**$10.00**

# Ordinances

## Land Use Ordinance

**As amended through May 31, 2016***

(Pages 4-71)

## Development Review Ordinance

**As amended through May 31, 2016**

(Pages 73-125)

## Definitions

**As amended through May 31, 2016**

(Page 126)

** 2016 Amendments are underlined.*

Planning Board Meetings
2nd Tuesday of each month
6:30 pm, West Bath Town Hall

Planning Board Chair
Darlene Estabrook

Code Enforcement Officer
Ellis Reed, LPI
Office Hours: Wednesday 1:00 pm to 5:00 pm & Thursday 3:00 pm to 5:00 pm

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# Land Use Ordinance

## TABLE OF CONTENTS


| | Page |
|---|---|
| ARTICLE I -- GENERAL PROVISIONS | 4 |
| A. PURPOSES | 4 |
| B. STATUTORY AUTHORITY | 4 |
| C. APPLICABILITY | 4 |
| D. ADMINISTRATIVE BODIES | 5 |
| E. APPROVALS AND PERMITS | 6 |
| F. NON-CONFORMANCE | 8 |
| G. VALIDITY AND SERVERABILITY | 12 |
| H. CONFLICTING ORDINANCES | 12 |
| I. AMENDMENTS | 13 |
| J. EFFECTIVE DATE | 14 |
| K. REFERENCES | 14 |
| ARTICLE II -- LAND USE DISTRICTS AND REQUIREMENTS | 14 |
| A. BOUNDARY DESCRIPTIONS, OVERLAY ZONES AND MAP | 15 |
| DISTRICT 1 | 15 |
| DISTRICT 2 | 15 |
| DISTRICT 3 | 16 |
| DISTRICT 4 | 16 |
| DISTRICT 5 | 16 |
| MOBILE HOME PARK OVERLAY ZONE | 16 |
| RESOURCE PROTECTION OVERLAY ZONE | 17 |
| SHORELAND OVERLAY ZONE | 17 |
| SPECIAL INDUSTRIAL AND TRANSPORTATION OVERLAY ZONE | 19 |
| LAND USE ORDINANCE DISTRICT AND OVERLAY ZONE MAP | 19 |
| B. USE REGULATIONS AND REQUIREMENTS | 20 |
| TABLE OF USE REGULATIONS | 20 |
| A. RESIDENTIAL | 20 |
| B. INSTITUTIONAL, RECREATIONAL, AND EDUCATIONAL | 21 |
| C. RESOURCE UTILIZATION | 23 |
| D. OFFICES, LABORATORIES, AND COMMUNICATIONS | 24 |
| E. RETAIL BUSINESS AND CONSUMER SERVICE ESTABLISHMENTS | 25 |
| F. AUTOMOTIVE SERVICE AND OPEN-AIR DRIVE-IN RETAIL SERVICE | 26 |
| G. INDUSTRIAL, WHOLESALE, AND TRANSPORTATION USES | 26 |
| H. OTHER PRINCIPAL USES | 27 |
| I. ACCESSORY USES | 27 |
| ARTICLE III -- LAND-USE STANDARDS | 29 |
| A. MINIMUM LOT STANDARDS | 29 |
| B. RESIDENTIAL AND ACCESSORY USE STANDARDS | 31 |
| C. BUSINESS, COMMERCIAL AND NON-RESIDENTIAL USE STANDARDS | 33 |
| D. AGRICULTURE IN THE SHORELAND OVERLAY ZONE | 36 |
| E. BEACHES | 36 |
| F. EROSION AND SEDIMENTATION CONTROL | 37 |
| G. MINERAL EXPLORATION AND EXTRACTION | 38 |
| H. STRUCTURES EXTENDING INTO OR OVER WATER BODIES | 38 |
| I. CLEARING OF VEGETATION FOR DEVELOPMENT | 40 |
| J. TIMBER HARVESTING | 43 |
| K. DRIVEWAY AND ROAD CONSTRUCTION | 44 |
| L. ROADS AND DRIVEWAYS IN THE SHORELAND OVERLAY ZONE | 45 |

M. PARKING AREAS IN THE SHORELAND OVERLAY ZONE ..... 47
N. ESSENTIAL SERVICES IN THE SHORELAND OVERLAY ZONE ..... 47
O. SANITARY STANDARDS ..... 48
P. SOILS ..... 49
Q. STRUCTURES ..... 49
R. WATER QUALITY PROTECTION ..... 49
S. MOBILE HOME PARK STANDARDS ..... 49
T. CAMPGROUNDS IN THE SHORELAND OVERLAY ZONE ..... 50
U. INDIVIDUAL PRIVATE CAMPSITES IN THE SHORELAND OVERLAY ZONE ... 51
V. HOME OCCUPATION STANDARDS ..... 51
W. SETBACK REDUCTION PLAN – UDP DISTRICT ..... 51
X. SMALL WIND ENERGY CONVERSION SYSTEMS ..... 52
Y. DOMESTICATED CHICKENS ..... 56
Z. SOLAR ENERGY SYSTEMS ..... 57
AA. COMMUNICATION TOWERS ..... 59

ARTICLE IV -- BOARD OF APPEALS ..... 63
A. COMPOSITION, APPOINTMENTS, QUALIFICATIONS AND TERMS ..... 63
B. ORGANIZATION AND MEETINGS ..... 63
C. CONFLICT OF INTEREST ..... 64
D. POWERS AND DUTIES ..... 64
E. VARIANCES ..... 65

ARTICLE V -- ENFORCEMENT AND PENALTIES ..... 69

DEVELOPMENT REVIEW ORDINANCE ..... 71

DEFINITIONS ..... 124

# ARTICLE I
# GENERAL PROVISIONS

## A. PURPOSES

The purposes of this Ordinance are to:

- Further the maintenance or safe and healthful conditions; prevent and control water pollution;
- Protect spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- Control BUILDING sites, placement of STRUCTURES, land use;
- Protect BUILDINGS and land from flooding and accelerated erosion;
- Protect archaeological and historic resources;
- Protect commercial fishing and maritime industries;
- Protect freshwater and COASTAL WETLANDS;
- Conserve shore cover, and visual as well as actual points of access to inland and coastal waters;
- Conserve natural beauty and open space; and
- Anticipate and respond to the impact of development.

