicable state and North Berwick Plumbing Code requirements; if served by Town water and sewer, the facility shall be located on lot of at least 20,000 square feet; this subsection shall specifically override any other lot size requirements of this Ordinance;

d. Setbacks may be reduced up to 50% at the Planning Board’s discretion.

ARTICLE 6 - ADMINISTRATION

6.1 Building or Use Permit

6.1.1 Use of permits shall not be required for permitted uses.

6.1.2 All applications for building or use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.

6.1.3 Within ten days of the filing of an application for a building or use permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for conditional use permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the North Berwick Town Office. In cases where the Code Enforcement Officer deems that a conditional use permit is required, he shall also provide a copy of his decision to the Planning Board.

6.1.4 Building permits for a building or structure on any lot shall be issued only to the owner of record thereof, or his authorized agent, and shall not be issued until the proposed construction or alteration of a building or structure complies in all respects with the provisions of the Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. All applications for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual slope and dimensions of the lot to be built upon, an on-site soils survey in accord with the USDA Soil Conservation Service National Cooperative Soil Survey, the exact location and size of all buildings or structures already on the lot, within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

Follow the example of the sample site plan enclosed at the end of this Ordinance. For more exacting details, consult the North Berwick Subdivision Regulations. (Note: The site plan does not have to be drawn by a registered engineer, but must be neat and contain all required data).

6.1.5 Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.

6.1.6 A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, or if the work or change is not substantially completed within two years of the date on which the permit is granted.

6.1.7 For construction of a principal or accessory building, application for a building permit must include a plot plan showing the location of proposed and existing structures to assure that setback requirements are satisfied, and a category 3 survey will be required from the applicant or contractor when the footing is inspected. No construction shall be placed upon the footing until the footing has been inspected.

6.2 Fee

No building permit shall be issued without payment of a fee in accordance with the current fee on file with the Town Clerk.

6.3 Growth Management Permit Required

6.3.1. The purpose of this section is to ensure that this Ordinance supports the objectives of the Comprehensive Plan, including, but not limited to, the following:

a. Provide for the local housing needs of the Town's existing residents;

b. Plan for continued residential population growth of the Town at a rate which is compatible with the orderly and gradual expansion of community services, including education, fire and police protection, road maintenance, waste disposal, etc.

c. Avoid a situation in which the rapid completion of major subdivisions, housing many families with school age children, could outstrip the Town's capability to expand its schools and other services soon enough to avoid serious overcrowding;

d. Ensure fairness in the allocation of building permits; and

e. Ensure that the Town experiences growth rates which are at parity with other municipalities in the region.

6.3.2. Except as provided below, a building permit for the construction of a new single family, two-family or multi-family dwelling or for the placement of manufactured housing shall be issued only if the application for the building permit includes a valid growth management permit issued in accordance with the provisions of this section. Both permanent and seasonal dwelling units are included within this provision.

6.3.3. The following are exempt from the provisions of this section:

a. The repair, replacement, reconstruction or alteration of any existing building or structure;

b. Housing for the elderly which is constructed, operated, subsidized or funded, in whole or in part, by an agency of the state or federal government; and

c. The construction or alteration of a nonresidential building or structure.

6.3.4. The Town shall issue not more than the number of growth management permits each fiscal year, i.e., July 1 to June 30, as shall be determined by the Selectmen for the fiscal year beginning July 1, 2004 and biennially thereafter and filed with the Town Clerk. To determine the maximum number of growth management permits that may be issued in a fiscal year, the Selectmen shall multiply by 0.022 the number of dwelling units in North Berwick at the end of the immediately preceding fiscal year. This annual total shall be subject to the review procedure set forth below.

6.3.5. The operation of this chapter shall be reviewed by the Planning Board periodically, but not less frequently than once every two years, to ensure that the annual maximum growth rate has not become inconsistent with the Town's capability to establish or enlarge needed public facilities and services. Based upon its review, the Planning Board may recommend amending this section as provided in Article 1, section 1.5.3.

