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Town of Waterford

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (d) Rev. 2/09
(ordinance prepared Feb- 17, 2009 by SPO/dlt)

ARTICLE I - PURPOSE AND ESTABLISHMENT

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

Therefore, the Town of Waterford, 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 this Floodplain Management Ordinance.

It is the intent of the Town of Waterford, 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.

The Town of Waterford 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, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Waterford 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 Waterford, Maine.

The areas of special flood hazard, Zones A and AE for Town of Waterford, Maine, Oxford County Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Oxford County dated July 7, 2009 with accompanying "Flood Insurance Rate Map,"

Panels:

1038, 1039, 1180, 1181, 1182, 1183, 1191, 1194, 1201, 1202, 1206, 1208, 1209, 1211, 1212, 1213,
1214, 1216, 1217, 1218, 1236

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Oxford County," which are 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 Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Waterford, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

- 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, from data contained in the "Flood Insurance Study- Oxford County, Maine" as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
- 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
- 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the 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;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M.;
 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- 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 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 Code Enforcement Officer 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 to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study – Oxford County, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- 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. 1344;
- E. 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. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 1. 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 Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect 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 Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 2. 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. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., 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, dams, towers, fencing, pipelines, wharves and piers.
- 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.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. **All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. **Residential** - New construction or substantial improvement of any residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:

- a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zones AE shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood

elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and

b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and AE shall either:

a. be on the site for fewer than 180 consecutive days,

b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. Accessory Structures - Accessory Structures, as defined in Article XIII, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified

by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
- b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).

3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE 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;
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 engineered and 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 below the base flood elevation and 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;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

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 elevated 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 disturbed 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 elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. 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 condition 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 Waterford may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
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 fully 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 are 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. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

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;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRS, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

Elevation Certificate - An official form (FEMA Form 81-31, 02/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., 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, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps being developed under the mapping update program known as Map Modernization. NAVD is based upon Vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (d) Rev. 2/09
Prepared by SPO/fpm/dlt

LAND USE PLANNING ORDINANCE

FOR THE

RURAL TOWN OF WATERFORD, MAINE

Effective July 1, 1975
Amended
March 4, 2006
March 3, 2012

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**LAND USE PLANNING ORDINANCE
FOR THE RURAL TOWN OF WATERFORD, MAINE**

Section 1. PURPOSE

The purpose of this ordinance is to insure for the orderly, beneficial, intelligently thought out growth of the Town of Waterford in accordance with the Comprehensive Plan, accepted land use planning and control standards; while striving to maintain the timeless rural setting, historic architecture and independent lifestyle that is a unique blend of the character of land and man in harmony and balance with one another.

Section 2. AUTHORITY AND ADMINISTRATION

A. Authority

This Ordinance is adopted 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.

B. Administration

The Code Enforcement Officer for the Town of Waterford shall administer this Ordinance.

Section 3. APPLICABILITY

This Ordinance applies to all land area within the Town of Waterford that is not regulated by "Town of Waterford, Maine Shoreland Zoning Ordinance" (effective March 6, 1992).

Section 4. EFFECTIVE DATE

The effective date of this ordinance is March 4, 2006.

Section 5. VALIDITY AND SEVERABILITY

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

Section 6. AMENDMENTS

This Ordinance may be amended by majority vote of the legislative body (Town Meeting). Amendments may be initiated by 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. The Planning Board shall conduct a public hearing on any proposed amendment.

Section 7. NONCONFORMANCE

A. Purpose

It is the intent of this Section to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this Ordinance.

B. General Requirements

1. Transfer of Ownership

Nonconforming structures and lots may be transferred, and the new owner may continue to use the nonconforming structure or lot, subject to the provisions of this Ordinance.

2. Repair and Maintenance

This Ordinance allows, without a permit, the normal upkeep and maintenance of nonconforming structures. All repairs and alterations shall comply with the provisions of applicable standards as contained in this Ordinance and all other applicable municipal and State requirements.

3. Rebuilding

If a nonconforming structure is damaged or destroyed by fire, other natural causes, or removed it may be rebuilt within three (3) years from date of destruction except as may be required by the Town of Waterford Floodplain Management Ordinance. Structures listed on the National Register of Historic Places shall be rebuilt in conformity of their surroundings. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

C. Nonconforming Structures

A nonconforming 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 nonconformity of the structure.

D. Nonconforming Lots

1. Nonconforming Lots

A vacant, nonconforming lot of record recorded on or before the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirement not involving lot size or frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots

If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and, if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that they comply with the State Minimum Lot Size Law and can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

If two or more principal 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 they comply with the State Minimum Lot Size Law and can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. Contiguous Lots - Vacant or Partially Built

If two or more contiguous lots or parcels are in single or common ownership of record at the time of or since adoption or amendment of this Ordinance if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements. This subsection shall not be deemed to require contiguous lots in a subdivision approved and recorded prior to the effective date of this Ordinance to be combined.

E. Illegal Reduction in Dimensions

No lot shall be reduced or created in any manner that violates the requirements of this Ordinance. If land is subdivided, conveyed, divided or otherwise transferred in violation of this Ordinance, no building permit or other municipal permit shall be issued with reference to any of the land or lots so reduced or created until all such land or lots fulfill the dimensional regulations.

Section 8. LAND USE STANDARDS

The standards contained in this Section shall apply to all activities, unless otherwise specified, whether or not specific approval or a permit is required.

A. Residential Standards

Single-family dwelling units in conformance with all State and Federal regulations.

B. Dimensional Requirements

Lots outside those areas regulated by the Town of Waterford Shoreland Zoning Ordinance shall meet or exceed the following minimum requirements (additional area may be required by the Subdivision Ordinance Town of Waterford and Town of Waterford, Maine Site Plan Review Ordinance). After the effective date of this Ordinance, no lot shall be created or reduced below the minimum dimensional requirements unless allowed by other provisions of this Ordinance.

Minimum Dimensional Requirements

Minimum Lot Size/ Density	Minimum Street Frontage	Minimum Front Setback ¹	Minimum Side Setback	Minimum Driveway Setback Side/rear	Minimum Rear Setback	Maximum Impervious Surface Ratio ² (percent)	Maximum Structure Height ³
43,560sq.ft. (1 acre)	150 ft.	25ft.	25ft.	10 ft.	25ft.	60	35 ft.

NOTES:

1. Measured from the edge of the right-of-way.
2. The total area of all structures, parking lots and other non-vegetated surfaces.
3. Does not apply to structures not intended for human habitation.

C. Required Frontage/Access

1. All lots hereinafter created shall possess a minimum frontage on (1) a public street, (2) a private street or (3) be accessed by a legal right of way existing on or before the effective date of this Ordinance. See Section 8.L, (Backlots) for right of way requirements for lots created after the effective date of this Ordinance.
2. Corner lots shall have the minimum street frontage on streets.
3. Cul-de-sac Frontage

New building lots located at the cul-de-sacs along curves in a street where the radius of the curve at the front lot line is less than ninety (90) feet, may be designed so that they have a minimum of fifty (50) 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 street frontage in that district.

D. Multiple Structures

If more than one(1) principal structure is constructed on a single parcel of land, the "minimum lot area" requirement shall apply to each structure, and each structure shall meet the front side, and rear setback and street frontage requirements. Each principal structure shall be designed on its own lot. Not more than two (2) principal structures shall be constructed or placed on a single parcel of land.

E. Setback Measurements

1. All setbacks shall be measured from the property line or from the street right-of-way to the nearest part of the structure.

2. For corner lots the front setback requirement shall be observed along all streets abutting the lot.

F. Heights Limits

Height Limits of thirty-five (35) feet may be exceeded for structures not intended for human habitation upon review and approval of the Code Enforcement Officer. In approving a height greater than thirty-five (35) feet the Code Enforcement Officer may consult with the Fire Chief and shall consider the type of structure, the structure's susceptibility to fire and the capacity of the fire department to effectively suppress a fire in or on the structure.

G. Lots for duplexes

Lots for a duplex shall require a minimum lot size of 65,340 square feet and minimum frontage of 225 feet.

H. Agriculture

Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichment of surface waters.

I. Silviculture

Silviculture operations, harvesting, and other forest management activities shall be conducted in such a manner that minimal soil disturbance results and adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

J. Sanitary Standards

Sanitary standards will conform with the Maine State Plumbing Code.

K. Air/Water Quality Protection

No activity shall discharge materials to contaminate, pollute, or cause nuisances.

L. Use of Backlots

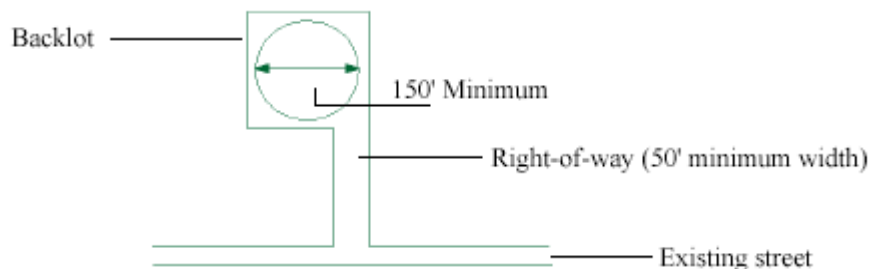
Back lots to be served by a right of way created after the effective date of this Ordinance may be developed for principal structures including lots in a subdivision if they are or can be provided with a right-of way that connects with a public street or a privately-owned street and which complies with the following provisions. Rights-of-ways existing prior to the effective date of this Ordinance are exempt from this subsection.

If a back lot is accessible only by a legally enforceable right-of-way, it may be used if the following conditions are met:

1. The right-of-way must be conveyed by deed recorded in the Oxford County Registry of Deeds to the owner of the back lot and be a minimum of fifty (50) feet in width.

2. A legal description of the right-of-way by metes and bounds shall be attached to any building permit application for construction on the back lot.
3. Except lots recorded on or before the effective date of this Ordinance, the right-of-way deed must be recorded in the Oxford County Registry of Deeds at the time the back lot is first deeded out as a separate parcel.
4. Creation of the right-of-way to serve the back lot shall not create a non-conforming front lot by reducing such lot's required street frontage below the minimum, or, if the front lot is already nonconforming, with respect to street frontage, reduce its street frontage at all. Where the right-of-way is conveyed by easement or irrevocable license, or some grant less than a fee interest, the land over which such servitude is placed may not be counted toward meeting street frontage requirements for the front lot.
5. The right-of-way may serve only one (1) single-family dwelling or one principal use unless the following provisions are met:
 - a. The right-of-way may serve two single-family dwellings if a driveway meeting the following standards is built.

Minimum travel width	12 feet
Minimum angle of street intersections	75 degrees
Maximum grade within 30 feet of intersections	2 percent
 - b. Erosion and sedimentation Control: Adequate provisions shall be undertaken to minimize erosion and sedimentation.
 - c. The right-of-way may serve more than two dwellings provided the provisions of Section 8.J of the Town of Waterford, Maine Subdivision Ordinance is met.
6. No more than one (1) right-of-way for back lot development may be created out of a single lot fronting on a state or town maintained street or privately owned street unless each subsequent right-of-way is created out of at least an additional frontage as required in 8.B (Minimum Dimensional Requirements) and the right-of-way entrances to such street are at least the required frontage plus half of the right of way width.
7. All structures greater than 200 square feet on a back lot shall be located within an area defined by a circle with a minimum diameter of 150 feet. [See Diagram Below]



M. Accessory Apartment

1. Purpose

The purpose of these standards is to provide less expensive rental units; make housing units available to lower income households who might otherwise have difficulty finding housing in Waterford and to protect property values and traditional residential characteristics.