## B. STATUTORY AUTHORITY

Pursuant to Title 30-A, M.R.S.A., Section 4352, Zoning Ordinance; Title 38, M.R.S.A., Section 435, Mandatory Shoreland Zoning; Title 30-A, chapter 111, section 2101 thru 2109, and the Constitution of Maine, Article VIII, part 2nd. Home Rule authority and all acts in amendment thereof and in addition thereto, and of any other enabling laws, the Town of West Bath enacts this Land Use Ordinance.

## C. APPLICABILITY

1. The present uses of land and existing STRUCTURES shall not be affected by this Ordinance unless public health and safety is threatened.

2. No BUILDING, STRUCTURE, or land shall be used or occupied except for the purposes permitted in the district as provided in this Ordinance.

3. The construction of all dwellings shall conform to all applicable state laws, codes, and regulations and all town ordinances, and to the general accepted standards of good building practices.

4. No owner or occupant of land shall permit fire or otherwise damaged BUILDINGS or ruins to remain, but shall repair or remove the same within six months of notice by the Building Inspector.

## D. ADMINISTRATIVE BODIES

1. PLANNING BOARD

a. Composition, Appointments, Qualifications, and Terms

i. The Town of West Bath shall have a Planning Board consisting of five (5) members and two (2) alternate members, each of whom shall be appointed by the Board of Selectmen. All members of the Planning Board shall be residents of the Town of West Bath. Members of the Board of Selectmen shall not be eligible to serve on the Planning Board. Members of the Planning Board shall serve staggered five-year terms. If a vacancy occurs, the term of the Person appointed to fill the vacancy shall be for the period of the unexpired term. The terms of the members shall expire on June 30th unless a replacement has not been appointed, in which case the term of the expiring member shall be extended until a replacement is named.

b. Organization and Meetings

i. The Planning Board shall elect annually a Chairman, Vice Chairman, and Secretary as it chooses from its membership. The election of officials shall occur at the first meeting of the Board after June 30th of each year. Town staff may serve as the Planning Board's recording secretary.

ii. The Chairman's duties shall consist of calling the meetings, establishing agendas for each meeting, presiding at all meetings, and representing the Planning Board before other bodies. The Vice Chairman shall be responsible for carrying out the duties of the Chairman in his/her absence or incapacity. The Secretary shall be responsible for keeping minutes of the proceedings of the Planning Board and for making the minutes available to the public.

iii. The Planning Board shall meet at least once per month, provided that there is business for the Planning Board to address. Special meetings may be called at the request of the Chairman, or upon a written request of at least three (3) members of the Planning Board.

iv. Public notice of all meetings of the Planning Board shall be provided in accordance with State law. Meetings of the Planning Board shall be open to the public and shall be conducted in accordance with such rules of procedure as the Planning Board may adopt in compliance with applicable State and local laws.

v. A quorum shall consist of three (3) members of the Planning Board. All members present and not excused from voting shall vote on each agenda item. The Secretary shall record results of all votes, and the vote of a majority of those members present and voting shall be required for the passage of any item of the Planning Board's business.

c. Conflicts of Interest

i. No member of the Planning Board shall vote on or participate in any matter in which he/she has a direct or indirect pecuniary interest, as defined in 30-A M.R.S.A. § 2605, in the matter before the Planning Board. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the remaining members of the Planning Board.

d. Powers and Duties

The Planning Board shall administer the Land Use Ordinance and the Development Review Ordinance:

i. For all business and commercial uses.

ii. For all home occupations, expansions of non-conforming structures, small wind energy conversion systems, Large Solar Energy Systems, Communications Towers, and accessory residential units.

iii. For all subdivision plans and amendments thereto.

iv. For all uses in the Shoreland Overlay Zone except conforming residential and associated accessory uses including driveways and residential docks.

v. For all uses in the Resource Protection Overlay Zones.

2. BUILDING Inspector/Codes Enforcement Officer - The BI/CEO shall administer the Land Use Ordinance for all uses not administered by the PLANNING BOARD unless the BI/CEO requests PLANNING BOARD Review.

3. Board of Appeals -- The Board of Appeals shall be as constituted and appointed by the municipal officers pursuant to State law and Article IV of this Ordinance.

## E. APPROVALS AND PERMITS

1. Approvals and Permits Required – After the effective date of this Ordinance, no PERSON shall engage in any use of land requiring an approval or permit, or expand or change an existing non-conforming use without first obtaining the required approval(s) and/or permit(s).

2. Fees – For the purpose of defraying normal costs associated with the processing of applications by the Town, the Selectmen may establish a fee schedule, subject to annual review, setting forth fees to be collected by the Town from applicants for each type of approval or permit required under this Ordinance. Any approval or BUILDING permit obtained after the use or BUILDING has commenced shall be assessed three (3) times the normal fee.

3. It shall be unlawful to construct, add to, alter, remove or demolish any STRUCTURE without first filing with the PLANNING BOARD or Codes Enforcement Officer an

application in writing and obtaining the necessary approval(s) and/or permit(s). Upon receiving an application in the proper form, the PLANNING BOARD or Codes Enforcement Officer shall review the application and make inspection, as necessary, within a reasonable time. If the application meets the requirements of this Ordinance, the PLANNING BOARD or Codes Enforcement Officer shall issue the approval, approval subject to conditions or permit within a practicable time, or a refusal in writing stating the reason for refusal. A copy of either action shall be filed with the Selectmen. The Codes Enforcement Officer shall file a monthly report with the Selectman containing description of activities which are within his jurisdiction and his action in respect to them.

4. Approval or Permit Application – Application for approvals and permits shall be submitted in writing. The BUILDING Inspector or the PLANNING BOARD may require the submission of whatever information is necessary to determine conformance with the provisions of this Land Use Ordinance and the Development Review Ordinance.

5. Issuance of Approvals and Permits – Approvals and permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Planning Board Approvals are valid for 1 year. Building permits issued by CEO are valid for 6 months, and can be renewed by CEO.

6. All BUILDING permits issued by the Codes Enforcement Officer after approval by the PLANNING BOARD – The PLANNING BOARD shall approve or deny those applications on which it is empowered to act as stated in this Ordinance.

7. PLANNING BOARD Review Criteria – The PLANNING BOARD may, after the submission of a COMPLETE APPLICATION, including all information requested, grant a permit be issued if it makes a positive finding on the information presented to it that the proposed use:

    a. Will not result in unsafe or unhealthful conditions.

    b. Will not result in erosion or sedimentation.

    c. Will not result in water pollution.

    d. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat.

    e. Will conserve actual points of public access to waters.

    f. Will avoid problems associated with flood plain development and use.

    g. Is in conformance with the provisions of Article III.