6.3.6. Applications for growth management permits shall comply with the following:

a. A growth management permit application must be completed by the lot owner of record, including all endorsements and certifications.

b. Applications shall be on forms provided by the Town. The code enforcement officer may request additional information and shall have the authority to require that the application be revised or supplemented in order to meet state or local requirements.

c. Applications shall include a description of the proposed building project.

d. Growth management permit applications shall be accompanied by a nonrefundable fee of $550.00. $500 will be applied to the building permit fees

6.3.7. Growth management permit applications shall be submitted to the code enforcement officer who shall endorse each with the date and time of receipt. In the event two or more growth management permit applications are received simultaneously, the code enforcement officer shall determine their order by random selection. The code enforcement officer shall review growth management permit applications in the same order as they are received. The code enforcement officer shall review all growth management permit applications for completeness and accuracy. When the code enforcement officer finds an application to be complete, he shall approve it by signing the application and endorsing the date and time of approval on the application. For each fiscal year, the code enforcement officer may accept more complete applications than the number of growth management permits determined under Section 6.3.4. and maintain a waiting list not to exceed twice the number of permits authorized for that year. Applications on the waiting list shall be ranked according to the date and time of receipt, as above, and shall be eligible for a permit based on their ranking. Any application that remains on the waiting list for two fiscal years shall be removed from the list. Presence on the waiting list for part of a fiscal year shall be considered one year.

a. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit application for a period of one year.

b. Growth management permit applications which are not approved by the code enforcement officer because of incomplete or inaccurate information shall be automatically re-ranked and reconsidered upon re-submission following corrections.

6.3.8. The holder of a valid growth management permit may apply for and be issued a building permit for a building project which is the same as or substantially similar to the project described in the growth management permit and which is on the lot which is the subject of the growth management permit. A growth management permit which has not been used to obtain a building permit within 90 days of the approval by the code enforcement officer of the growth management permit shall expire. Expiration of building permits shall be in conformity with the applicable provisions of this Ordinance.

6.3.9. No more than 6 growth management permits shall be issued for dwelling units within a single subdivision during each fiscal year. Additional permits for such subdivision may be issued in succeeding years in accordance with section 6.3.7. The limitations contained in this subsection shall not apply to subdivisions approved prior to the enactment of this Ordinance or which have had at least one substantive review by the Planning Board prior to the enactment of this Ordinance but growth management permits issued for such subdivisions shall be counted against the maximum number of permits issued each year as provided in section 6.3.4.

6.3.10. Growth management permits shall be site specific, and shall be valid for construction only on the lot specified on the application. However, such permits and applications for permits shall be transferable to new owners of the lot, if the lot is sold or otherwise legally transferred. Transfer of ownership of the lot shall leave the application ranking unchanged. An application which has been transferred not in accordance with the section shall be nullified and revoked by the code enforcement officer.

6.3.11. This section shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this article imposes a greater restriction upon the use of land, buildings or structures, the provisions of this article shall prevail.

6.4 Plumbing Permit Required

No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance, and with the provisions of State Plumbing Code.

6.4.1 Plumbing Permit Fee

No plumbing permit shall be issued without payment of a fee in accordance with the current fee schedule on file with the Town Clerk.

6.5 Sign Permit Requirements

6.5.1 All permanent signs erected shall comply with the following:

a. Written application to the Code Enforcement Officer shall be made for the installation of all signs, unless otherwise specified in this Ordinance.

b. Unless otherwise specified in this Ordinance, it shall be unlawful to erect, construct, reconstruct, alter, paint, repair or change the use of any sign as defined herein without first obtaining a sign permit from the Code Enforcement Officer approving such action.

c. Such sign permit shall not be required in order to repaint any of the aforesaid exactly as it was previously and which, at the time of the proposed repainting, conforms in all respects with the provisions of this Ordinance.

d. Signs advertising defunct businesses or premises shall be removed by the property owner within three months after the advertised activity ceases.

e. Mobile signs, such as those mounted on a movable chassis, with or without wheels, shall not be permitted.

f. All signs shall meet the setback requirements of article 5.2.6. Signs placed closer to roadways than permitted shall be removed and shall not be permitted to be replaced until after 30 days have expired and a new sign permit is obtained from the Code Enforcement Officer.

6.6 Enforcement

6.6.1 This Ordinance shall be enforced by the Code Enforcement Officer appointed by the Municipal Officers. If the Code Enforcement Officer should find that any provision of this Ordinance is being violated, he shall notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structures, additions, or work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

6.7 Violations, Legal Action and Fines

6.7.1 When any violation of any provision of this Ordinance is found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

6.7.2 Any person, firm, or corporation be the owner or having control of any building, land use, or premises who violated any of the provisions of this Ordinance, shall be guilty of a misdemeanor and shall be subject to penalties outlined in 30-A, MRSA, Section 4452 for each day the violation continues after notification. Amount of fines shall be set by the Municipal Officers, and inure to the Town of North Berwick.