2. General Requirements

The conversion of single family dwellings legally existing on the effective date of this Ordinance and located on lots which otherwise would not meet the dimensional requirements for a duplex may be converted to a duplex with a permit issued by the Code Enforcement Officer provided that the following are met:

- a. Such conversion shall not create more than two (2) dwelling units in any structure including the original dwelling unit.
- b. The additional dwelling unit shall be complete, separate house-keeping unit that is separated from the original unit.
- c. The additional dwelling unit shall be designed so that the appearance of the structure remains that of a single-family dwelling, with the exception of emergency egress, if so required.
- d. The design and size of the additional dwelling units conform to all applicable standards in the Town of Waterford.
- e. Adequate off-street parking shall be provided which does not exceed the impervious surface ratio contained in Section 8.B (Minimum Dimensional Requirements).
- f. Subsurface sewage disposal shall comply with all provisions of the State of Maine Subsurface Wastewater Disposal Rules.

N. Elder Cottage Housing Opportunity (ECHO) Units

1. Purpose

The purpose of these standards is to provide for the temporary habitation of a dwelling unit, to be occupied by an older person(s) and/or a person(s) unable to live independently due to a disability on lots where single family dwellings exist, but do not meet the dimensional requirement for two single family dwellings, so that adult children may care for aging parents or certain persons with a disability.

2. General Requirements

The construction or placement (including a mobile/manufactured home) of an "ECHO" unit on a lot which a single family dwelling is located may be allowed by a permit granted by the Code Enforcement Officer regardless of lot size and frontage if the following are met.

- a. The owner of the principal structure or the owner's spouse, domestic partner, parent, grandparent, brother, sister, child, foster child, or grandchild related by blood, marriage or adoption must reside in either the principal structure or the "ECHO" unit.
- b. The occupants of the "ECHO" unit must be at least 62 years of age or be unable to live independently due to a disability.
- c. The number of occupants of the "ECHO" unit shall be limited to two persons.
- d. All setbacks and lot coverage requirements contained in Section 8.B (Minimum Dimensional Requirements) of this ordinance shall be met. Wherever possible, the unit shall be placed to the side or rear of existing structures.
- e. There shall be a separation of a minimum of fifteen (15) feet between the principal dwelling and the "ECHO" unit.
- f. The maximum size of the "ECHO" unit shall be 600 square feet of floor area and shall be limited in size to accommodate not more than two (2) bedrooms.
- g. The subsurface sewage disposal system on the property shall be functioning properly and be of sufficient size to accommodate the additional flow. In addition, there shall be sufficient land area for an expansion or replacement system which is in compliance with the State of Maine Subsurface Wastewater Disposal Rules, if needed.
- h. The parking requirements of the performance standards contained herein shall apply.
- i. Proper ingress and egress shall be provided to an "ECHO" unit.
- j. Prior to the issuance of a building permit for the placement or construction of an ECHO unit by the Code Enforcement Officer, the owner of the property shall sign a binding agreement limiting the approval of an ECHO unit for the purposes set forth in this subsection, and that ECHO unit must be removed or converted to a non residential/non business accessory structure within one year from the date of occupancy cessation or when no new qualified person lives within. In the case where the unit is a mobile home it shall be removed within one year from the date of occupancy cessation or when no new qualified person lives within.

O. Water Quality Protection

1. Purpose

The Maine Erosion and Sedimentation Control Law of 1997 requires in all organized areas of the state if a person is filling, displacing or exposing soil or other earthen materials, he or she must take measures to prevent unreasonable erosion of soil or sediment beyond the site or into a protected natural resource, such as a river, stream, brook, lake, pond, or wetland. The Town of Waterford finds that because of the importance of its rivers, streams, brooks, lakes, ponds, wetlands and aquifers local standards and enforcement are necessary to protect these resources.

The purposes of these standards are to maintain the water quality of lakes, ponds, rivers, streams, wetlands and aquifers in Waterford and those it shares with adjacent communities by controlling erosion and sedimentation.

2. Applicability

These standards shall apply to all activities which involve filling, grading, excavation or other similar activities located within 100 feet horizontal distance of a pond, lake, river, stream or upland edge of a wetland, or in contiguous areas of 20,000 square feet or more with sustained slopes greater than 10% which result in unstabilized soil conditions and which require a permit or approval by the Planning Board or Code Enforcement Officer.

3. Soil Erosion and Sedimentation Control Plan

A written soil erosion and sedimentation control plan shall be required. 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, erosion control berms, or diversion ditches.
- c. Permanent stabilization structures such as retaining walls or rip-rap.
- d. 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.
- e. Erosion and sedimentation control measures shall apply to all aspects of 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.
- f. Any exposed ground area shall be temporarily or permanently stabilized prior to a storm event or within one (1) week from the time it was last actively worked,

by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

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

P. Phosphorous Loading Rates

All land uses requiring a permit from the Code Enforcement Officer and located in the direct watershed of a Great Pond shall limit phosphorus export from the site based on approval of one of the following methods of phosphorus control:

1. Point System

The Code Enforcement Officer may issue a permit if the development site meets or exceeds thirty (30) points based on the following schedule. This standard is considered to be an incentive to avoid conducting a technical analysis as required in Section 8.P.2 below.

- a. 10 points for clearing 15,000 square feet and less of existing vegetation.
- b. 15 points for clearing 10,000 square feet and less of existing vegetation.
- c. 15 points for the installment of rock-lined drip edges or other infiltration systems to serve the new construction
- d. 20 points for a 50-foot wide buffer located downslope of the developed area
- e. 25 points for a 75-foot wide buffer located downslope of the developed area
- f. 30 points for a 100-foot wide buffer located downslope of the developed area

2. Technical Analysis

The development site shall not exceed the allotted phosphorus export to the water body based on the phosphorus loading schedules established in Table 1, Section 5 of Waterford's Site Plan Review and is calculated in accordance with *Stormwater Management for Maine* (Maine Department of Environmental Protection et al., January 2006 with revisions as amended). All costs associated with the preparation of the technical analysis shall be the responsibility of the applicant.

Section 9. ADMINISTRATION

A. Administering Bodies and Agents

1. Code Enforcement Officer
2. Board of Appeals

B. Permit Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit that include the following.

1. Accessory Apartment (See Section 8.M)
2. Elder Cottage Housing Opportunity (See Section 8.M)
3. Phosphorous Loading Rates (See Section 8.P)
4. Any new building or expansion to an existing building.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the Code Enforcement Officer. An application for a permit shall be accompanied by a non-refundable fee of \$25.00 plus \$1.00 per \$1,000.00 of the estimated cost including materials and labor over \$2,000.00. No fee is required for a building that has a foot print of 200 square feet or less. This application fee shall be made by cash or check, payable to the Town. The selectmen shall have the authority to revise this fee from time to time after conducting a public hearing
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated and the Code Enforcement Officer shall note upon each application the date and time of its receipt.
4. A valid plumbing permit or a completed application for the plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits

Within thirty-five (35) days of the date of receiving a written application the Code Enforcement Officer, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, that specified additional material is

needed to make the application complete. The Code Enforcement Officer shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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 of any State law which the municipality is responsible for enforcing.

E. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void and all fees forfeited to the Town of Waterford.

F. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

- a. Administrative Appeals: To hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in administration of this Ordinance.
- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. The Board shall not grant a variance unless it finds that:
 - 1) The proposed structure or use would meet the provisions of Section 9 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - 2) The strict application of the terms of this Ordinance would result in undue hardship.

The term “undue hardship” shall mean:

- a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c) That the granting of a variance will not alter the essential character of the locality; and
 - d) That the hardship is not the result of action taken by the applicant or a prior owner.
- c. The Board of Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who is living in the dwelling or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance including without limitation the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit, as strictly as possible, any variances granted in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

3. Appeal Procedure

a. Making an Appeal

- 1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.
- 2) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a) A concise written statement indicating what relief is requested and why it should be granted.

- b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - 3) Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
 - 4) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.
- b. Decision by Board of Appeals
 - 1) A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
 - 2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
 - 3) The person filing the appeal shall have the burden of proof.
 - 4) The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - 5) All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

4. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals. Should the Town prevail before any court the appellant shall be responsible for court and legal costs.

5. Reconsideration

The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

G. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land building or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

3. Legal Actions

- a. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or inequitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- b. The Town Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court Action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Any approved administrative consent agreement shall be recorded in the Oxford County Registry of Deeds within thirty (30) days of its signing by the violator. In addition a one copy shall be attached to the assessment records.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

Section 10. DEFINITIONS

Terms not defined herein shall have the customary dictionary meaning. As used in this ordinance, the following definitions shall apply.

Accessory Structure: A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted.

Aggrieved Party: An owner of land whose property is directly affected by the granting or denial of a permit or variance; or a person whose land abuts or is across a street or body of water from 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 and poultry products; livestock; fruits and vegetables; and ornamental and green house products.

Backlot: Any lot or parcel of land that does not have frontage on a public or private street or lacks the required frontage as required in Section 8.B.

Building: Any structure that serves as support, shelter or enclosure of persons, animals, goods or property of any kind.

Comprehensive Plan: A document adopted by the Town of Waterford containing the elements established under Title 30-A MRSA section 4326, subsections 1 to 4 including strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.

Conforming: A building, structure, use of land, or portion thereof, which complies with all the provisions of this Ordinance.

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

Direct Watershed of Lake or Pond: Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

Driveway: A vehicle access way serving one lot or dwelling.

Duplex: A structure containing two dwelling units.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family including provisions for living, cooking and eating.

1. Single Unit Dwelling: Any structure containing only one dwelling including manufactured/mobile homes.
2. Multi- Unit Dwellings: A structure containing three or more dwelling units being designed exclusively for residential use and occupancy.

"ECHO" Unit: A small residential living area (not more than 600 square feet of floor area) contained in a structure placed or constructed to the side or rear of an existing single-family dwelling to be occupied by one or two people who are (a) age 62 or older or (b) disabled, and who benefit from living close to the family.

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

Farm Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and use primarily for farming activities, including crop management and harvesting.

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.

Foot Print: The outline of the total area covered by a building's perimeter at the ground level.

Forest Management Activities: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities.

Height of a Structure: The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Impervious Surface Ratio: A measure of the intensity of land uses that is determined by dividing the total area of all impervious surfaces on the site by the area of the lot. For the purpose of this ordinance, impervious surfaces include buildings, structures, paved and gravel surfaces.

Increase in the Nonconformity of a Structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of the nonconformance of the existing structure shall not be considered to increase the nonconformity. For example, there is no increase in nonconformity if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure.

Legal Right-of-Way: A right of passage granted by fee simple interest, easement or some other legal arrangement.

Logging Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and use primarily for forest management activities, including haul roads and log yards but not skid trails and skid roads.

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

Lot Area: The total horizontal area within the lot lines.

Lot, Corner: A lot at least two contiguous sides abutting upon a street or right-of-way.

Lot Lines: The lines bounding a lot as defined below:

1. Front Lot Line: Interior lots: the line separating the lot from a street or right-of-way. Corner lot or through lot; the line separating the lot from either street or right-of-way.
2. Rear Lot Line: The lot line opposite the front lot 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 feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line at least dimension.
3. Side Lot Line: Any lot line other than the front lot line or rear lot line.

Lot, Minimum Area: The required lot area for a single use.

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 Oxford County Registry of Deeds on or before the effective date of this Ordinance.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Minimum Lot Width: The closest distance between the side lot lines of a lot.

Multi- Unit Dwelling: A structure containing three or more dwelling units being designed exclusively for residential use and occupancy.

Nonconforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

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

Nonhabitated Accessory Structure: A structure which is incidental and subordinate to the principal use or structure which is not considered a dwelling unit.

Nuisance Condition: Any thing, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life is a violation of this Ordinance.

Principal Structure: A building other than one which is used for purposes incidental or accessory to the use of another building or use on the same premises.

Private Owned Street: A street not maintained by the Town of Waterford or State of Maine but including a street serving a mobile home park which is not intended to be dedicated as a public way.

Public Street: A street maintained by the Town of Waterford or State of Maine.

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. The term shall include mobile homes.

Right-of-way: All public or private streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

Separate House Keeping Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family including independent provisions for living, cooking and eating.

Setback: The minimum horizontal distance from a lot line or street right-of-way to the nearest part of a building, including porches, steps and railings.

Silviculture: Theory and practice of controlling forest establishment, composition, and growth with treatments applied to maintain and enhance the productivity of the forest resource.

Street: Public and private ways such as highways, roads and other rights-of ways, as well as areas on a subdivision plan designated as rights-of-ways for vehicular access, other than driveways, farm roads or logging roads.

Structure: Include but are not limited to building(s), mobile homes, recreational vehicles, piers and flats, storage and processing facilities and telecommunication towers. Boundary walls, fences and flagpoles are not considered structures.

Substantial Start: Completion of at least 30% of a permitted structure or use measured as a percentage of the total estimated cost.

Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery.

Undue Hardship: As used in the Ordinance, the words "undue hardship" shall mean all of the following:

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

A variance is not justified unless all elements are present in the case.

Variance: A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the Ordinance would result in undue hardship.

3.03.12

Town of Waterford, Maine

SHORELAND ZONING ORDINANCE

Adopted: March, 7, 1992
Amended: March 1, 2003
Amended: March 28, 2005
Amended: March 3, 2007
Amended: March 6, 2010
Amended: March 3, 2012

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Shoreland Zoning Ordinance
Town of Waterford

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. Authority

This Ordinance has been prepared in accordance with the provisions of Title 38 Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

Section 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; and within 75 feet, horizontal distance, of the normal high-water line of a stream. This ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structures extending below the normal high-water line of a water body or within a wetland.

All of the requirements applicable to the great ponds shall also apply to the following rivers and streams: Crooked River, Bear River, City Brook, and the outlet of McWain Pond to the Crooked River. All of the requirements applicable to stream protection district shall also apply to the northerly outlet of Little Moose Pond to its junction with Mutiny Brook. [Amended March 7, 1998]

Section 4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was amended by the municipal legislative body on March 7, 1992 and as amended through March 6, 2010 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the

Ordinance or Ordinance amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance amendment within forty-five (45) days of its receipt of the Ordinance or Ordinance amendment, it shall be automatically approved.

Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of this Ordinance or Ordinance amendment if the Ordinance or Ordinance amendment is approved by the Commissioner.

B. Sections 15(O) and 15(O-1)

Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

Section 5. Availability

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

Section 6. Severability

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

Section 7. Conflicts with Other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

Section 8. Amendments

- A. This Ordinance may be amended by majority vote of the legislative body (Town Meeting). Amendments may be initiated by 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. The Planning Board shall conduct a public hearing on any proposed amendment.
- B. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the

town legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map

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

1. Resource Protection District
2. Rural Shoreland District
3. Stream Protection District

B. Scale of Map

The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the Town Office.

D. Changes to the Official Shoreland Zoning Map

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

Section 10. District Boundaries

The District Boundaries are as shown on the adopted shoreland zoning map and as defined in this Ordinance. Although wetlands are shown on the Official Shoreland Zoning Map, the actual boundaries shall be determined by field investigation. Where uncertainty exists as to the exact location of district boundary lines, they shall be determined by field verification.

Section 11. Land Use Requirements

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

Section 12. Non-conformance

A. Purpose

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

B. General

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

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

Further limitations:

- a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement

structure conforms with the requirements of Section 12.C.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date.

- b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation are must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Section 12.C.2, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansions in conformity with Section 12.C.1.a above, and that 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 (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
 - c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal-system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In 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.
3. **Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months, of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12.C.1 above, as determined by the non-conforming 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 12.C.2 above.

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

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 12.C.2 above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure

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

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

D. Non-conforming Uses

1. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in section 12.C.1.a above.
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding five years, 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 to that time period. This provision shall not apply to the resumption of use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12.C.4 above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a

variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and State of Maine Subsurface Wastewater Disposal Rules are complied with.

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

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

Section 13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except those areas which are currently developed.

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 December 31, 2008. 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.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or flood Hazard Boundary Maps.
3. Areas of two (2) or more contiguous acres within sustained slopes of 20% or greater within the shoreland zone.
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.

B. Rural Shoreland District

The Rural Shoreland includes those areas suitable for residential and recreational development and some very low intensity commercial activity. It includes areas other than those in the Resource Protection District or Stream Protection District.

C. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream as defined and/or depicted on the Official Shoreland Zoning Map, 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 fifty (250) feet, horizontal distance, or the upland edge of a freshwater wetland. Where a stream and its associated shoreland are located within two hundred 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.

Section 14. Table of Land Uses

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map. Where uncertainty exists as to the exact location of district boundary lines, field verification of the authority or board with jurisdiction shall prevail as to the exact location of the District boundary line.

Key to Table 1:

- Yes - Allowed (No permit required but the use must comply with all applicable land use standards.)
- No - Prohibited
- PB - Requires permit issued by the Planning Board
- CEO - Requires permit issued by the Code Enforcement Officer
- LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

- RP - Resource Protection
- RS - Rural Shoreland District
- SP - Stream Protection District

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT		
	SP	RP	RS
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes
4. Timber harvesting	yes	CEO ¹	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes
6. Fire prevention activities	yes	yes	yes
7. Wildlife management practices	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes
9. Mineral exploration	no	yes ²	yes ²
10. Mineral extraction including sand and gravel extraction	no	no	PB
11. Surveying and resource analysis	yes	yes	yes
12. Emergency operations	yes	yes	yes
13. Agriculture	yes	PB	yes
14. Aquaculture	PB	PB	PB
15. Principal structures and uses			
A. One and two family residential, including driveways	PB ³	no	PB
B. Multi-unit residential	no	no	PB
C. Commercial	no	No ⁹	no
D. Industrial	no	no	no
E. Governmental and institutional	no	no	PB
F. People Camps	no	no	PB
G. Residential Institutional	no	no	PB
H. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	PB	PB
16. Structures accessory to allowed uses	PB ³	PB	CEO
17. Temporary piers, docks, wharfs, bridges and other structures and uses over or below the normal high-water line or within a wetland extending	CEO ⁸	CEO ⁸	CEO ⁸
18. Conversions of seasonal residences to year-round residences	LPI	no	LPI
19. Home occupations	PB	PB	PB
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI
21. Essential services	PB ⁴	PB ⁴	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁴	CEO ⁴	Yes ⁵
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁴	PB ⁴	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁴	PB ⁴	PB
D. Other essential services	PB ⁴	PB ⁴	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB
24. Individual, private campsites	CEO	CEO	CEO
25. Campgrounds	no	No ⁶	PB
26. Road construction	PB	No ⁷	PB
27. Land management roads	yes	PB	yes
28. Parking facilities	no	No ⁶	PB
29. Marinas	PB	no	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO
32. Signs	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB
36. Appurtenant structure to recreational vehicle	no	no	CEO
37. Recreational Trails	CEO	CEO	CEO

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

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

³ Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁴ See further restrictions in Section 15(L)(2).

⁵ Permit not required but must file a written "notice of intent to construct" with CEO.

⁶ Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁷ Except as provided in Section 15(H)(4).

⁸ Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

⁹ Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district

Section 15. Land Use Standards

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

A. Minimum Lot Standards

1. Standards	Minimum Lot Area (acres)	Minimum Shore Frontage (ft.)
Residential per dwelling unit	2 acres	200
Governmental, Institutional per principal structure	2 acres	300
Public and Private Recreational Facilities	2 acres	200

2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

3. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of

a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure or use.

Note: Before March 5, 1988 lot size requirement was ½ acre

Between March 5, 1988 and March 7, 1992 lot size requirement was 1 acre.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds and rivers that flow to great ponds, 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. 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.

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.

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. The minimum setback for all new principal and accessory structures from all property lines (except from the normal high water line or upland edge of a wetland) shall be twenty-five (25) feet.
3. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Rural Shoreland 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.

4. 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 floodplain soils.
5. 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.
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, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
7. 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, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

- g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15.P.2.a, may traverse the buffer;

- C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland
 - 1. A permit is required for first time dock installation or enlargement from the Code Enforcement Officer.
 - 2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
 - 3. The location shall not interfere with existing developed or natural beach areas.
 - 4. The facility shall be located so as to minimize adverse effects on fisheries.
 - 5. 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.
 - 6. No new structures 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.
 - 7. Docks and wharfs that are not permanent shall be removed not later than November 1 of each year.

8. 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.
9. 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.

D. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedure 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 or a river flowing to a great pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams identified in Section 9, or the upland edge of a wetland.
3. Recreational vehicles that are located on any site that does not comply with Section 15.D.2 above shall be moved off the site and beyond the applicable setback between November 1 and April 1 annually.

E. Individual Private Campsites

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

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. 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 or river flowing to a great pond, 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 vehicles 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 (1,000) square feet.
5. A written sewage disposal plan describing the proposed method and location of a sewage-disposal system 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.

F. Commercial and Industrial Uses

No new commercial and industrial uses are allowed within any shoreland zone except as may be permitted in Section 14.

G. 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.
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, and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Approximately twenty (20) feet wide.

H. Roads and Driveways

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

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, or a river that flows to a great pond, 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 of 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), horizontal distance, feet for each five (5) percent increase in slope above twenty (20) percent.

Section 15.H.1 does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15.H.1 except for that portion of the driveway necessary for the 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 or as 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 15.Q.

5. Road and driveway grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
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 fifty (50) feet plus two (2) 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 buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage to 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 down slope 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.
9. A permit is not required for the placement of an existing road culvert as long as the replacement culvert is:
 - a. not more than one standard culvert size wider in diameter than the culvert being replaced;
 - b. not more than twenty-five percent (25%) longer than the culvert being replaced;
 - c. not longer than seventy-five (75) feet; and
 - d. provided that adequate erosion control measures are taken to prevent sedimentation of the water and that the crossing does not block fish passage in the water course.

I. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Rural Shoreland Districts.

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

J. Storm Water Runoff

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

K. Septic Waste Disposal

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

L. Essential Services

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

M. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from

the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15.M.4 below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond, a river or the upland edge of a wetland and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, stream, or tributary stream. Extraction operations shall not be permitted within one hundred (100) feet 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.
 - b. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional top soil 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.

N. 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, or a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface areas, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond and within seventy-five (75) feet, horizontal distance, from other water bodies, tributary streams, 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 a great 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 within on-going 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.

O. Timber Harvesting

1. Within the strip of land extending seventy-five (75) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond, there shall be no timber harvesting, except to remove safety hazards.

Beyond the 75-foot strip referred to in Section 15.O.1 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 ½ feet above ground level be reduced to less than 30 square feet per acre.