8. Conditions – Approvals may be subject to reasonable conditions to ensure conformity with the provisions of the Town's Ordinances and the policies expressed in the Town's COMPREHENSIVE PLAN, and as may be required to protect public safety.

9. Construction must commence within six (6) months from the STRUCTURE building permit date of issue unless permit is renewed by CEO.

10. Occupancy/Use Permit – The following applies to commercial uses only (including those portions of a STRUCTURE and/or property utilized for a home business):

    A certificate of occupancy/use shall be required and obtained from the CEO/BI prior to the occupancy or use of any BUILDING, STRUCTURE or any portion thereof which has been erected, structurally altered or changed in its use or STRUCTURE, or with regard to the creation of a new use or change in use of any parcel of land or portion thereof currently existing or hereinafter created. Before the issuance of the certificate of occupancy/use, the CEO/BI shall determine that the proposed use of the STRUCTURE or land conforms to the requirements of the Land Use and Development Review Ordinances.
    A change of occupancy that maintains the same land use classification shall not require a certificate of occupancy unless site plan review is required. Where a BUILDING permit or other land use permit is required, an application for a certificate of occupancy/use shall be filed concurrently with that application and shall clearly state the intended use or uses of the property. The certificate of occupancy/use may only be issued after a determination that all work has been completed on the site and/or STRUCTURE in conformance with Town Ordinances, any approved site plan or SUBDIVISION plan, any other applicable town, state and federal requirements, and any conditions of approval imposed by the PLANNING BOARD on the project. Occupancy without the required certificate shall be deemed to be a violation of this Ordinance and subject to enforcement action as provided in Article VI, Enforcement and Penalties.

    The CEO/BI may issue a temporary certificate of occupancy/use for a period of time not to exceed six (6) months where it has been determined that adequate safeguards are in place to assure the timely completion of the work. The CEO/BI may require the posting of a bond or other financial security or guarantee to assure completion of the project in accordance with its permitting.

## F. NON-CONFORMANCE

1. Any lawful use, BUILDING, STRUCTURES, premises, land, or parts thereof existing on March 4, 1972, and not in conformance with the provisions of this Ordinance, shall be considered to be non-conforming.

2. Non-conforming Uses:

   Any non-conforming use in existence prior to March 4, 1972, may continue and may be maintained, repaired, and improved. No such non-conforming use may be expanded, changed to another non-conforming use, or renewed after it has been discontinued for a period of twelve (12) calendar months or more. In the Shoreland Overlay Zone, this provision shall not apply to the resumption of a use of a residential STRUCTURE provided that the STRUCTURE has been used or maintained for residential purposes during the preceding five (5) year period. Once a non-conforming use has been

replaced by a conforming use, it cannot subsequently be replaced by any non-conforming use.

3. NON-CONFORMING LOTS:

Any LOT one (1) acre or greater created between March 4, 1972, and April 1, 1993, and any NON-CONFORMING LOTS in existence prior to March 4, 1972, shall be exempt from the three (3) acre requirement in the Rural Residential District. Any LOT greater than 30,000 square feet or created between March 4, 1972, and June 5, 2001, and any NON-CONFORMING LOTS in existence prior to March 4, 1972, shall be exempt from the two (2) acre requirement in the Birch Point Sub-district. Any LOT one (1) acre or greater created between March 4, 1972 and June 12, 2002, and any NON-CONFORMING LOTS in existence prior to March 4, 1972, shall be exempt from the two (2) acre requirement in the Residential District.

a. NON-CONFORMING LOTS: A NON-CONFORMING LOT of record as of the effective date of this Ordinance or amendments thereto may be built upon, without the need for a variance, provided that such LOT is in separate ownership and not contiguous with any other LOT in the same ownership, and that all provisions of this Ordinance except LOT size and frontage can be met. Variances relating to SETBACK or other requirements not involving LOT size or frontage shall be obtained by action of the Board of Appeals. No non-conforming lot of record shall be reduced in size to increase the non-conformity of the lot.

b. Contiguous Built LOTS: If two (2) 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 Subsurface Wastewater Disposal Rules are complied with.

   If two (2) 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.

c. CONTIGUOUS LOTS – Vacant or Partially Built: If two (2) 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 a principle use or STRUCTURE exists on one (1) LOT and if one (1) 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 requirement.

This paragraph is intended to apply to all LOTS, whether shown on an approved and recorded plan or not.

d. If a LOT is non-conforming by virtue of having more individual uses than would be permitted in terms of having the required LOT area for the number of uses thereon,

the discontinuance of any use, conforming or non-conforming, for a period of twelve (12) calendar months or more shall not allow said use to be resumed.

4. Non-conforming Structures:

A non-conforming STRUCTURE is a BUILDING or other STRUCTURE that fails to meet one or more of the minimum SETBACK and LOT coverage standards of Article III of this Ordinance.

Any non-conforming STRUCTURE which is removed, 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, replaced, or relocated provided an approval from the Planning Board and a building permit from the Code Enforcement Officer are obtained within one year of the date of said damage, destruction, or removal, provided that such reconstruction, relocation or replacement is in compliance with all SETBACK requirements to the greatest practical extent. Greatest practical extent will be determined by the PLANNING BOARD in accordance with the purpose of this Ordinance, the criteria specified below, and Article I, Section D(6). In no case shall a STRUCTURE be reconstructed, relocated, or replaced so as to increase its non-conformity. If the reconstructed, relocated, or replacement structure is less than the required setbacks it shall not be any larger than the original structure, except as allowed pursuant to Article I, Section D(5) below, as determined by the non-conforming floor area and volume of the reconstructed, relocated, or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated, reconstructed, or replaced beyond the required setback, no portion of the relocated, replaced or reconstructed structure shall be replaced, relocated or constructed at less than the setback requirement for a new structure.

In determining whether the BUILDING reconstruction or replacement meets the water SETBACK to the “greatest practical extent” the PLANNING BOARD shall consider in addition to the criteria in paragraph two above and section D(6)(d) below, the type of foundation present, if any. It is not the intent of this section to require the destruction of functional concrete or block foundations in order to meet SETBACK requirements.