6.8 Appeals

6.8.1 Jurisdiction

a. If the Planning Board disapproves an application for a Conditional Use, or grants approval with conditions that are objectionable to the applicant or to any abutting land owner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongly interpreted, the applicant, an abutting land owner, or aggrieved party may appeal the decision of the Planning Board, as follows:

1. Appeals involving administrative procedures or interpretation of this Ordinance may be heard and decided by the Town's Board of Appeals, as detailed below:

2. When errors of administrative procedures are found, the case shall be referred back to the Planning Board for rectification.

3. When errors of interpretation are found, the Town's Board of Appeals may modify or reverse the order or action but may not alter the conditions attached by the Planning Board. All changes in conditions, other than changes made by the granting of a variance, shall be made by the Planning Board in accordance with the Town's Board of Appeals interpretation.

4. Appeals involving administrative procedures or interpretation shall lie from the decision of the Planning Board to the Town's Board of Appeals and from the Town's Board of Appeals to the Superior Court according to State Law.

5. Appeals involving conditions imposed by the Planning Board, or a decision to deny approval, shall be from the Planning Board to the Superior Court according to State law when such appeals do not involve administrative procedures and interpretation. Appeals involving administrative procedure and/or interpretation may first be heard and decided by the Town's Zoning Board of Appeals, as detailed above.

6.8.2 Board of Appeals

a. **Establishment**: A Board of Appeals is hereby established in accordance with State law and provisions of this Ordinance.

b. **Appointment and Composition**

1. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five (5) regular members and up to two (2) associate members who can be granted voting rights in the absence of regular members, all of whom shall be legal residents of the Town of North Berwick, serving staggered terms of at least three years and not more than five years. The Board shall annually elect a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the board shall be public record. A quorum shall consist of three members.

2. Neither a Municipal Officer nor his spouse may serve as a member or as an associate member.

3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting therefore on shall be decided by majority vote of the members, except the member who is being challenged.

4. A member of the board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.

c. **Powers and Duties**

1. **Administrative Appeals**: to hear and decide where any person affected by a decision, order, rule, or failure to act alleges there is an error in the procedure followed by either the Code Enforcement Officer or the Planning Board, or in the interpretation of the Ordinance by the Code Enforcement Officer or the Planning Board. Interpretive and administrative procedural error may be modified or reversed by the Board of Appeals by concurring vote of at least three (3) members of the Board.

2. **Variance Appeals**: To hear and decide, upon appeal, a specific case where a relaxation of the Zoning Ordinance may be effected only on the areas of height, area, structure size and setbacks. Additional conditions and safeguard may be prescribed by the board upon the landowner appropriate to the conditions of this Ordinance. Expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformance in the zoning district or uses in adjoining zoning districts. The Board of Appeals shall grant a variance by concurring vote of at least three (3) members only in strict compliance with all of the following criteria:

a. That the land in question cannot yield a reasonable return unless a variance is granted.

b. That the need for a variance is due to the unique circumstances of the property (not desired use or personal hardship) and not to the general conditions in the neighborhood.

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner (as required by State law: Title 30-A MRSA Section 4963.)

3. **Setback Variance for Single Family Dwellings:**
The Board may grant a variance from the setback requirements for a single family dwelling only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

a. The need for a variance is due to the unique circumstances of the property and not of the general conditions of the neighborhood;

b. The granting of a variance will not alter the essential character of the locality;

c. The hardship is not the result of action taken by the applicant or a prior owner;

d. The granting of a variance will not substantially reduce or impair the use of abutting property; and

e. That the granting of a variance is based upon demonstrated need, not convenience and no other feasible alternative is available.

This subsection is strictly limited to permitting a variance from a setback requirement for a single family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty (20%) percent of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

4. **Mislocated Structure Appeal:**
The Board of Appeals may grant setback reduction in specific cases where existing structures are found to be in violation of the setback requirements and where the board concludes it would not be in the public interest to require that it be relocated or removed, and that allowing the structure to remain in its existing location would not be contrary to the public health, safety, or welfare. Before granting an appeal under this subsection, the board must find that the setback violation is not the result of a willful, pre-meditated act, or gross negligence on the part of the applicant, a predecessor in title to the applicant, or an agent of either of them.

The applicant for a mislocated structure appeal must also demonstrate the following:

a. The setback of the existing structure under appeal is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties in the zoning district.

b. The impacts of allowing the mislocated structure to remain in its existing location will not be substantially different from or greater than the impact and effects of a structure which conforms to the setback requirements.