2. Except in areas as described in Section 15.O.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 ½ feet above ground level on any lot in any ten (10) year period is permitted. The Planning Board may approve timber harvesting within the Shoreland Zone in excess of the forty (40) percent limitation upon a clear showing, including a forest

management plan signed by a licensed Maine Professional Forester, that such exemption is necessary for good forest management and is carried out in accordance with the purposes of the act. The Planning Board must also notify the DEP of any permit issued for timber harvesting in excess of forty (40) percent. In addition:

- 1) Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond or a river flowing to a great pond, 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.
 - 2) At distances greater than one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line or 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 (5,000) 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. 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 or a water body shall be removed.
 - c. Timber harvest equipment shall not use stream channels as travel routes except when:
 - 1) Surface waters are frozen; and
 - 2) The activity will not result in any ground disturbance.
 - d. All crossing 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 surfaces which would not be eroded or otherwise damaged.
 - e. 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.

- f. 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), 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.

15.(O-1). Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4.B]

1. Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
2. Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1) 2 does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - a. Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - b. Adjacent to great ponds, rivers and wetlands:
 - 1) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - 2) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

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

average basal area. Volume may be considered equivalent to basal area.

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

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

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

- 4. Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
 - a. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 - b. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
 - c. Setbacks:
 - 1) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

- 2) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
5. Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1) 7 of this rule.
 - a. Land management roads and associated ditches, excavation, and fill must be set back at least:
 - 1) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater wetland;
 - 2) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - 3) 25 feet, horizontal distance, from the normal high-water line of tributary streams
 - b. The minimum 100 foot setback specified in Section 15(O-1) 5.a.1) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1) 5.a.2) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
 - c. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10

feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

- d. New land management roads are not allowed within the shoreland area in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- e. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1) 7. Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- f. Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1) 5. e must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- g. Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- h. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1) 5.a if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or

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

- i. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
6. Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- a. Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - b. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
 - c. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - d. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - e. Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- 1) a map showing the location of all proposed permanent crossings;
 - 2) the GPS location of all proposed permanent crossings;
 - 3) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - 4) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- f. Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1) 6.g below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
- 1) concentrated water runoff does not enter the stream or tributary stream;
 - 2) sedimentation of surface waters is reasonably avoided;
 - 3) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - 4) fish passage is not impeded; and,
 - 5) water flow is not unreasonably impeded.

Subject to Section 15(O-1) 6.f. 1)-5) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- g. Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- 1) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - 2) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1) 6.g.1) if techniques are effectively employed such that

in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

- a) use of temporary skidder bridges;
 - b) removing culverts prior to the onset of frozen ground conditions;
 - c) using water bars in conjunction with culverts;
 - d) using road dips in conjunction with culverts.
- 3) Culverts utilized in river, stream and tributary stream crossings must:
- a) be installed at or below river, stream or tributary stream bed elevation;
 - b) be seated on firm ground;
 - c) have soil compacted at least halfway up the side of the culvert;
 - d) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - e) have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- 4) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- 5) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

- h. Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - 1) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1) 6.i below.
 - 2) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - 3) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- i. Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - 1) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - 2) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - 3) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 - a) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - b) it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
 - c) it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

7. Slope Table

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

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

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

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove 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 P.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 or a river flowing to a great pond, 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 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond, 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.

The following shall govern in applying this point system:

- 1) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- 2) Each successive plot must be adjacent to, but not overlap a previous plot;
- 3) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- 4) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- 5) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

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

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, **including leaf litter and the forest duff layer**, shall not be **cut, covered, or** removed, except to provide for a footpath or other permitted uses as described in **Section 15. P** paragraphs 2 and 2.a above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, 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 15.P.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 or a river flowing to a great pond, 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**.

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

Q. Erosion and Sedimentation Control

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

- 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 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 rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - 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 rip-rap.

R. 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 of counteract soil limitations where they exist.

S. Water Quality

1. 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. The washing, bathing, or cleaning of humans, animals, or objects with soaps, detergents, or cleaning agents shall be prohibited in water bodies or in areas adjacent to water bodies if wash water can enter the surface water without absorption into the soils.
2. One of the following methods of phosphorus mitigation must be employed if the footprint of any structure is enlarged within the setback area adjacent to a Great Pond.
 - a. The existing undisturbed natural wooded buffer strip between the structure and the water body shall be at least 50 feet in depth; or
 - b. A 50 foot natural wooded buffer strip shall be created by allowing a 50-foot strip to revert to natural vegetation. Woody vegetation shall be planted if lacking; or
 - c. An infiltration system designed to accommodate the runoff from the entire structure that would be generated by a 24-hour two-inch rainfall and approved by the Code Enforcement Officer shall be constructed.
3. Wells may be located within the setback area if all of the following provisions are met:
 - a. The access corridor for equipment does not exceed 20 feet in width and must follow any existing or proposed footpath. The Code Enforcement Officer may expand this 20-foot limit to the minimum extent needed where access is difficult.
 - b. All slag shall be removed from the ground, and no sedimentation from erosion shall enter any adjacent water body.
 - c. All areas not covered by the footpath shall be stabilized immediately and fully revegetated within nine months.

4. No provisions of this Ordinance shall prohibit the revegetation or stabilization of a disturbed area if a stabilization plan is filed with and approved by the Code Enforcement Officer. The use of fertilizer containing phosphorus within the buffer area is prohibited, except as part of an approved stabilization plan.

T. Phosphorous Loading Rates

All land uses requiring Planning Board approval within the Shoreland Zone adjacent to a Great Pond or river or stream flowing to a Great Pond, shall limit phosphorus export from the site based on approval of one of the following methods of phosphorus control:

1. Point System

The Planning Board may issue a permit if the applicant meets or exceeds thirty (30) points based on the following schedule:

- a. 10 points for correcting an existing erosion problem on the site
- b. 10 points for a clearing limitation of 15,000 square feet and less
- c. 15 points for a clearing limitation of 10,000 square feet and less
- d. 15 points for the installment of rock-lined drip edges or other infiltration systems to serve the new construction
- e. 20 points for a 50-foot wide buffer located downslope of the developed area
- f. 25 points for a 75-foot wide buffer located downslope of the developed area
- g. 30 points for a 100-foot wide buffer located downslope of the developed area

Special Exemptions: Additions to non-conforming structures must meet or exceed a total of twenty-five (25) points and conform with Section S, of this ordinance (Water Quality), Subsection 2.

2. Technical Analysis

The applicant does not exceed the allotted phosphorus export to the water body based on the phosphorus loading schedules established in Table 1, Section 5 of Waterford's Site Plan Review and in calculated in accordance with *Stormwater Management for Maine* (Maine Department of Environmental Protection et al., January 2006 with revisions as amended).

U. Archaeological Sites

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.

V. Recreational Trails

Recreational trails constructed for or created by the repeated passage of motorized vehicles shall meet the Roads and Driveways standards, including ATV trails.

Recreational trails must be designed and constructed to shed water, avoid erosion, and minimize channelized flow to the water body, tributary stream or wetland.

Recreational trails shall be designed and constructed such that soil erosion will be prevented; such prevention measures may include steps, water bars, drainage dips, and minor side-sloping of trails, in addition to any necessary lining of the trail with erosion control mulch.

Recreational trails must meet the structure setback; except for primitive trails and trail spurs as provided below; and except for structural water crossings that are no more than four (4) feet in width, which are necessary in wet, rocky or unstable areas.

Primitive trails must meet the structure setback to the greatest practical extent, except for portions constructed over existing structural development such as pavement, concrete, and non-vegetated gravel areas.

Primitive trails and trail spurs shall be constructed using hand tools only, including power hand tools.

Trail spurs shall be limited to one per lot of record where a water access footpath allowed under the Clearing of Vegetation standards (Guidelines Section 15.P.2.a) does not exist.

Section 16. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer
2. Board of Appeals

3. Planning Board

B. Permit Required

1. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is preformed.
2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official (as indicated in Section 14). An application for a permit shall be accompanied by a non-refundable fee, of \$25.00 plus \$1.00 per \$1,000.00 of the estimated cost including materials and labor over \$2,000.00. This application fee shall be made by cash or check, payable to the Town. The selectmen shall have the authority to revise this fee from time to time after conducting a public hearing
2. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
4. A valid plumbing permit or a completed application for the plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

5. Any application for an after the fact permit shall be accompanied by a non-refundable fee double that required in Section C.1. above.

D. Procedure for Administering Permits

Within thirty-five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a

structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation of any State law which the municipality is responsible for enforcing.

E. Independent Review and Advice

1. Professional Services. The Planning Board may require that an appropriate professional or consultant review one or more aspects of an application for compliance or noncompliance, with this Ordinance and to advise the Board.

The professional or consultant shall first estimate the cost of such review and the applicant shall deposit, with the Town, the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the professional or consultant from the escrow account and reimburse the applicant if funds remain after payment.

2. Additional Studies. The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to demonstrate and ensure that the requirements of the Ordinance are met. The costs of such studies shall be borne by the applicant.

F. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

G. Financial Guarantee

Prior to final approval of any plan, the Planning Board may require the applicant to post a bond, letter of credit, escrow agreement, or other financial guarantee acceptable to the Board, in such amount as is reasonably necessary, to ensure completion of all improvements and in such form as is approved by the Board and the Town Selectmen.

The Town and its agents shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.

H. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone, unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance, has been issued by the appropriate Town officials or other written arrangements have been made between the Town officials and the utility.

Following installation services, the company or district shall forward written authorization to the Town officials, indicating that installation has been completed.

I. Special Exceptions

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

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20%; and
 - b. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

4. The total 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 100 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.

J. Appeals

1. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - a. Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. Variance Appeals. Variances may be granted only under the following conditions:
 - a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - c. The Board shall not grant a variance unless it finds that:
 - 1) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - 2) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c) That the granting of a variance will not alter the essential character of the locality; and

- d) That the hardship is not the result of action taken by the applicant or a prior owner.
 - d. Notwithstanding Section 16.K.c.2) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
 - e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 - f. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
3. Administrative Appeals

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

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

Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Appeal Procedure

a. Making an Appeal

- 1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16.K1.a above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- 2) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- 3) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- 4) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

b. Decision by Board of Appeals

- 1) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- 2) The person filing the appeal shall have the burden of proof.
- 3) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.

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

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

K. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

2. Code Enforcement Officer

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land building or structures, or work being

done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

- b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

3. Legal Actions

- a. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or inequitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- b. The Town Officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court Action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Any approved administrative consent agreement shall be recorded in the Oxford County Registry of Deeds within thirty (30) days of its signing by the violator. In addition a one copy shall be attached to the assessment records and one copy forwarded to the Chair of the Planning Board.

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall, be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Section 4452.

Section 17. Definitions

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Acre - 43,560 square feet.

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 and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

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 variance.

Appurtenant Structure to Recreation Vehicle - A factory-manufactured rigid metal or vinyl enclosure, with the dimensions not exceeding eight feet in width nor the length of the recreational vehicle, and designed for use with the recreational vehicle.

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

Basal area- the area of cross-section of a tree stem at 4 ½ 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 having more than 50% of its volume below the existing ground level.

Bed and Breakfast - A private home in which one or rooms are rented and breakfast is provided to those renting a room.

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.

Bureau – State of Maine Department of Conservation's Bureau of Forestry.

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

Canopy- the more or less continuous cover formed by tree crowns in wooded areas.

Commercial use - the use of lands, buildings, or structures, other than a “home occupation,” defined below, the intent and result of which activity is the production of income from the buying or selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units. Commercial use does not include timber harvesting or the commercial recreational use dependent upon and associated with the waterbody.

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

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

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

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 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.

Discontinued Use - The cessation or the stopping of an activity.

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

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

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

Expansion of a structure - an increase in the 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 one or more months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

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

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.

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

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

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

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

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

1. of ten or more contiguous acres; or of less than ten (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 areas is in excess of ten (10) acres; and

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

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

For the purposes of this Ordinance, the upland edge (the shoreline) of a freshwater wetland is defined as the boundary line at which the hydrological and biological characteristics in item 2 above no longer occur, or where the wetland becomes a forested wetland.