Any non-conforming STRUCTURE which is damaged or destroyed by 50% or less of the market value of the STRUCTURE may be repaired or reconstructed in place provided an approval from the Planning Board and a building permit from the Code Enforcement Officer are obtained within one year of such damage or destruction, provided that the FLOOR AREA or volume after the repair or reconstruction, is no greater than the FLOOR AREA or volume before the damage or destruction.

A building permit for reconstruction, replacement, or relocation shall be renewable for a total of only one year from its original date of issue, if no substantial start of construction has been made.

If a permit is not obtained within one year of said damage or destruction, repair or reconstruction of any such STRUCTURE shall require an approval and/or permit from the same authorities as that for a new such STRUCTURE.

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure in the shoreland zone, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extend as determined by the Planning Board or its designee, basing its decision on the criteria specified in Article I, Section D (6) (d) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Article I, Section D (5) below, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be expansion of the structure.

5. Non-conforming BUILDINGS or other STRUCTURES may be altered or enlarged without appeal providing that such extension, ALTERATION, or enlargement:

   a. Will cause no additional or increased non-conformities with the minimum LOT standards of Article III and will not cause the separately measured existing degree(s) of inconsistency with ROAD, side, rear and shore SETBACK standards for the negligible volume, open volume and enclosed volume portions of the STRUCTURE to be increased so that any of the aforementioned portions of a STRUCTURE within the SETBACK distance of a line shall expand no closer to said line; and

   b. Shall not exceed 30% of the combined FLOOR AREA of the original non-conforming portion of the STRUCTURE or 30% of the volume of the original non-conforming portion of the STRUCTURE during the lifetime of the STRUCTURE. Any increases in non-conforming FLOOR AREA and/or approved by the Planning Board shall be in writing, stating the approved percentage increases, and recorded by the applicant in the Sagadahoc County Registry of Deeds; and

   c. Has received all applicable municipal, state and federal approval(s) and permit(s) from the Building Inspector or Codes Enforcement Officer.

6. Any non-conforming STRUCTURE may be changed to increase its conformity with the standards of this Ordinance by:

   a. Moving or changing all or part of the STRUCTURE in order to increase its compliance with standards without adding or increasing other non-conformities except as varied by the Appeals Board. Construction, enlargement or change of the foundation beneath the STRUCTURE shall not be considered an expansion of the STRUCTURE provided that it does not cause the STRUCTURE to be elevated by more than three additional feet above grade and additionally in the Shoreland Overlay Zone the STRUCTURE and its foundation shall be relocated so that the shore SETBACK is met to the greatest practical extent as determined by the PLANNING BOARD whenever a new, enlarged or replacement foundation is constructed. Any change in elevation is measured on the water side of the STRUCTURE and the size of the foundation shall not exceed the exterior dimensions of the existing STRUCTURE except as an allowed expansion.

b. Demolition and reconstruction of a STRUCTURE whose non-conforming area and height, except as provided by in Art. I, D. 5, do not exceed that of the previous STRUCTURE. Such STRUCTURES shall be inspected by the Codes Enforcement officer and certified as compliant with current ordinances.

c. Both a. and b. shall be carried out to decrease the non-conformity to the maximum extent.

d. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee 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:

   1) 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% or the number of trees planted. Replaced trees must be planted mo further from the water or wetland than the trees that were removed.

   2) 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 re-established 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.

   3) Where feasible, when a structure is relocated on a parcel the non-impervious area of the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof.

## G. VALIDITY AND SEVERABILITY

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.

## H. CONFLICTING ORDINANCES

Whenever a provision of this Ordinance is in conflict with another provision of this Ordinance or any other lawfully adopted rule, regulation, ordinances, deed restrictions or covenants the most restrictive or that imposing the higher standards shall govern.

## I. AMENDMENTS

1. Annual Town Meeting/Budget Meeting. This Ordinance may be amended by a majority vote at any Annual Town Meeting/Budget Meeting in accordance with the requirements of 30-A M.R.S.A. § 3002, Ordinance Enactment Procedure, and § 4352, Zoning Ordinances.

2. Special Town Meeting.

   a. Purpose. While it is contemplated that the normal amendment process for this Land Use Ordinance shall require presentation and adoption at the Town's Annual Town Meeting, it is recognized that, from time to time, circumstances require that changes be made to accommodate the needs of the community and its citizens and to provide a process to deal with Ordinance change in a more timely fashion, where it is deemed that such change is appropriate and a more timely consideration by the Town Meeting is deemed necessary.

      1) Criteria. Land Use Ordinance changes proposed at a Special Town Meeting shall meet the following criteria, which are mandatory and may not be waived:

         a) The PLANNING BOARD and/or Codes Enforcement Officer have reviewed the proposed

         b) Ordinance changes and have made a recommendation regarding the proposed amendments.

         c) The Board of Appeals has reviewed the proposed Ordinance changes and has submitted its opinion that the objectives of the amendment(s) require changes to the Land Use Ordinance and such objectives cannot be met under existing Ordinance provisions.

         d) The proposed Ordinance change(s) conform with the provisions of the Town of West Bath COMPREHENSIVE PLAN.

      2) The Town has had an opportunity to have Ordinance amendments reviewed by the Town Attorney and such other organizations and municipal consultants at the Selectmen may deem appropriate (such as Greater Portland COG).

      3) The procedures set forth in Subsection 3 below have been followed.

3. Public Notification and Participation.

   1) <u>PLANNING BOARD Public Hearing.</u> At the point in time where an amendment is proposed under the expedited process provided in this Subsection, the PLANNING BOARD shall schedule a Public Hearing. Notification of the Public Hearing shall be published in a newspaper of general circulation within the Town of West Bath. There shall be three publications, the first no less than fourteen (14) days prior to the scheduled Public Hearing, the second no less than seven (7) days prior to the scheduled Public Hearing, and the last no less than two (2) days prior to the scheduled Public Hearing. In addition, the PLANNING BOARD

shall cause a Notice to be sent to all parties-in-interest and to all abutters whose properties lie within five hundred feet (500') of property owned by the proponent of the Land Use Ordinance change, including property located across TRAVELED WAYS, said Notice to be by certified mail, and to be sent at least fourteen (14) days prior to the scheduled Public Hearing.

2) Selectmen's Public Hearing. At the point in time when the proposed Ordinance amendments are in draft form, the Selectmen shall schedule a Public Hearing to allow public comment and receive input regarding the proposed amendments. Notification of the Public Hearing shall be in the same manner as the PLANNING BOARD Public Hearing in Section a. above.