A variance is not justified unless all elements above are present. The burden of proof rests with the landowner to prove the above conditions exist. A financial disadvantage or personal hardship are not sufficient to grant a variance as all variances must relate to a unique feature of the land.

d. **Appeal Procedure**

1. In all cases, a person aggrieved by a decision of the Code Enforcement Officer or by a decision of the Planning Board shall commence his appeal within 30 days after the decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

2. Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within 30 days. The Board of Appeals shall notify Municipal Officers, the Code Enforcement Officer and the Planning Board, at least 10 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area. In appeals involving the use of buildings, premises, space and bulk regulations, or interpretations, a fee in accordance with the current fee schedule on file with the Town Clerk plus all mailing and advertising costs shall accompany the appellant's application.

3. In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the appellant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing.

4. In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail the appellant and only the owners of property abutting the property for which an appeal is taken, at least 10 days in advance of the hearing, of the nature of the appeal and of time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties directly across a street or waterbody from the property for which the appeal is made.

5. In the case of appeals involving properties within Shoreland Zones, A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

6. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

7. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.

8. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.

9. The appellant's case shall be heard first. Then the board should hear from abutters and then any other citizens attending the meeting should be given an opportunity to speak. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

10. Within 20 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the applicant, the Code Enforcement Officer, the Planning Board, and the Municipal Officers of its decision and reasons therefore.

11. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a building permit in accordance with the condition of the approval.

12. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.

6.9 Conditional Use Permits

The Planning Board is hereby authorized to hear and decide upon application for conditional use permits in accordance with State law and the provisions of this Ordinance. The CEO is authorized to decide upon applications for conditional uses that are designated as requiring CEO approval. The CEO at his discretion may refer any applications requiring his approval to the Planning Board. The decision of the Planning Board or CEO may be appealed to the Board of Appeals, and thence to Superior Court.

6.9.1 Fee

The applicant is responsible for all costs for the review process of any conditional use permit application. Costs are to include but not be limited to: Conditional Use application fee in accordance with the current fee schedule on file with the Town Clerk, professional consultation fees, mailing and advertising expenses. Fees collected by the process will inure to the Town of North Berwick.

6.9.2 Powers and Duties

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications which require Planning Board review. The CEO shall hear and approve, disapprove, or refer to the Planning Board, all applications which require CEO review. No conditional use permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

6.9.3 Activities Requiring Conditional Use Permits

A Conditional Use Permit shall be required for any land use or activity which is classified as a "Conditional Use" in the land use table appearing in Article 4 of this Ordinance. A conditional use permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such conforming use on a continued basis which has been discontinued for at least two (2) years.

6.9.4 Application Procedure

a. A person informed by the Code Enforcement Officer that a conditional use permit is required shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for conditional uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:

1. an appropriate place for the signatures of Planning Board.

2. a date, scale and arrow showing both true and magnetic north.

3. the zoning district where the premises in question is located.

4. all existing and proposed setback dimensions.

5. all landscape area, fencing, and size and type of plant material upon the premises in question.

6. all proposed signs and their size, location, and direction of illumination.

7. all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas.

8. all existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

b. Following the filing of a complete application, and before taking action on any application, the Planning Board, may, hold a public hearing on the application within 60 working days according to the procedures detailed in Section 6.8.5 below. Regardless whether a public hearing is held, the Planning Board shall notify all abutters, including owners of property on the opposite side of any public way, that such an application has been received for review. Any conditional use application for a commercial use shall require a Public Hearing under this section.

c. Within 60 days of the public hearing, or 90 days of the application being filed if no public hearing is held, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing to the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reason therefore.

d. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a building permit.

e. A conditional use permit secured under the provision of this Ordinance shall expire if the work or change involved is not commenced within one year of the date of which the Conditional Use is authorized, or if the work or change is not substantially completed within two years.

6.9.5 Public Hearings

a. In scheduling public hearings under this Ordinance, the Planning Board shall notify the Selectmen, the Code Enforcement Officer and the Zoning Board of Appeals, at least seven (7) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area.

b. The Planning Board as a minimum shall notify, by mail, the applicant, abutters and owners of all property within 500 feet of the property involved, at least seven (7) days in advance of the hearing, of the nature of the application of the time and place of the public hearing.

c. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

d. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.

e. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

6.9.6 Factors Applicable to Conditional Uses

a. In considering a conditional use permit the Planning Board shall evaluate immediate and long-range effects of the proposed uses, and the following factors:

1. the compatibility of the proposed with adjacent land uses and other property in the district;

2. the need of a particular location for the proposed use;

3. the impact of the proposed use on local population and community facilities;