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 which cannot 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, fish storage and retail and wholesale fish marketing facilities, waterfront dock facilities and boat building facilities, marinas, navigation aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site and uses that provide general public access to inland waters. Amended March 5, 2000.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten (10) 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 Title 38 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 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 grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - An occupation or profession which is carried on in no more than 1,000 square feet of a dwelling unit or accessory structure or thirty-three percent (33%) of the floor area of a detached, single-family dwelling unit and which does not change the character thereof (by way of

illustration and not of limitation, the term “home occupation” shall include such items as breads, cookies, or preserves, rugs, birdhouses, fishing flies, and quilts). The term “home occupation” shall include both professional and personal services.

A retail sales outlet does not qualify as a “home occupation” unless the item sold is a product of the owner’s labor (e.g., manufactured, produced, created, or grown).

Increase in the non-conformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity 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 the non-conformance of the existing structure shall not be considered to increase the non-conformity. For example, there is no increase in non-conformity 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 non-conforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream or wetland than the closest portion of the existing structure from that water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

Institutional - A building devoted to some public, governmental, educational, charitable, medical or similar purpose.

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

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

Lot - an area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

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 (2) lots.

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

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

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

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 transports the product removed from the extraction site.

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

Native- indigenous to local forests.

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

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

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

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.

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 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 during the period of normal high-water are considered part of the river.

Outstanding river segments - includes the Crooked River, as listed in Title 38, Section 480-P.

People Camps - A combination of program and facilities established for the primary purpose of providing an outdoor group living experience for children and/or adults with social, recreational, spiritual, and educational objectives and operated and used for five or more consecutive days during one or more seasons of the year. People camps include day camps, residential camps and trip and travel camps.

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

Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland -

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months and are removed by November 1 of each year.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months and remain in or over the water after November 1 of each year.

Primitive trail - a public or private path or trail, with a tread path no more than three (3) feet in width and an overall clearance of four (4) feet in width, established for walking, hiking, non-motorized biking purposes, snow-shoeing, or cross-country skiing. Primitive trails are not structures if there is no base material used such as, but not limited to, pavement, concrete, gravel or similar material.

Principal structure - the structure in which the primary use of the lot is conducted.

Principal use - the primary use to which the premises are devoted.

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

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

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

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

Recreational trail - a way across land, used primarily for recreational purposes including, but not limited to, such uses as: bicycling, Nordic (cross-country) skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight or long distance backpacking, roller skating, in-line skating, dog sledding, running, snowmobiling, canoe and kayak portaging; and vehicular travel by motorcycle, four-wheel drive or all terrain, off-road vehicles. Recreational trail use may be limited to foot, horse or other non-motorized means of transportation, or combination of any of them. Recreational trail includes the terms primitive trail and trail spur.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, be attached to the site only by quick disconnect type utilities and security devices, have no permanently attached additions, and must be registered with the State Division of Motor Vehicles and be consistent with the applicable definitions promulgated by the Maine Department of Environmental Protection and the Maine Department of Health and Human Services.

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

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Residential Institutional - A use providing recreation, counseling, education and/or other rehabilitative services where the individuals commonly reside at the facility.

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

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

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

River - a free-flowing body of water including its associated 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 the repeated passage of motorized vehicles, excluding driveways as defined.

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

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one-thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of the telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one-thousand (1,000) feet in length.

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

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

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

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

Skid Road or 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.

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 fifteen (15) minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area and as may be depicted on the Official Shoreland Zoning Map

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.

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

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

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

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

Timber harvesting and related activities - timber harvesting, the construction **and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.**

Trail spur - a primitive trail with no base material that extends toward the shoreline from a recreational trail.

Tree- a woody perennial plant, typically large and with-defined stem or stems carrying a more or less definite crown.

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.

Upland edge of a wetland - the boundary between upland and wetland. For the purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet or taller).

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at 4 ½ feet above ground level.

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

Water body - any great pond, river or stream.

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

Wetland - a freshwater wetland.

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

Wood vegetation- live trees or wood, non-herbaceous shrubs.

Shorelandamend03.06.10

Revised 12.30.08

Revised 01.07.09

Revised 01.26.09

Revised 11.24.09

Revised 03.03.12

Town of Waterford, Maine

SUBDIVISION ORDINANCE

Adopted March 7, 1987
Amended March 5, 1988
Amended March 2, 1990
Amended March 1, 2003
Amended March 5, 2005

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***Subdivision Ordinance
Town of Waterford, Maine***

SECTION 1. Purpose

The purpose of this Ordinance shall be to assure the comfort, health, safety, and general welfare of the people, to protect the environment and to provide for the orderly development of a sound and stable community in a manner consistent with the Comprehensive Plan. The Ordinance also has the purpose of providing uniform procedures and standards for observance by the Planning Board, other officers of the Town and developers in review of subdivisions in the Town of Waterford.

SECTION 2. Authority and Administration

A. Authority

1. This Ordinance is adopted 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.
2. This Ordinance shall be known and cited as the "Subdivision Ordinance Town of Waterford, Maine."
3. Upon adoption of this Ordinance, all previous Subdivision Regulations or Ordinance shall be repealed.

B. Administration

1. This Ordinance shall be administered by the Planning Board for the Town of Waterford, Maine, hereafter referred to as the "Board."
2. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Waterford, Maine.
3. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not received Board approval and recorded in the Registry of Deeds. No public utility, or any utility company of any kind shall install services to any lot in a subdivision which has not received Board approval and recorded in the Registry of Deeds. A Subdivision Plan recorded without Board approval shall be void. Any person who violates any provision of this Ordinance shall be fined a minimum of \$100 and a maximum of \$2,500 for each violation.
4. Joint Meetings: If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Board may meet jointly with that municipality's Planning Board to review the application. The Planning Boards in each municipality, upon written agreement, may waive the requirement for any joint meeting or hearing as provided for in Title 30-A Section 4003.1-A.

SECTION 3. Pre-application Meeting

Applicants shall schedule a meeting with the Board prior to formal submission, to present a sketch plan and make a verbal presentation regarding the site and the proposed subdivision.

A. Submissions

The Pre-application Sketch Plan shall show, in simple sketch form, the proposed development area, and other features in relation to existing conditions. The Sketch Plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.

When a proposed subdivision will encompass ten (10) acres or more or five(5) or more lots, the applicant shall submit sketch plans of both a traditional subdivision layout and open space subdivision/creative design subdivision layout. The sketch plan shall be accompanied by a written narrative of the advantages and disadvantages of both subdivision techniques in relation to the particular site.

The sketch plan for an open space or creative design subdivision will show how the following applicable provisions will be incorporated in subdivision design.

1. The policy of the Town of Waterford to conserve important scenic view locations; and
2. The policy of the Town of Waterford to encourage innovative residential development that conserves forestry and agricultural resources;
3. The parcel's unique features that may include but not be limited to agricultural land, forest land, fields, ridges, stone walls, tree lines, streams, wetlands, wildlife habitat, and scenic views and how such features will be conserved and integrated into the subdivision design.

The Board shall within thirty (30) days of receiving the sketch plan, inform the applicant of their recommendations based on the intent of the comprehensive plan and the nature of the site, which type of subdivision is the most appropriate. This provision shall not be interpreted to grant the authority to the Board to require a particular type of subdivision.

B. Contour Interval and On-Site Inspection

Within thirty (30) days of the pre-application meeting, the Board shall determine and inform the applicant, in writing, of the required contour interval on the development plan and conduct an on-site inspection of the property.

C. Ownership Interest

The applicant will furnish written evidence showing right, title or interest (option, contract for sale, etc.) in the property to be developed to the Planning Board.

SECTION 4. Preliminary Plan

A. The applicant shall submit four (4) copies of the Preliminary Plan and four (4) copies of the application for the proposed subdivision as detailed in Section 6 A and B to the Board at a regularly scheduled meeting. The Board shall issue a dated receipt to the applicant and shall notify by mail all abutting property owners including those across a street of the proposed subdivision. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Preliminary Plan and application are complete, or if incomplete, the specific additional material needed to make them complete. Determination by the Board that the Preliminary Plan and Application are complete in no way commits or binds the Board as to the adequacy of the Plan to meet the criteria of Title 30-A M.R.S.A. Section 4404 and the standards of this Ordinance.

B. Application Fee

The following fee(s) shall be paid with the submission of any preliminary plan. The Selectmen, upon recommendation for the Board, shall have the authority to revise the fee and the review escrow amount after holding a public hearing.

- a. Review fee, \$120.00.
- b. Review escrow account, \$250.00 per lot (or living unit for multiplex development(s) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. Those monies deposited by the developer and not spent by the Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

C. The Board shall hold a public hearing on the Preliminary Plan. Regulations for such a hearing shall be according to State Law as provided in Section 7.

- D.** The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received the completed Preliminary Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A M.R.S.A. Section 4404 and to preserve the public health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Board shall make a written finding of fact establishing that the Preliminary Plan does or does not meet the provisions of this Ordinance and Title 30-A M.R.S.A. Section 4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

SECTION 5. Final Plan

- A.** The applicant shall submit the original and three copies of the Final Plan to the Board at a regularly scheduled meeting, within one (1) year from the date of approval of the Preliminary Plan. The Board shall issue a dated receipt to the applicant. The Final Plan shall include all the information requested in Section 6.B., and will also include all changes recommended by the Board in their approval of the Preliminary Plan. There shall be no other substantial changes between the Preliminary Plan and the Final Plan. The Final Plan shall be drawn on a stable-based transparent material embossed with seal and signature of the professional who prepared it suitable for permanent recording in the Oxford County Registry of Deeds.
- B.** The Board has the option of holding a public hearing on the Final Plan except the Board shall hold a public hearing for a Final Plan that a municipal service impact analysis required in Section 6.A.20 results in a municipal impact of \$200,000 or more. Regulations for such a hearing shall be according to State Law as provided in Section 7.
- C.** The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the completed Final Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval of the Final Plan or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A M.R.S.A. Section 4404, and to preserve the public's health, safety, and general welfare. In issuing its decision, the Board shall make a written finding of fact establishing that the Final Plan does or does not meet the provisions of this Ordinance and Title 30-A M.R.S.A. Section 4404.

SECTION 6. Submission Requirements

A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information: (Items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

- 1. Name and address of owner.
- 2. Name and address of applicant (if other than owner).
- 3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
- 4. Name of applicants' authorized representative.
- 5. Name, address and number of Registered Professional Engineer, Land Surveyor or Planner who prepared the plan.
- 6. Address to which all correspondence from the Board should be sent.
- 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, recorded ownership, etc.)?
- 8. What interest does the applicant have in any property abutting the parcel to be subdivided?
- 9. State whether the subdivision covers the entire or contiguous holdings of applicant.
- 10. Location of property: book and page (from Registry of Deeds).
- 11. Location of property: map and lot (from Assessor's Office).

- 12. Current zoning of property.
- 13. Acreage of parcel to be subdivided.
- 14. Proposed method of sewage disposal and the results of an on-site soil investigation for each lot.
- 15. Soils report for entire area.
- 16. Names and mailing addresses of property owners within 500 feet of the parcel to be subdivided.
- 17. Indicate the nature of any restrictive covenants to be placed on the deeds.
- 18. A storm water management plan prepared in accordance with Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection.
- 19. Any portion of the subdivision that is located within the direct watershed of a great pond shall be identified and a phosphorous impact analysis and control plan provided.
- 20. A municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town of Waterford or quasi-municipal districts. This list shall include but not be limited to: schools including busing; street reconstruction, maintenance, and snow removal; solid waste disposal; and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation upon build out of the subdivision.
- 21. Statements from the Fire Chief, Superintendent of Schools and Road Commissioner as to their departments capacity to serve the subdivision.
- 22. The location of scenic sites and view locations as identified in the Waterford Comprehensive Plan.
- 23. The location, names, widths, maintenance responsibility, and conditions of streets- that will be uses to access the subdivision and lots within the subdivision.
- 24. A Traffic Impact Study.
- 25. A statement of financial and technical capability.