3) Additional Public Hearing. If the Selectmen's Public Hearing provided for in Section b above results in significant changes to the original draft of the amendments, a subsequent public hearing shall be held to receive public comment and input on the amended draft. The procedure for calling such a public hearing shall be the same as the PLANNING BOARD'S hearing, except that notice to parties-in-interest and abutters shall not be required.

4) Rejection by Voters. If proposed amendments to the Land Use Ordinance are rejected by the voters at a Special Town Meeting, those same amendments may not be presented at another Special Town Meeting, but may only be considered at the Town's Annual Town Meeting.

4. A copy of all amendments to this Ordinance shall be sent to the Department of Environmental Protection within thirty (30) days of the effective date of such amendments.

### J. EFFECTIVE DATE

The effective date of this Ordinance is April 1, 1993, with subsequent amendments effective as of the date of their adoption by Town Meeting.

### K. REFERENCES

1. References in the text of this Ordinance to Articles refer to Articles of this Ordinance, unless otherwise specified.

2. This document, originally titled, "Town of West Bath Land Use Ordinances", shall, as of June 26, 1998, be entitled, "Town of West Bath Land Use Ordinance".

## ARTICLE II
## LAND USE DISTRICTS, OVERLAY ZONES AND REQUIREMENTS

Districts with Overlay Zones

Wherever a LOT or a portion of a LOT land is within an overlay zone the more restrictive district or overlay zone shall apply to the portion of the LOT within the overlay zone.

Individual LOTS in more than one District

Wherever an individual LOT is in more than one district the portion of the LOT within a given district shall be subject to the provisions of this Ordinance applicable to that district.

## A. DISTRICT BOUNDARY DESCRIPTIONS, OVERLAY ZONES AND MAP

LOT Numbers and Offset Distances

LOT numbers used in describing boundaries or land included in districts correspond to the LOT numbers on the 1999 tax maps. An offset distance from a ROAD used in defining a district boundary is measured perpendicular to the edge of the right of way.

### 1. DISTRICT 1. High Density Shoreland

This district consists of seven (7) separate sub-districts as follows;

a. Bull Rock – Includes from map U-11 LOTS 3, 3A, 2, 25 through 32, and from map U-12 LOTS 17 through 20.

b. Kings Point – Includes from map U-13 LOTS 2 through 33 and the portion of LOT 34 southerly of LOT 10.

c. Rockhaven – Includes from map U-15 LOTS 2 through 15 and from map U-16 LOTS 6 through 17.

d. Fosters Point – Includes from map U-17 LOTS 7, 8, 10, 10A, 11, 12, 14, and 16 through 22.

e. Sabino – Includes from map U-22 LOTS 1 through 6, 8 through 24, 26, 28, 29, and from map U-23 LOTS 5 through 16 excepting 7A, 7B and 7C.

f. Birch Point – Includes from map U-24 LOTS 1A, 2 through 11, 13 through 15, 17 through 24, and the portion of 25A northwesterly of the STREAM passing through said LOT (LOT 16 in 1993) and from map U-25 LOTS 1 through 36.

g. Brighams and Shoal Coves – Includes from map U-26 LOTS 1 through 19, and from map U-27 LOTS 1 through 7, 9 through 12, 13A through 15, 17 through 22, 24 through 27, 30, 32, 33, 34, and 36 through 41.

### 2. DISTRICT 2. Residential

a. New Meadows ROAD –The area near New Meadows Lake and Creek designated as “Residential” on the Land Use Ordinance District and Overlay Zone Map.

b. Central West Bath – Beginning at a point on the east side of Back Cove Creek where said creek intersects the north side of Hill Road; thence easterly along Hill Road to the western corner of map R-2 LOT 26A; thence along the northern boundaries of map R-2 LOT 26A, map R-3 LOT 46 and map R-2 LOTS 15J, 15G,

15F, 15E, 15D, 15K and 15B and on the same bearing crossing Berrys Mill Road; thence northerly along the east side of said ROAD to the northern line of map R-2 LOT 6; thence easterly along the northern boundary of said LOT to the Lily Pond and the town line; thence northerly along said town line to a point offset 500' southerly of the State Road (Old Route #1); thence westerly parallel to the State Road at an offset of 500' to a point offset 300' southerly of the Bull Rock Road; thence westerly parallel to said ROAD at an offset of 300' to a point offset 300' easterly of the Fosters Point Road; thence southerly paralleling said ROAD to the northern boundary of map U-12 LOT 15D; thence westerly along said boundary to Fosters Point Road and crossing said ROAD to the southeasterly corner of map U-12 LOT 9; thence southerly along the west side of Fosters Point Road to a point opposite the north side of Hill Road; thence crossing Fosters Point Road and easterly along the north side of Hill Road to the point of beginning.

c. Fosters Point – All land west of Fosters Point Road not included in other districts with the district's southern boundary being the northern boundary of map U-17 LOT 23.

d. Winnegance -- Including all land easterly of Campbell Pond Road and Brigham Cove Road not included in other districts. Also including map R-6 LOTS 59 through 65, 66A through 71, 72A, and the portion of 69D south of a line connecting the northeast corner of 69E and the southwest corner of 71. The portion of Winnegance Pond, westerly of the town line is included in this district.

**3. DISTRICT 3. Rural Residential**

Areas not herein defined as being included in other districts.

**4. DISTRICT 4. Business & Commercial**

<u>The areas designated as "Business and Commercial" on the Land Use Ordinance District and Overlay Zone Map.</u>

**5. DISTRICT 5. Urban Development Park**

This district includes all land that is north of Route #1, west of the Bath town line, east of the CMP power transmission line right of way (Plan of Sec. 77, 132/97), and south of the southern boundary of Map R1 LOT 12. *Also includes the whole of Map R1 LOT 02.*

**6. MOBILE HOME PARK OVERLAY ZONE**

Beginning at a point on the north side of State Road at the eastern boundary of map U-9 Lot 2A; thence northeasterly and northerly by said boundary to the eastern boundary of map U-9 Lot 1; thence continuing northerly by said boundary to the southern boundary of the CMP transmission line corridor thence northeasterly across said corridor to the northwestern boundary of map R-1 Lot 16; thence northeasterly by said boundary to the southern boundary of the Route 1 right of way; thence easterly along said right of way to the Bath town line; thence southerly along said line to the north side of State Road; thence westerly along said Road to the point of beginning.