4. the impact of the proposed use on transportation facilities;

5. the maintenance of safe and healthful conditions;

6. existing topographic and drainage features and vegetation cover on site;

7. the prevention and control of water pollution and sedimentation;

8. the location of the site with respect to flood plains and floodways of rivers or streams.

b. Before any conditional use permit may be issued, the Planning Board shall make written findings certifying compliance with the relevant Performance Standards in Article 5 of this Ordinance, and certifying that satisfactory provisions and arrangements have been made concerning the following, where applicable:

1. ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

2. off-street parking and loading areas where required with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional Use on adjoining properties generally in the district;

3. refuse and service areas, with particular reference to items in (1) and (2) above;

4. utilities, with reference to locations, availability and compatibility;

5. screening and buffering with reference to type, dimensions, and character;

6. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; and

7. required yards and other open space.

c. Additional Factors for Shoreland Zones: The Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Article 5, Performance Standards.

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

d. Special Exceptions. In addition to the criteria specified in Section 6.9.6(c) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

(5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

6.9.7 Conditions Attached to Conditional Use

a. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that would mitigate any adverse effects on adjoining or neighboring properties, which might otherwise result from the proposed use. These conditions may include, but are not limited to, specifications for; type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; the establishment of a performance guarantee to ensure compliance with any condition attached by the Planning Board; or any other conditions, restriction, or safeguard that would uphold the spirit and intent of this Ordinance.

b. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information:

1. A plan showing contours (at intervals to be determined by the Planning Board) showing Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover;

2. A high density soils report identifying the soils boundaries and names in proposed development, with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification;

3. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping;

4. Plans of buildings, sewage disposal facilities, and water supply systems;

5. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance;

c. In evaluating each application the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance. Any additional costs for consultation with the above agencies or technical assistance required by the Board, as determined by the Board, for evaluation of an application will be paid by the applicant prior to the granting of the conditional use permit in question. Failure to approve a conditional use permit application will not negate the liability of the applicant for any of the above costs.

6.9.8 Violations

a. Failure to comply with any conditions of a conditional use permit subsequent to the receipt of a building permit, shall be construed to be a violation of this regulation and shall be the grounds for revoking the building permit; initiating legal proceedings to enjoin construction, development, or any specific activity violating the conditions of permit approval; or applying the legal penalties detailed below:

b. In instances where no new building or construction is proposed, establishment of a new use or resumption of a use which has been discontinued for at least two (2) years if accomplished without Planning Board approval, shall constitute a violation of this Ordinance. Such violation shall be punishable by a fine of not less than fifty dollars ($50) nor more than five-hundred dollars ($500). Each day that the violation continues to exist, after official notification by the Planning Board, shall be deemed to be a separate offense.

6.10 Community Facilities Impact Analysis

6.10.1. Purpose of Program

The Town of North Berwick finds that new development places demands on municipal government to provide new services and expand and improve public facilities. In order to provide an equitable source of funding for these new services and facilities, the Town of North Berwick has established a municipal infrastructure facilities improvement program which charges a proportionate share of the costs of infrastructure facilities improvements to those who are creating the demand for these improvements.

6.10.2 Authority

This section of the North Berwick Zoning Ordinance is adopted pursuant to 30-A MRSA § 4354 et seq.

6.10.3. Use of Impact Fees

6.10.3.1 Impact fees may only be used for financing infrastructure facilities improvements needed due to demand caused by new growth.

6.10.3.2. Impact fees may not he used for any of the following

a) Operations and maintenance costs, such as but not limited to paying salaries, day-to-day operational costs or replacement of existing equipment,

b) The cost to improve infrastructure facilities to meet existing deficiencies, such as but not limited to relieving existing congestion or overcrowding, or

c) The cost to construct or improve infrastructure facilities that are not needed to serve new development or which do not benefit new development. There must be a reasonable connection between the need for additional infrastructure facilities and growth due to new development and between spending the fees collected and benefits received by the development paying the fee.

6.10.4 Applicability

6.10.4.1 The Code Enforcement Officer shall require the applicant for a Building Permit to participate in the municipal infrastructure facilities improvement program and pay a development impact fee at the rate currently in effect. The total impact fee shall be paid separately from any other fees required by this Ordinance and shall be paid at the time the Occupancy Permit is issued.