B. Subdivision Plan

The Subdivision Plan shall be a map of the tract to be subdivided, certified by a Professional Land Surveyor and tied to established reference points. The plan shall not be less than 18" by 24" and shall be drawn to a scale of 1" equals not more than 100'. The Subdivision Plan shall include the following information: (Items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

	Pre. Plan	Final Plan	
1.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Name of proposed subdivision; location of subdivision; name of subdivider; and signature and embossed seal of a Professional Land Surveyor.
2.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Lot numbers.
3.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Date, magnetic north point and graphic map scale.
4.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Proposed lot lines with approximate dimensions and lot areas and total area of land to be subdivided.
5.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Proposed lot lines with dimensions, bearings, deflection angles, radii and central angles sufficient to reproduce any line on the ground and lot areas and total area of land to be subdivided.
6.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.

Town of Waterford

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| 7. | <u> </u> | <u> x </u> | Location of permanent markers, both natural and man-made. |
| 8. | <u> x </u> | <u> x </u> | Location of all parcels to be dedicated to public use and the conditions of such dedication. |
| 9. | <u> x </u> | <u> x </u> | Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number. |
| 10. | <u> x </u> | <u> x </u> | If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan. |
| 11. | <u> x </u> | <u> </u> | Location of all required soils investigation test pits. |
| 12. | <u> x </u> | <u> x </u> | Location and size of existing buildings. |
| 13. | <u> x </u> | <u> x </u> | Suggested location of buildings, subsurface sewage disposal systems and wells. |
| 14. | <u> x </u> | <u> </u> | Location of all natural features or site elements to be preserved. |
| 15. | <u> x </u> | <u> x </u> | Location of any existing watercourses and other essential existing physical features. |
| 16. | <u> x </u> | <u> </u> | Location and size of any existing sewers and water mains and other utilities; location and size of culverts and drains. |
| 17. | <u> x </u> | <u> x </u> | Location, names and widths of existing and proposed streets, highways, easements and rights-of-way. |
| 18. | <u> </u> | <u> x </u> | Plan profiles and cross-sections for streets, sidewalks and storm drainage facilities. |
| 19. | <u> x </u> | <u> x </u> | A soil erosion and sediment control plan for construction and for permanent control. |
| 20. | <u> x </u> | <u> </u> | Contour lines at 20 foot intervals (or other interval as specified by the Board). |
| 21. | <u> x </u> | <u> x </u> | Proposed uses of property. |
| 22. | <u> x </u> | <u> x </u> | The location of freshwater wetlands. |
| 23. | <u> x </u> | <u> x </u> | The location of river, stream or brook within or abutting the proposed subdivision. |
| 24. | <u> x </u> | <u> </u> | The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Waterford. |
| 25. | <u> x </u> | <u> x </u> | The location of known or potential/archeological resources, historic buildings or sites unique natural areas and mapped sand and gravel aquifers with a description of how such features will be maintained or impacts upon them minimized. |
| 26. | <u> x </u> | <u> </u> | Any portion of the subdivision which is located within the direct watershed of a lake or pond shall be identified. |
| 27. | <u> x </u> | <u> x </u> | Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example: |

Approved by the Town of Waterford Planning Board:

Signed: _____

Date: _____

Conditions _____

28. _____ Other information not indicated above as required by the Board.

SECTION 7. Public Hearing

The Board shall hold a public hearing on the Preliminary Plan of the proposed subdivision. The decision to hold a public hearing on the Final Plan of the proposed subdivision is discretionary, except the Board shall hold a public hearing for a Final Plan that a municipal service impact analysis required in Section 6.A.20 results in a municipal impact of \$200,000 or more. The Board shall hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete Subdivision Plan has been received and shall cause notice of the date, time and place of such hearing to be given to the sub divider, and published in a newspaper of general circulation in Waterford at least two (2) times; the date of the first publication shall be at least seven (7) days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A M.R.S.A. Section 2691 Section 3 a, b, c, d and e. The applicant shall notify all property owners within five hundred (500) feet of the boundaries of the subdivision by certified mail return receipt requested at least fourteen (14) days prior to the hearing. The subdivider shall provide the return receipts to the Board at the hearing.

SECTION 8. General Requirements

In reviewing an application for subdivision approval, the Board shall consider the following requirements and make a finding that each, in addition to the standards contained in Title 30-A M.R.S.A. Section 4404, have been met prior to final approval. In all instances, the burden of proof shall be upon the applicant.

A. Buffer Strip

The Board may require a buffer strip, such as natural vegetation, where separation is desirable.

B. Conformance with Other Laws, Regulations

The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws, and regulations. If the proposed subdivision meets the definition of a subdivision as defined in the Site Location of Development Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Board before any construction activity may begin in the subdivision.

C. Impact on Community Services and Facilities

Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities. When the Board finds, based on a recommendation of the selectmen and the results of any municipal impact analysis, that municipal services do not have the capacity to provide services to the proposed subdivision, the Board will require one or more of the following.

1. A voluntary payment to the Town of Waterford to mitigate the direct impact to municipal services that has been identified as the consequence the proposed subdivision. Any such payment shall be subject to the following provisions.
 - a. The Board, with advice from the Selectmen, shall find that the money offered will mitigate the identified direct impact of the subdivision.
 - b. The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed to be the applicant and Board to mitigate the identified direct impacts.
 - c. The payment in all cases shall be expended within five years of collection, unless otherwise

agreed upon the Board and applicant.

- d. Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Waterford for the period the payment was held by the Town.
2. The applicant will undertake required improvements necessitated by the subdivision.
3. Require phasing of the subdivision or limiting the number of lots that can be developed at any one time to allow the expansion of municipal services over time.
4. Deny the Subdivision.

D. Lots

The lot size shall be in conformance with the following dimensional requirements.

1. A minimum lot size of 40,000 square feet shall be required for each dwelling unit. Each lot shall have at least 200 feet of frontage facing any street. Lot size and shore frontage for lots located in the Shoreland Zone shall comply with the Town of Waterford Shoreland Zoning Ordinance.
2. No part of any structure shall be built within 25 feet of any lot line or within 50 feet of any edge of a street right-of-way.
3. There shall be a minimum area of 50 feet of shoreland frontage by 200 feet in depth of common shore area for each lot or residential dwelling unit which has access to the common area and for each right of use granted to the common area. Shore frontage shall be measured in a straight line between the points of intersection of the side lot lines. Depth shall be measured from the Normal High Water Line.

E. Lot Access

1. Any proposed subdivision shall be so designed that every lot has access to a public or privately owned street.
2. Driveway Entrances: Subdivisions with lots fronting on existing public streets shall minimize the number of driveways entering such streets. The Board shall require shared driveways, marginal access streets or other acceptable techniques to limit the number of driveway entrances.

F. Open Space Provisions

1. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation and graded contours.
2. The Board may require that the subdivider reserve an area of land as an open space and/or recreational area for use by property owners in the subdivision.
 - a. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.
 - b. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:
 - 1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
 - 2) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
 - c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for later development if the Subdivision Plan includes provision

for development in discrete stages.

- d. Any area designated for common use shall be so arranged that each property owner has access to it.

G. Storm Drainage

Adequate provision shall be made for disposal of all storm water generated within the subdivision through a management system of ditches, swales, culverts, underdrains, and/or 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 25-year storm.
- 2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
- 3. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
- 3. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

H. Phosphorous Export

Phosphorus, a natural nutrient, stimulates algal growth that causes a significant decline in water quality. The primary source of new and increasing phosphorus loads in Maine lakes is development-residential, commercial, and industrial. Its impact on water quality is permanent. The following phosphorus control measures were created and designed to address this concern.

- 1. Subdivisions proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorus runoff to the levels defined below.

**Table 1
Post Development Phosphorous Export by Watershed**

Lake Name	Lake Protection Level	Lake Load Allocation (lbs/ppb/yr) ¹	Allowable Phosphorus Export Per Acre(Pounds)

Town of Waterford

Lake Name	Lake Protection Level	Lake Load Allocation (lbs/ppb/yr) ¹	Allowable Phosphorus Export Per Acre(Pounds)
Bear Pond	High	62.22	.049
Bog Pond (Mud)	Medium	3.13	.061
Cabbage Yard Pond	Medium	1.54	.031
Crystal Lake	High	19.11	.117
Duck Pond	High	2.97	.026
Highland Lake	High	0.63	.037
Island Pond	High	6.30	.038
Jewett Pond	High	3.41	.036
Keoka Lake	High	42.88	.039
Little Moose Pond	High	11.28	.048
Long Lake	High	17.70	.047
McWain Pond	HIGH	31.53	.044
Middle Pond	High	0.39	.062
Mud Pond	Medium	13.23	.042
Papoose Pond	High	2.20	.069
Sebago Lake	High	394.82	.079
Speck Pond 1	Medium	0.06	.075
Speck Pond 2	Medium	0.24	.075
Stearns Pond	High	5.40	.061

¹ The pounds per year of phosphorus from the watershed that would produce an increase in phosphorus concentration by more than 1.0 parts per billion.

² The Board shall keep an accurate record of subdivision approvals granted by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments to the table at two year intervals. The Board may seek guidance from the Lakes Environmental Association in making such adjustments.

2. Phosphorus export from a proposed subdivision shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Planning Board.
3. Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

I. Construction in Flood Hazard Areas

When any part of a subdivision is in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

J. Streets

1. Off site streets serving a proposed subdivision shall be in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision. In making a determination that off site streets serving a proposed subdivision are in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision the Board shall consider the following.
 - a. Residential subdivisions that will gain access via public streets or public easements closed to winter maintenance shall be prohibited unless the subdivider shall finance the cost of the necessary improvements to make the street or public easement suitable for winter maintenance. Such improvements shall be made by the Town or a contractor selected by the Town. The Board shall base the needed improvements upon the recommendation of the Inspecting Official.
 - b. Lots in residential subdivisions that will gain access via public roads or private roads that are deemed by the Inspecting Official to not have adequate capacity to carry traffic associated with the proposed subdivision shall be prohibited unless the subdivider undertakes the necessary improvements to make the street suitable for the anticipated traffic. In determining adequate capacity the inspecting Official shall consider provisions for two way traffic, safe access by emergency vehicles and all season use. The Board shall base needed improvements to provide adequate capacity upon the recommendation of the Inspecting Official. This Section shall not be interpreted to require improvements to comply with Section 8.J.4.
2. Design of proposed streets whether public or private shall be in harmony and conformance with existing and proposed streets. Street patterns shall give due consideration to contours and natural features. Every proposed street, public or private, in a subdivision shall be laid out and constructed as required by the standards contained in Sections 2, 3, 4, 5, and 6 below. Specific site conditions may warrant alternative designs.
 - a. **Existing Streets Extended:** Existing streets shall be extended at the same or greater width and in no case shall they be extended at less than the original width.
 - b. **Street Names:** Street names require the approval of the Board of Selectmen. Streets that are obviously in alignment with streets already existing and named, shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.
 - c. **Intersections:** All street intersections shall be at angles as close to ninety (90°) degrees as possible. In no instances shall street intersections be at an angle less than sixty (60°) degrees.
 - d. **Curb Line Radius:** The curb line radius at street intersections shall be at least 25 feet. Where the angle of the street intersects is less than ninety (90°) degrees, a longer radius may be required.
 - e. **Dead-end or Cul-de-sac Streets:** Dead-end or cul-de-sac streets shall be provided at the closed end with a turn-around having a property line radius of at least 60 feet with an outside pavement radius of at least 40 feet.
 - f. **Drainage:** Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrains, and/or storm water drainage systems. Provisions must be made for natural watercourses.
 - g. **Catch Basins:** Catch basins (of standard design) shall be built where necessary and culverts of proper size and capacity will be installed at all watercourses with necessary headers.
 - h. **Culverts:** Culverts will be galvanized, corrugated steel, concrete, aluminum or plastic. Culverts shall be sized to accommodate anticipated flows, but in no case shall be less than fifteen inches in

diameter. Developers shall confer with the Road Commissioner regarding anticipated culvert flow in all cases.