## 7. RESOURCE PROTECTION OVERLAY ZONE

Although all the boundaries of this overlay zone are not shown on the Land Use District and Overlay Zone Map, the Resource Protection Overlay Zone, as described in this subsection is currently in effect. Boundaries of this overlay zone are as described in the applicable portion(s) of this subsection. When necessary, determinations of boundaries shall be made on the ground by the Code Enforcement Officer.

This overlay zone includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This overlay zone shall include the following areas:

a. Areas within 250 feet, horizontal distance of the UPLAND EDGE of the WETLANDS located in the northeastern corner of West Bath. Said WETLAND is known as Whiskeag and is fed by New Meadows Creek.

b. Areas within 75 feet, horizontal distance, of the normal high-water line of New Meadows Creek and Back Cove Creek, and all WETLAND abutting said creeks.

c. Areas within the Shoreland Overlay Zone of two (2) or more contiguous acres with sustained slopes of 20% or greater.

d. Areas of two (2) or more contiguous acres supporting WETLAND vegetation and hydric soils, which are not part of a freshwater or COASTAL WETLAND as defined and which are not surfacially connected to a WATER BODY during normal spring high water.

e. Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by Department of Inland Fisheries and Wildlife; Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers which are rated “moderate” or “high” value 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 MDEP as if May 1, 2006.

For the purpose 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 and river, and have a surface elevation at of 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.

## SHORELAND OVERLAY ZONE

1. General – The Shoreland Overlay Zone includes all land subject to shoreland zoning, as required by 38 M.R.S.A., sections 435-449, and applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any GREAT POND, river or

salt WATER BODY; within 250 feet, horizontal distance, of the UPLAND EDGE of a coastal or FRESHWATER WETLAND; and within 75 feet, horizontal distance, of the normal high-water line of a STREAM. The Shoreland Overlay Zone also applies to any STRUCTURE, such as a dock, wharf or pier or other STRUCTURE extending beyond the normal high-water line or within a WETLAND.

2. Relation to Underlying Districts – Within the Shoreland Overlay Zone, all underlying district designations and regulations under this Land Use Ordinance remain in effect and additional permitted use standards and performance standards, also contained in this Ordinance, are in effect.

3. Conflicts – Where there is a conflict between the standards of the underlying district and the standards that apply in the Shoreland Overlay Zone and/or the Resource Protection Overlay Zone, the more restrictive standards shall apply.

4. Parts of West Bath Included in the Shoreland Overlay Zone

   a. Oceanfront and Riverfront Areas – Land adjacent to tidal waters as described in paragraph 1 of this subsection, including the tidal POND east of the Berrys Mill Road crossing of Mill Cove;

   b. WETLANDS – The Shoreland Overlay Zone surrounds the following WETLANDS, as defined in Article VII of this Ordinance. Its width, measured horizontally from the UPLAND EDGE of these WETLANDS, is 250 feet:

      i. The FRESHWATER WETLAND located in the eastern-most portion of the Town, east of Berrys Mill Road, north of Campbell Pond Road, southeast of the Lily Pond, and intersected by the eastern end of the straight section of east-west-oriented Town boundary line;

      ii. The FRESHWATER WETLAND east of Fosters Point Road and adjacent to the STREAM flowing into Back Cove for most of its length between State Road (Old Route 1) and Hill Road;

      iii. The FRESHWATER WETLAND adjacent to the STREAM that runs along the eastern Town boundary south of State Road (Old Route 1), east of Berrys Mill Road, and north of the western end of the straight section of east-west-oriented Town boundary line;

      iv. The Mill POND and adjacent WETLAND south of the crossing of the Old Bath Road and the railroad tracks in the northeastern-most portion of the Town;

      v. The FRESHWATER WETLAND adjacent to the Lily POND;

      vi. The FRESHWATER WETLAND on both sides of Back Cove Creek extending from its northern end just south of the State Road to its southern end north of the Hill Road;

      vii. The COASTAL WETLAND at the north end of Berry's Mill Pond.

c. STREAMS – The Shoreland Overlay Zone includes the land on both sides of the following STREAM, as the term is defined in Article VII of this Ordinance. Its width is 75 feet measured horizontally, from the normal high water line of the STREAM on each side of the STREAM:

   i. The STREAM flowing from Campbell Pond to Dam Cove;

d. GREAT PONDS – The Shoreland Overlay Zone includes the land surrounding the following GREAT PONDS classified GPA. Its width, measured horizontally from the normal high water line, is 250 feet:

   i. Campbell Pond and the adjacent WETLAND at its northern end;

   ii. Winnegance Pond and its adjacent WETLANDS.

**SPECIAL INDUSTRIAL AND TRANSPORTATION OVERLAY ZONE**

This overlay zone is for Special Industrial and Transportation Uses requiring special provisions governing isolation and screening for reasons of safety and/or inconsistency with other uses. This overlay zone shall include the following areas in the Business & Commercial District:

a. New Meadows Road – Beginning at the northwest corner of New Meadows Road and the State Road; thence northerly along the west side of New Meadows Road to the south side of Route 1; thence westerly along the south side of Route 1 to a point 250 feet from New Meadows Lake; thence southerly paralleling said lake to the north side of the State Road; thence easterly to the point of beginning.

b. Fosters Point Road – The portions within District 4. Business & Commercial of map U-11 Lots 1 and 35 and map U-12 Lots 9, 10, 10A, 10B, 11, 11A, 11B, 16, and 16A

c. State Road – Map U-7 Lot 9A on the north side of the State Road and map U-11 Lot 19 on the opposite side of said Road.

d. Arthur J. Reno Sr. Road – The portions of Lots within District 4. Business & Commercial that are also within 500’ of the Arthur J. Reno Sr. Road and Wood Lot Road but are more than 500’ from the State ROAD.

Special Industrial and Transportation Use facilities legally existing as of June 7, 2003, are not subject to the new standards, however any change or expansion of a facility would be subject to the new standards.

**LAND USE ORDINANCE DISTRICT AND OVERLAY ZONE MAP**

The boundaries of the districts and overlay zones that are described in this Article are shown on a map entitled “Land Use Ordinance District and Overlay Zone Map, attested by the Town Clerk, and posted at the Town Hall. Until the mapping of the Resource Protection Overlay Zone is completed the map shall incorporate a note stating that there are boundaries of this overlay zone not shown on the map but which are defined by the text of the Ordinance. In event of conflict between this map and any boundary descriptions contained in this Article, the text describing the boundaries shall govern.