6.10.4.2 The Board of Selectmen shall establish the initial impact fee schedule and shall review and revise, if necessary the impact fee schedule at least annually to reflect changes in planned improvements current budget levels and compliance with the Town of North Berwick Comprehensive Plan and the Town's Capital Improvement Program. Prior to the establishment or revision of the impact fee schedule, The Board of Selectmen shall hold two public hearings on the proposed fee schedule. Notice of the public hearings shall be published in a newspaper of general circulation in the Town at least twice. The first notice shall be published no more than 30 days in advance of the first hearing and the second no less than seven days in advance of the first hearing.

6.10.4.3 The impact fee schedule shall indicate the improvements to be financed, the anticipated schedule for construction, and the characteristic of new development by which the fee shall be calculated such as, but not limited to:

a. number of bedrooms
b. square footage of floor area
c. traffic generated.

6.10.4.4 The amount of the fee shall be reasonably related to the development's share of the cost of the infrastructure facilities improvements made necessary by the development or, if the improvements were previously constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the improvement used by the development.

6.10.5 Segregation of Impact Fees from General Fund

6.10.5.1. The Code Enforcement Officer shall record the name of the individual paying the impact fee. The Tax Assessor's map and lot numbers for the property for which the impact fee is being paid, the amount of the fee paid for the facility for which fees are collected, and the date the impact fee was paid.

6.10.5.2. Upon collection of an impact fee, the Code Enforcement Officer shall transfer the funds to the Municipal Treasurer who shall deposit the impact fee in special non-lapsing accounts dedicated for funding the improvements for which the fee is collected.

6.10.5.3. Impact fee funds shall be maintained separately from and shall not be combined with other municipal revenues.

6.10.5.4. Funds collected as impact fees shall be expended only for the infrastructure improvement for which the fee was collected.