- i. Slopes and Ditches:** Slopes and ditches shall slope away from the shoulders of the street at a ratio of at least three (3) horizontal feet to one (1) foot vertical and never steeper than 2 to 1. In cases where this is not possible or practical as where the street cuts through the side of a hill, all cuts shall be made so that adjacent slopes will not slide. The tops and sides of all cuts shall be cleared of all trees, stumps and boulders for an adequate distance so as to prevent such material from sliding into the ditches. Banks will be loamed, seeded and mulched.

Ditches shall be a minimum of 30 inches deep and all ditches on slopes of 10% or greater shall be constructed with a stone center of at least 5 feet wide or paved with 2 ½ inches of hot bituminous pavement, to a point at least 6 inches above maximum flow line planned for the ditch. Stone centers shall be designed in accordance with the Maine Erosion and Sediment Control Handbook for Construction Best Management Practices, Cumberland County SWCD and Maine Department of Environmental Protection, March 1991.

- j. Sidewalks/Bicycle Lanes:** The Planning Board shall have the authority to designate whether sidewalks and/or bicycle lanes shall be required.

- k. Utilities:** Longitudinal runs of water and/or sewer mains shall be laid outside of the travel lanes and clear of any present or designated sidewalks. Utility poles shall be so placed that any present or designated sidewalks may be contained within the boundaries of the street or way without obstructions by poles or appurtenances.

l. Grades, Intersections, and Sight Distances

- 1) Grades of all streets shall conform to general to the terrain so that cut and fill is minimized while maintaining the grade standards above.
- 2) All changes in grade shall be connected by vertical curves to provide for the minimum site distances below.
- 3) Where new street intersections or driveway curb-cuts are proposed, site distances, as measured along the street onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. 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 ½ feet above the pavement and the height of object 4 1/4 feet.

Posted/Legal Speed Limit (MPH)	25	30	35	40	45	50	55	
Sight Distance (Feet)		155	200	305	360	425	495	570

Where necessary, corner lots shall be cleared of all growth and site obstructions including ground excavation to achieve the required visibility. Where such clearing is required, it shall be identified on the Final Plan with a condition of approval identifying its maintenance responsibility

m. Privately Owned Streets

- 1) Maintenance. The subdivider shall demonstrate to the satisfaction of the Board that the private street will be properly maintained.
- 2) Deed Restriction. The subdivider shall cause each property deed to clearly state that the street is a private street, and the Town of Waterford will not be responsible for maintaining or plowing.
- 3) Plan Condition. The recorded subdivision plat shall clearly state that such street is private.

- 3. Classification of Streets:** In all new subdivision's streets shall be classified as provided in Subsection d.

- a. The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day.
- b. The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive.
- c. Whenever a subdivision street continues on an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.
- d. The classification of streets shall be as follows.
 - 1) **Local.** A street whose function is to provide access to abutting properties. A local street shall not be allowed when the Average Daily Traffic (ADT) volume will exceed 500. Local streets shall be designed to exclude external through traffic which has neither origin nor destination on the local street or on its tributary minor streets.
 - 2) **Collector.** A street whose principle function is to carry traffic for residential streets to higher order streets. Average Daily Traffic (ADT) shall not exceed 3,000. If the street exceeds 3,000 ADT, the municipality upon recommendation from an engineer shall determine the required design standards.
 - 3) **Other Streets.** Streets proposed to service uses such as retail, office or industrial shall be designed by a Professional Engineer based upon detailed traffic analysis.

4. Construction Standards

Item	Collector	Local
a. Minimum width of right-of-way	60 ft.	50 ft.
b. Minimum width of pavement	24 ft.	18ft.
c. Minimum grade	.5%	.5%
d. Maximum grade	8%	12% ¹
e. Maximum grade at intersections	3% within 75 ft. of intersection	
f. Minimum angle of intersections	60°	60°
g. Width of shoulders (per shoulder)	5 ft.	3 ft.
h. Minimum center line Radii on curves	200 ft.	150ft.
i. Minimum tangent length between reverse curves	200 ft.	100 ft.
j. Street base (minimum)	27 in.	18 in.
Sub-base	24 in.	12 in.
Upper base	3 in.	6 in.
k. Paving	3 in.	2 1/2 in.
l. Street crown (minimum)	1/4"/1'	1/4"/1'

m. Sidewalks (where required)	4'	4'
n. Property line radii (intersections)	15 ft.	10 ft.
o. Travel surfaces of all streets constructed on slopes over 12% shall be paved with 2 1/2 inch of hot bituminous pavement.		
p. Any privately owned street serving five and fewer dwellings shall not require paving. Privately owned streets, constructed after the effective date of this Ordinance, serving six or more dwellings shall require maintenance up to Town Standards.		
q. Curb radii at intersections (90°)	25 ft.	25 ft.
Less than 90° intersections	30 ft.	30 ft.
r. Minimum distance between intersections	200 ft.	200 ft.

¹12% except that maybe up to 14% for no more than 300 feet per street if paved.

5. Bases and Pavement

a. Sub-base

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 meeting MDOT specification 703.06(d) for type D gravel.

b. Upper Base

The Aggregate Upper Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances meeting MDOT specification 703.06(a) for type A gravel.

c. Pavements

Pavement shall be a Hot Bituminous State of Maine Approved Mix.

6. Gravel Surface Streets: The Selectmen, with advice from the Road Commissioner and Board, shall review requests for gravel surfaced streets. In reviewing requests for gravel surfaced streets, the following requirements shall be met, in addition to all other design standards.

- a. The area has a low development density. Lots of more than 2 acres in size and/or less than 20 lots per development.
- b. Dust from the street surface will not adversely effect adjacent properties.
- c. The surface materials must support the traffic loads without detrimental deformation.
- d. The surface materials must be capable of withstanding the abrasive action of traffic.
- e. The surface materials shall shed rain which falls on the surface.
- f. The surface material shall possess capillary properties in amounts sufficient to replace the moisture lost by surface evaporation.

7. Inspection

- a. Notification of Construction: At least five (5) days prior to commencing street construction the applicant shall.
 - 1) Notify the selectmen in writing of the time proposed to commence construction so that the selectmen can arrange for inspection to be made. The inspecting official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board.
 - 2) Deposit with the selectmen a check for the amount of 2% of the estimated costs of construction and improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within 30 days. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of construction and improvements.
- b. Noncompliance With Plan: Upon finding that the improvements have not been constructed in accordance with the approved plans and specifications, the inspector shall so report in writing to the selectmen, Planning Board, Code Enforcement Officer and applicant. The selectmen shall take any steps necessary to assure compliance with approved Plans.
- c. Modification During Construction: If at any time it appears necessary or desirable to modify the required improvements before or during construction of the of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the selectmen, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc the applicant shall submit to the Planning Board an amended application for review and approval.

K. Open Space Subdivisions

- 1. It is the policy of the Town of Waterford to encourage the development of open space subdivisions in order to preserve a sense of space, provide for, agriculture, forestry, and recreational land uses, preserve other resources identified in the Town of Waterford Comprehensive Plan, and blend new development with the traditional open and wooded, agricultural and village landscapes of Waterford.

This standard is intended to implement that policy by providing incentives that afford flexibility in street and lot layout and design and street frontage requirements to the landowner. It also allows the Board to reduce certain otherwise applicable standards and provisions of this Ordinance if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing development and environmental design that will promote the most appropriate use of land, preservation of permanent open space, or agricultural land, forest land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

- 2. An open space subdivision achieves the purposes of this performance standard by reducing the lot size, frontage and setback requirements. It locates housing and accompanying uses in those areas where they have the smallest impact on identified environmental, wildlife, agricultural, forest, and other open space resources. These resources are then permanently preserved by covenants and restrictions or conservation easements.
- 3. Pre-application Procedure

Any applicant for a subdivision with open space is encouraged, but not required, to submit at the pre-application stage a plan that shows the development design for the entire parcel.

4. Application Procedure

Required Plans: The submissions for a subdivision with open space shall include all plans and materials required for a conventional subdivision.

5. General Requirements

In Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance.

a. Allowable Density

1) Allowable density shall be based upon one of the following methods as determined by the applicant:

a) Net residential density method which is calculated in the following manner: Determine the net residential acreage of the parcel by taking the total area of the parcel and subtracting in order the following:

- (1) area in proposed rights-of-way;
- (2) area of two (2) or more contiguous acres with sustained slopes of twenty (20) percent and greater;
- (3) area of wetlands identified as Class I, II and III under the Natural Resource Protection Act;
- (4) area shown to be in floodway as designed in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency; and
- (5) area of the lot covered by surface waters.

Then divide the buildable area by the minimum lot size required.

a) Simplified method, which is calculated in the following manner: Determine the number of allowable dwelling units by taking sixty-five (65) percent of the total lot area divided by the minimum lot size requirement.

b) The Board may grant a density bonus of one (1) lot or dwelling unit of each ten (10) lots or dwelling units when it makes a written finding that the open space subdivision satisfies the policies of the comprehensive plan.

6. Layout and Siting Standards

In planning the location and siting of residential structures in an open space subdivision, priority should be given to the preservation of the open space for its natural resource value. Human habitation activity should be located and sited on the least valuable natural resource portion of a parcel, taking into account the contours of the land and the steepness of slopes.

The building lots on a parcel shall be laid out and the residential structures shall be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

a. Upon soils least suitable for agricultural use and in a manner that maximizes the useable area remaining for the designated open space use. Where agricultural, forestry, or recreational, whether existing or future uses, are particularly targeted for preservation;

b. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland in order to reduce encroachment upon agricultural soils and to enable new residential development to be visually absorbed by natural landscape features;

c. In such manner that the boundaries between residential lots and active agricultural use, commercial forest land, and/or wildlife habitat are well-buffered by vegetation, topography, or

other barriers in order to minimize potential conflict between residential and agricultural and forestry uses;

- d. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development;

7. Space Standards

- a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required.
- b. The required minimum lot area per dwelling unit may be reduced to forty thousand (40,000) square feet. Each lot shall contain a minimum of twenty thousand (20,000) square feet of land area that does not include 100 year floodplains, areas of two (2) or more acres of sustained slopes greater than twenty (20) percent, or wetlands as defined by the Natural Resource Protection Act. The Board shall require the land area to be designated as open space be equal to or exceed the area of land resulting from the reduction in individual lot area.
- c. Minimum street frontage requirement of 200 feet may be reduced by the Board provided that:
 - 1) Any applicable provision regarding streets in Subsection 8 below are satisfied;
 - 2) Adequate access and turn-around to and from all parcels by emergency vehicles can be ensured by private streets and/or common driveways; and
 - 3) The reduction in street frontage is part of the overall project design and meets the purposes contained in Section 8.K.1 and 2.
- d. A reduction of required setback distances may be allowed at the discretion of the Board, based upon the public benefits to be achieved from the design, provided that:
 - 1) The front and rear setbacks shall be no less than twenty-five (25) feet.
 - 2) The reduction in setbacks are part of the overall project design and meets the purposes contained in Section 8.J.1 and 2.
- e. No individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.