## B. USE REGULATIONS AND REQUIREMENTS

1. Table of Uses

   No BUILDING, STRUCTURE or land shall be used or occupied except for the purposes permitted in the district or overlay zone as set forth in the accompanying Table of Use regulations or as provided for elsewhere in this Ordinance.

   A use listed in the Table of Use Regulations is permitted in any district or overlay zone denoted by the letter “P”.

## TABLE OF USE REGULATIONS

KEY: P = PERMITTED

| Name of District or Overlay Zone | Abbreviation in Table |
|---|---|
| High Density Shoreland | HDS |
| Residential | R |
| Rural Residential | RR |
| Mobile Home Park | MHP |
| Business and Commercial | BC |
| Urban Development Park* | UDP |
| Resource Protection Overlay Zone | RP |

* Wing Farm

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| **A.** | **RESIDENTIAL USE** | | | | | | | |
| 1 | Detached dwellings on separate LOTS, each dwelling occupied by not more than one (1) family | P | P | P | P | P | | |
| 2 | Renting of rooms in an existing dwelling to not more than two (2) PERSONS | P | P | P | P | P | | |

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 3 | ACCESSORY RESIDENTIAL UNIT | P | P | P | P | P | | |
| 4 | Conversion of existing dwelling to accommodate no more than two (2) families per dwelling provided each DWELLING UNIT resulting from such conversion shall not have less than 700 square feet of habitable floor space. | P | P | P | P | P | | |
| 5 | One (1) two-family or one (1) duplex dwelling on a separate LOT. | P | P | P | P | P | | |
| 6 | New multi-family housing, not to exceed four (4) DWELLING UNITS per STRUCTURE. | | | | P | P | | |
| 7 | New multi-family housing, not to exceed eight (8) DWELLING UNITS per STRUCTURE. | | | | | | | |
| 8 | MOBILE HOMES | P | P | P | P | P | | |
| 9 | Mobile Home Parks | | | | P | | | |
| 10 | Cluster Developments | P | P | P | P | P | | |
| 11 | Elderly housing conforming with housing types allowed in the district where proposed. | P | P | P | P | P | | |
| 12 | Summer Cottages | P | P | P | | | | |
| 13 | Detached single family dwelling condominiums | P | P | P | P | P | | |

**B. INSTITUTIONAL, RECREATIONAL, AND EDUCATIONAL**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 1 | Places of Worship | | P | P | P | P | P | |
| 2 | Religious, sectarian, non-sectarian, denominational, private or public, other than municipal schools | | | | P | P | | |

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 3 | Municipal Schools | | P[1] | | P | P | | |
| 4 | Municipal and county governmental BUILDINGS and related or supporting facilities including, but not limited to, libraries and museums. | | P[2] | | P | P | P | |
| 5 | Cemeteries, other than family burial plots | | | | P | P | | |
| 6 | Publicly-owned parks, playgrounds, recreation BUILDINGS or facilities. | P | P | P | P | P | P | |
| 7 | Public Utilities, excluding utility offices and storage facilities | P | P | P | P | P | P | P |
| 8 | Private non-profit community center BUILDINGS, adult education centers, or other similar facilities. | | | P | P | P | P | |
| 9 | Infirmaries and Hospitals | | | | P | P | | |
| 10 | Elderly housing that includes assisted living services, congregated care services, nursing home services, or hospice services, without restriction on the number of DWELLING UNITS per STRUCTURE. | | | | P | P | | |
| 11 | Shelters, group homes, settlement houses, halfway houses. | P | P | P | P | P | | |
| 12 | Day nurseries, nursery schools, kindergartens or other agencies giving care to children. | | | | P | P | P | |
| 13 | Trade, professional, or other schools. Including special purpose schools. | | | | P | P | P | |
| 14 | Private, non-profit membership clubs or lodges. | | | | P | P | P | |
| 15 | Country clubs, golf courses, swimming pools, tennis courts, or other non-profit, recreational club facilities. | | | P | P | P | | |

[1] Allowed only in Sub-district 2a New Meadows Road

[2] Municipal offices only allowed in Sub-district c Fosters Point

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 16 | Non-intensive recreational uses not requiring STRUCTURES, such as hunting, fishing, and hiking. | P | P | P | P | P | | P |
| 17 | INDIVIDUAL PRIVATE CAMPSITE (one (1) per LOT) subject to PLANNING BOARD approval. | | P | P | | | | P |
| 18 | Public and private recreation areas involving minimum structural development. | P | P | P | P | P | | |
| 19 | Motorized vehicular traffic on ROADS and trails, and snowmobiling. | P | P | P | P | P | | |
| 20 | Small non-residential facilities for scientific, educational, or nature interpretation purposes. | P | P | P | P | P | P | |
| 21 | Solid waste transfer BUILDINGS and facilities. | | | | | P | | |
| 22 | Recycling BUILDINGS and facilities | | | | | P | | |
| **C. RESOURCE UTILIZATION** | | | | | | | | |
| 1 | AGRICULTURE, orchards, horticulture. | P | P | P | P | P | | |
| 2 | Farms – livestock or poultry provided that any BUILDING housing livestock or poultry be not less than 75 feet from all property boundaries. At least three (3) acres are required for this use. | | P | P | P | P | | |
| 3 | Domesticated chickens (See Art. III.Y) | P | P | P | P | P | | |
| 4 | One (1) roadside stand per farm *with off-street parking only* for the sale of AGRICULTURAL or horticultural products, the major portion of which are grown or produced on the premises. | | P | P | P | P | | |
| 5 | Aquaculture | P | P | P | | | | |