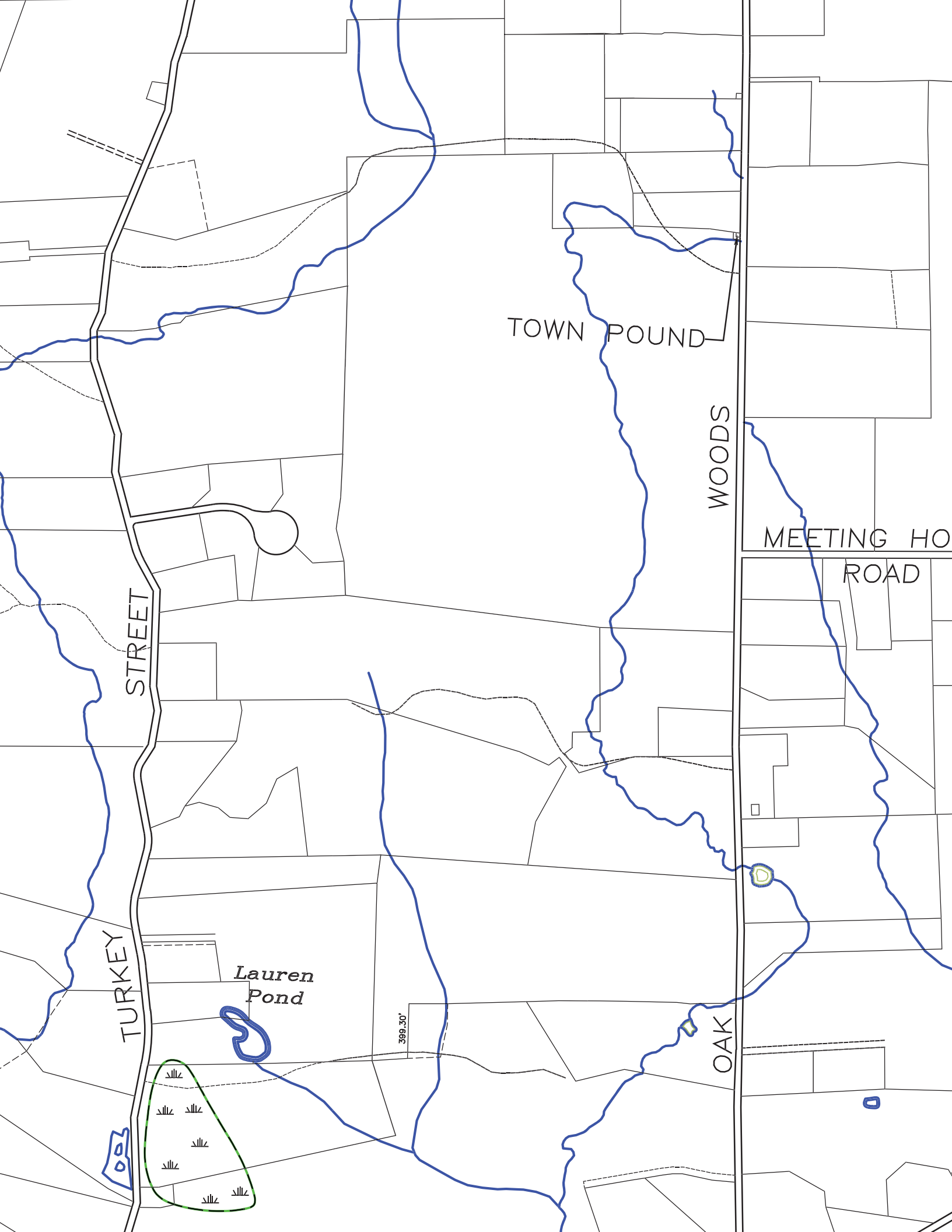
6.10.6 Refund of Impact Fees

The Town shall refund Impact fees or that portion of impact fees, actually paid that exceed the Town's actual costs or that were not expended within ten years of the date they were collected. The Board of Selectmen shall establish the procedure for refunding impact fees or portions of impact fees not expended. Unexpended fees shall be returned to the owner of record at the time a refund is warranted.