8. Streets

The Board shall require private streets to comply with the design standards set forth in Section 7, except as provided in Subsection a below.

- a. Travelways and shoulders of privately-owned streets and common driveways within open space subdivisions shall meet the following minimums:
 - 1) Common driveways serving two (2) or fewer dwelling units: Twelve (12) foot travel way.
 - 2) Streets serving three (3) to ten (10) units: Sixteen (16) foot travel way and four (4) foot shoulders.
 - 3) Streets serving eleven (11) to fifty (50) units: Twenty (20) foot travel way and four (4) foot shoulders.

9. Open Space Requirements

In Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provision of this Ordinance.

- a. Open Space Uses. On all parcels, open space uses shall be appropriate to the site. Open space

should include natural features located on the parcel(s) such as, but not limited to, agricultural land, forested acreage, wildlife habitat and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- 1) On parcels that contain significant portions of land suited to agriculture or commercial forestry, open space shall be preserved for agricultural or forestry, other compatible open space uses such as wildlife habitat, recreation (active or passive), and resource conservation.
 - 2) When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, steep slopes, wildlife habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
- b. Notations on Plan. Open space, common lands, streets or facilities must be clearly labeled on the final plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations.
- c. Ownership of Open Space Land. Open space land may be held in private ownership; or owned in common by a Homeowners' Association (HOA); transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Board finds adequate to achieve the purposes set forth in section. The Board shall, in its review, require as a condition of approval provisions for the ongoing maintenance and associated costs for such maintenance of the open space.

10. Homeowners' Associations or Agreements

Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entity, covenants for mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, street or open space shall be approved by the Board and included in the deed for each lot.

L. Campground Conversion

A campground conversion shall be considered a subdivision under this Ordinance and shall meet all the requirements of this Ordinance including lot size.

M. 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 this Ordinance, the provisions of this section shall prevail.
2. Lot Area and Lot Width Requirements: Notwithstanding the dimensional requirements located in Section 7 of this Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.
 - a. Lots served by individual subsurface waste water disposal systems:

Minimum lot area:	20,000 sq.ft.
Minimum lot width:	100 ft.
Minimum front setback	50 ft.
Minimum side and rear setback	25 ft.
 - b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services:

Minimum lot area:	12,000 sq.ft.
Minimum lot width:	75 ft.
Minimum front setback	50 ft.
Minimum side and rear setback	15 ft.

- c. The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 sq.ft. 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.
 - e. No lot in a mobile home park may have vehicular access directly onto an existing public street, unless a new street is constructed to town standards to serve the mobile home park and accepted as a public street.
3. Street Design, Circulation and Traffic Impacts: Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.
- a. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in Section 8.N. of this Ordinance.
 - b. Streets which the applicant proposes to remain private ways 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 more shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets, other streets within the park or other streets shown on an approved subdivision plan.
 - d. The intersection of any street within a park and existing public street shall meet the following standards.
 - 1) **Angle of Intersection.** The desired angle of intersection shall be 90°. The minimum angle of intersection shall be 85°.
 - 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.** The minimum sight distance shall comply with Section 8.J.2.1.
 - 4) **Distance from Other Intersections.** The center line of any street within a park intersecting an existing public street shall be no less than 125 feet from the center line of any other street intersecting that public street.
4. 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 an 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.

N. Protection of Significant Wildlife Habitat

Applicants proposing to subdivide land in or within seventy-five (75) feet of significant wildlife resources or fisheries

habitats identified by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Planning Board. The Board shall consider any recommended measures provided to minimize impacts on such habitats. Any conditions to the approval to wildlife or fisheries habitat preservation shall appear on the plan and as deed restrictions to the effected lots.

O. Scenic Locations

The Board shall consider the existence of a scenic site or view location as identified in the Town of Waterford Comprehensive Plan and the impact of the proposed subdivision on such a site or view. The Board may require the placement or visual qualities of structures on lots in such locations so to minimize the negative impacts of the subdivision on such sites and views.

P. Archaeological Sites

Any proposed subdivision 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 Board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to final approval in the case of a minor subdivision or preliminary approval of a major subdivision by the Planning Board.

The Board shall consider comments received from the Commission prior to rendering a decision on the application.

Q. Endangered and Threatened Plants

The Board shall consider the existence of endangered or threatened plants as may be identified by the Maine Natural Areas Program. As a condition of approval the Board may require the applicant to undertake protective measures as recommended by the Maine Natural Areas Program.

R. Multi-Unit Dwellings

Subdivision of multi-unit dwellings shall comply with the following.

1. It shall be the responsibility of the owner or owners to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height.
2. A 25-foot landscaped or natural vegetative buffer shall be provided and maintained along all property boundaries.
3. Access, Circulation and Parking
 - a. The proposed development shall provide for safe access to and from public or private streets. 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. All corner lots shall be kept clear from visual obstructions.
 - b. The proposed development shall not have an unreasonable adverse impact on the public street system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turn-around areas.
4. Recreation and Open Space

All multi-family developments of six dwelling units or more shall provide an active recreation area no smaller than 5,000 sq. ft. Any development in which occupancy is restricted to the elderly need not provide play area, an active recreation area but space shall be provided that is handicapped accessible for outdoor recreation and walking.

SECTION 9. Waivers

- A. Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this

Ordinance, or where there are special circumstances of a particular plan, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Waterford Comprehensive Plan, or any other ordinance or law.

- B. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

SECTION 10. Performance Bond

- A. Prior to approval of a Final Plan, the Board may require that the subdivider file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Waterford, or a performance bond running to the Town of Waterford and issued by a surety company acceptable to the Town of Waterford. The conditions and amount of such certified check or performance bond shall be determined by the Board of the municipality with the advice of the various municipal officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the plan within two years of the date of the certified check or performance bond.
- B. The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.
- C. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).
- D. Upon approval of the Final Plan, the Board may, at its discretion, waive the requirements of a performance bond, under the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lot in the subdivision until it shall have been certified in the manner set forth in paragraph C above, that all improvements have been made. The Board shall set a reasonable completion date for said improvements, and approval of a Final Plan shall be voided if said improvements are not completed within the specified time. The Board may, upon request from the subdivider, extend the completion date. The Board shall have the option of holding the approved Final Plan until all improvements are completed in accordance with Section 8.

SECTION 11. Plan Revisions After Approval

No changes, erasures, modifications or revisions shall be made in any Subdivision Plan after Final Plan approval has been given by the Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Board approves any modifications. In the event that the Subdivision Plan is recorded without complying with this requirement, the plan shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Selectmen and the Registry of Deeds.

SECTION 12. Initiation and Completion of Development

- A. If construction of the public improvements are not begun within two years from the approval date, the approval shall lapse and the applicant shall reapply to the Board for a new approval. Reapplication for approval shall state the reasons why construction was not begun and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplication for approval may include information submitted in the initial application by reference.
- B. If construction of the public improvements are not completed within three years from the approval date, the approval shall lapse and the applicant shall reapply to the Board for a new approval. Reapplication for approval shall state the reasons why construction was not completed and the reasons why the applicant will be able to complete the activity within a specific period from the granting of a new approval, if granted. Reapplication for approval may include information submitted in the initial application by reference.

SECTION 13. Violations and Enforcement

- A. No plan of a division of land that would constitute a subdivision shall be recorded in the Registry of Deeds until a Final

Plan has been approved by the Board in accordance with this Ordinance.

- B.** No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C.** Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party. The Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. In considering the terms of any administrative consent agreement the Selectmen shall consult with the Board. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- D.** Utility installations, ditching, grading or construction of streets, grading of land or lots, or construction of buildings shall not be started on any part of the proposed subdivision Final Plan has been approved and endorsed as provided for by this Ordinance.

SECTION 14. Appeals

An appeal may be taken within thirty (30) days from the Board's final decision on the Preliminary or Final Plan by any party to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

SECTION 15. Validity, Effective Date and Conflict of Ordinances

- A.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.
- B.** This Ordinance shall take effect and be in force from and after the date of its official adoption.
- C.** This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulations, bylaw, permit or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health and safety, the provisions of this Ordinance shall prevail.

SECTION 16. Amendments

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

SECTION 17. Definitions

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

Arterial Street. A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

Open Space Subdivision. A subdivision or development where lot sizes are reduced in return for the provision of permanent open space. The development may contain one or more multi-family dwellings, two or more duplexes, or three or more single-family dwellings.

Campground Conversion: The changing of ownership characteristic from a person, firm or corporation that operates

the campground to ownership by campground users that creates individual lots or rights of use through condominium ownership or similar ownership.

Common Driveway: A vehicle access way serving two lots or dwellings.

Creative Design Subdivision Layout: A subdivision layout that considers the natural and cultural features of the parcel to be developed and the intent of the Town of Waterford Comprehensive Plan. Design elements may include but not be limited to set aside of open space, conservation easements, building envelopes, and setbacks.

Direct Watershed of Lake or Pond: Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

Driveway: A vehicle access way serving one lot or dwelling.

Farm Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and use primarily for farming activities, including crop management and harvesting.

Freshwater Wetland: Means fresh water swamps, marshes, bogs and similar areas which are:

1. 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
2. Not considered part of great pond, coastal wetland, river, stream or brook.

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

Historic Building/Site: Building and sites on the National Register of Historic Places, identified as of historic importance in the Waterford Comprehensive Plan or in the publication Oxford County, Maine A Guide to Its Historic Architecture, Randall H. Bennett. Oxford County Historic Survey, 1984.

Inspecting Official: An individual appointed by the Selectmen in inspects streets during construction.

Lot Line: A line of record bounding a lot that divides one lot from another lot.

Lot Line, Front: The lot line separating a lot from the street right-of-way.

Lot Line, Rear: The lot line opposite and most distance from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Logging Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and use primarily for forest management activities, including associated log yards and winter haul roads.

Manufactured Housing Unit: Structures, transportable in one or more sections which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

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

Multi-Unit Dwelling: A structure containing three or more dwelling units being designed exclusively for residential use and occupancy.

Open Space Subdivision Layout: A subdivision or development where lot sizes are reduced in return for the provision of permanent open space. The development may contain one or more multi-family dwellings, two or more duplexes, or three or more single-family dwellings.

Privately Owned Street: A street not maintained by the Town of Waterford and/or State of Maine

Public Street: A street maintained by the Town of Waterford and/or State of Maine.

River, stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

1. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
2. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
3. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
4. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the stream bed.
5. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

River, stream or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

Setback: The horizontal distance from a lot line or street right-of-way to the nearest part of a building or structure.

Street: A vehicular way providing access to three or more lots or dwellings. The term does not include driveways, common driveways, farm roads or logging roads.

Street Right-of-Way: A strip of land acquired by fee simple, reservation, dedication, prescription, or condemnation. The total width of the land area within which a public or private street is located or to be located. (NOTE: For the purpose of establishing building and other improvement setbacks, setback distances shall be measured from the outer most right-of-way limit, NOT the edge of traveled-way or pavement.)

Subdivision: A subdivision shall mean the division of a tract or parcel of land as defined in Title 30-A M.R.S.A. Section 4401 and as hereafter amended.

Traditional Subdivision Layout: A subdivision design that creates individual lots without common open space or consideration of the parcel's natural features.

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