NORTH BERWICK ZONING ORDINANCE

APPENDICES

MAPS AND GRAPHICS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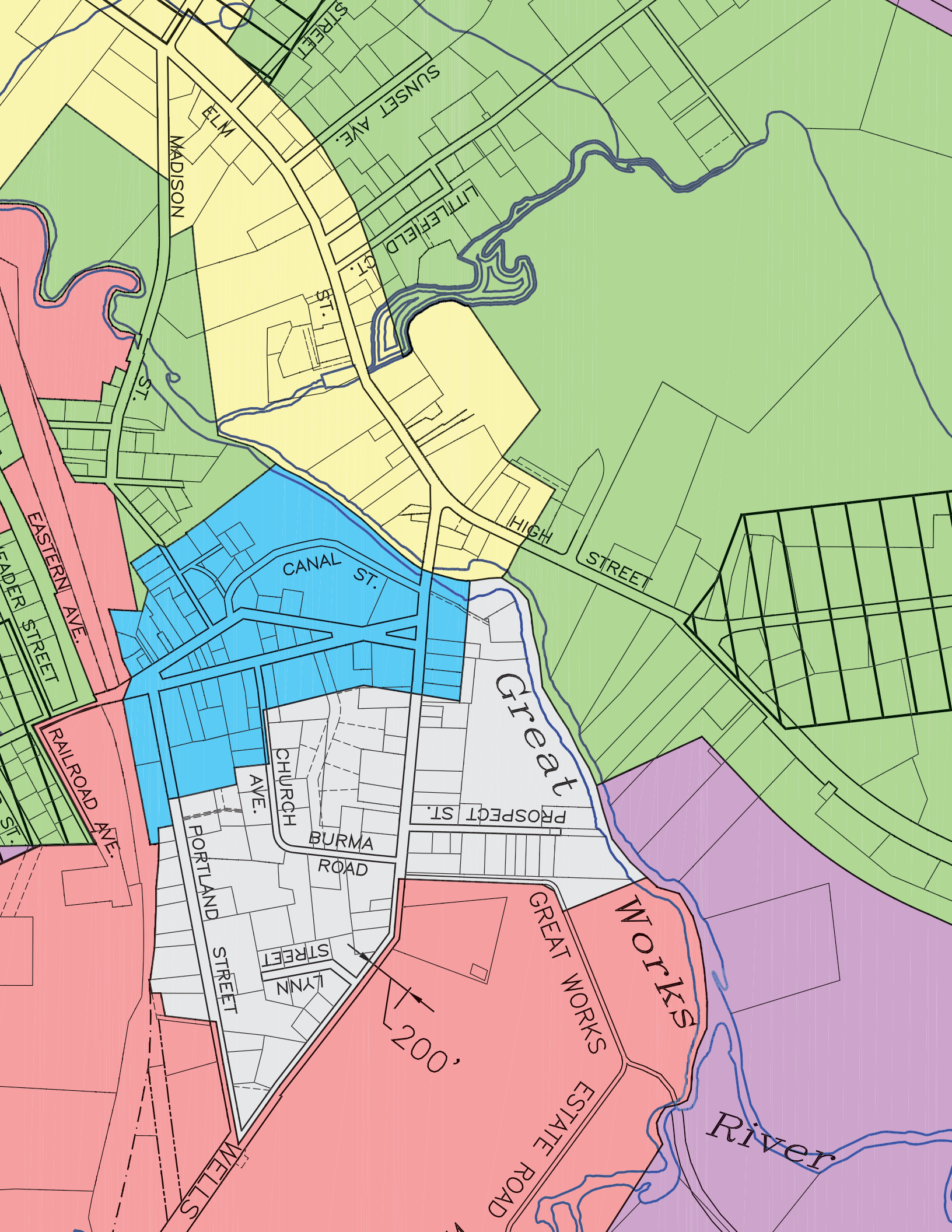
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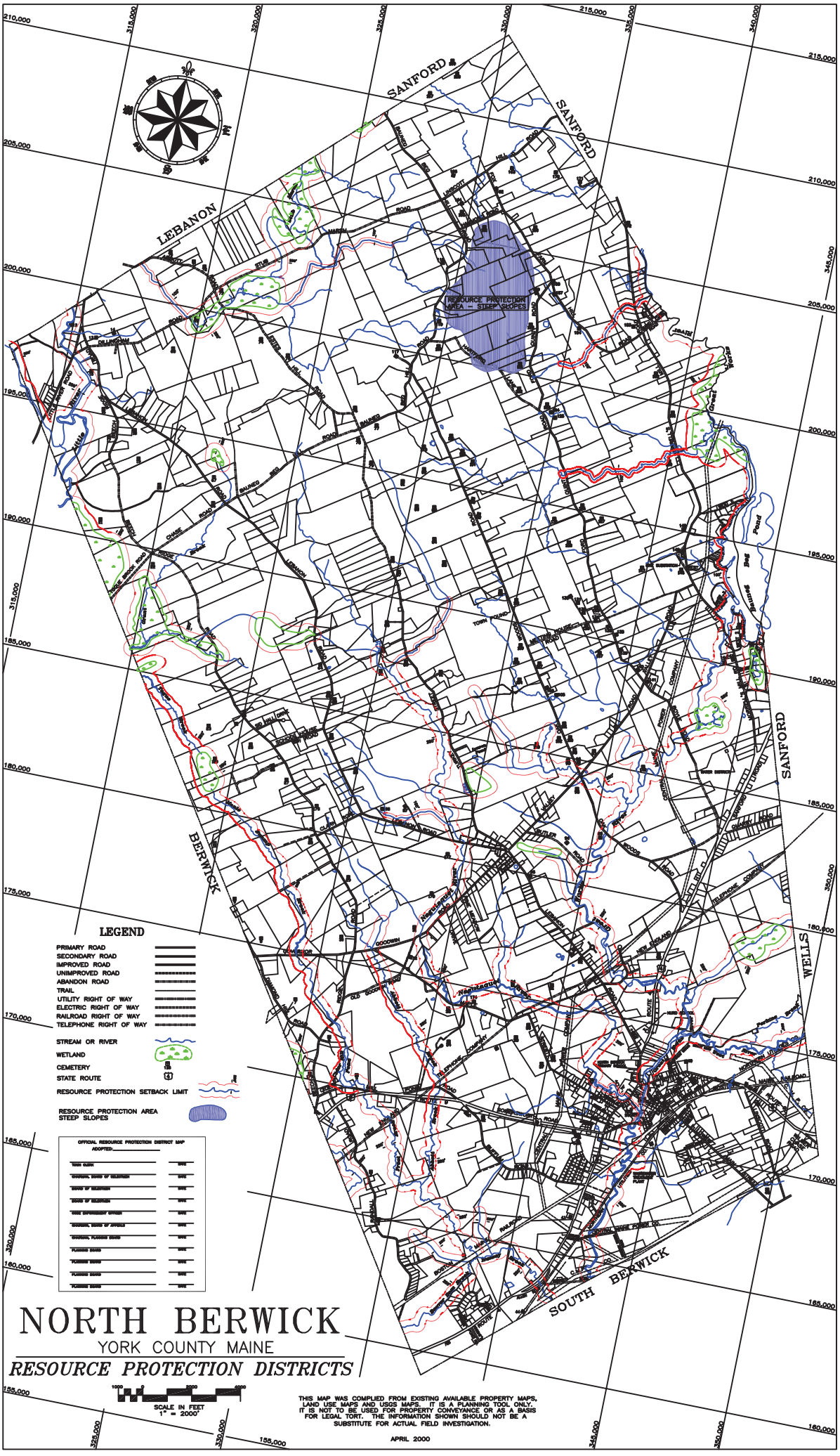

NORTH BERWICK

YORK COUNTY MAINE

RESOURCE PROTECTION DISTRICTS