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 6 | Landside fish harvesting support operations. | P | P | P | P | P | | |
| 7 | Harvesting of wild crops. | P | P | P | P | P | | P |
| 8 | Forest management, silvi-culture, TIMBER HARVESTING, and temporary on-site wood processing. | P | P | P | P | P | | |
| 9 | Wildlife management practices. | P | P | P | P | P | | P |
| 10 | Extractive industries, mineral explorations.[2] | | | | | P | | |
| **D. OFFICES, LABORATORIES, AND COMMUNICATIONS** | | | | | | | | |
| 1 | Business, financial, or PROFESSIONAL OFFICES | | | | P | P | P | |
| 2 | Business, financial or PROFESSIONAL OFFICE use designed to attract little or no customer or client traffic other than employees of the entity operating the principal use | | | | | | P | |
| 3 | Offices and clinics for medical, psychiatric, or other health services for the examination or treatment of PERSONS as outpatients, that may include laboratories that are part of such offices or clinics. | | | P | P | P | P | |
| 4 | Substance abuse medical treatment facilities | | | | | | | |
| 5 | Laboratories or research facilities. | | | | P | P | P | |
| 6 | Radio or television studios. | | | | P | P | P | |
| 7 | Commercial radio or television transmission or other wireless communications transmission facilities. | | | | | P | P | |
| 8 | Communication Towers | | | | P | P | P | |

[2] Prohibited in the Shoreland Overlay Zone

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| **E. RETAIL BUSINESS AND CONSUMER SERVICE ESTABLISHMENTS** | | | | | | | | |
| 1 | Stores for retail sale of merchandise provided all storage and sales of materials are conducted within BUILDINGS and provided there is no manufacturing or assembly on the premises. | | | | P | P | P | |
| 2 | Commercial studios for arts and handcrafts. | | | | P | P | P | |
| 3 | Stores for retail sale of merchandise such as, but not limited to, lumber yards and BUILDING supply yards wherein merchandise is stored in the open, is screened from ground level view from any abutting STREET or abutting property line. | | | | P | P | P | |
| 4 | Place for exhibition, lettering or sale of gravestones. | | | | P | P | P | |
| 5 | Service businesses such as, but not limited to barber shops, shoe repair, self-service laundry, dry cleaning or pickup agencies, beauty parlors, tailoring shops or other similar use, copy/printing shops, caterers, or other similar uses. | | | | P | P | P | |
| 6 | Veterinary establishments, kennels, pet shops or similar establishments Provided that animals can be kept wholly indoors except if on a leash and accompanied by staff for short periods of time. | | | P | P | P | P | |
| 7 | Places for repair, sale, rental, storage of boats. | | | | P | P | P | |
| 8 | Indoor places solely for eating and drinking, no dancing or live entertainment permitted. | | | | P | P | | |
| 9 | Motels, Hotels and Inns | | | | P | P | P | |

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 10 | Bed and Breakfast Establishments as a Home Occupation with five (5) or less bedrooms to let. | | | | P | P | P | |
| 11 | Enclosed storage facility | | | | | P | P | |
| **F. AUTOMOTIVE SERVICE AND OPEN-AIR DRIVE-IN RETAIL SERVICES** | | | | | | | | |
| 1 | Gasoline service stations. | | | | P | P | | |
| 2 | Sale or rental of automobiles, and other motor vehicles. | | | | P | P | | |
| 3 | Automobile repair and parts shops, provided all work is carried out within the BUILDING. | | | | P | P | P | |
| 4 | Car washing establishment. | | | | P | P | P | |
| 5 | Sales places for flowers, garden supplies, AGRICULTURAL produce, constructed partly or wholly outdoors, including commercial greenhouses. | | | | P | P | P | |
| 6 | Drive-in banks, eating places and other consumer services establishments where the motorist does not have to leave his/her car. | | | | P | P | | |
| 7 | Outdoor sports facilities conducted for profit. | | | | P | P | P | |
| **G. INDUSTRIAL, WHOLESALE, AND TRANSPORTATION USES** | | | | | | | | |
| 1 | Laundries and dry cleaning plants. | | | | P | P | P | |
| 2 | Printing, binding, publishing, and related arts and trades. | | | | P | P | P | |
| 3 | Bottling of beverages. | | | | P | P | P | |
| 4 | Plumbing, electrical, or carpentry shops or other similar service or repair establishments. | | | | P | P | P | |

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 5 | Places for light manufacturing, assembly, or packaging goods. | | | | P | P | P | |
| 6 | Wholesale businesses and storage in roofed STRUCTURES. | | | | | P | P | |
| 7 | Trucking and freight terminals. | | | | | P[4] | | |
| 8 | Bulk petroleum and propane facilities including gas stations. | | | | | P[5] | | |
| 9 | Bulk Hazardous substance uses other than in 8 above. | | | | | P[5,6] | | |
| **H. OTHER PRINCIPAL USES** | | | | | | | | |
| 1 | Sewage disposal systems for allowed uses. | P | P | P | P | P | | |
| 2 | Open LOT storage or sale of junk or salvaged material. | | | | | P | | |
| 3 | Temporary businesses and roadside sales. | | | | P | P | | |
| 4 | Large Solar Energy System | | | | | P | P | |
| **I. ACCESSORY USES** | | | | | | | | |
| 1 | Private garages or storage BUILDINGS. | P | P | P | P | P | | |
| 2 | Private greenhouses, tennis courts, swimming pools, or other similar BUILDINGS or STRUCTURES for domestic use | P | P | P | P | P | | |
| 3 | Bed and Breakfast Lodging as a home occupation with two (2) or less bedrooms to let. | P | P | P | P | P | | |
| 4 | Home occupations subject to performance standards of this Ordinance. | P | P | P | P | P | | |

[4] These transportation uses allowed only in the Special Industrial and Transportation Overlay Zone
[5] Bulk hazardous substance uses allowed only in the Special Industrial and Transportation Overlay Zone
[5,6] These bulk hazardous substance uses must be listed in Article XIV Section 14.7 Subsection B.

| | PRINCIPAL USES | LAND USE DISTRICTS | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | HDS | R | RR | MHP | BC | UDP | RP |
| 5 | Seasonal exterior storage of boats, travel trailers, pick-up campers, motorized campers, tent trailers; provided that at no time such parked or stored recreational equipment will be occupied or used for living or housekeeping purposes. Such equipment shall be parked or stored so as to meet all SETBACKS for the applicable district. | P | P | P | P | P | P | |
| 6 | Piers, wharves, docks, breakwaters, causeways, marinas, bridges, and uses projecting into water bodies. | P | P | P | P | P | | |
| 7 | Other STRUCTURES accessory to allowed uses. | P | P | P | P | P | P | |
| 8 | Parking for allowed uses. | P | P | P | P | P | P | P |
| 9 | The stripping of loam, peat, sand, or gravel or other material for resale. | | | | P | | | |
| 10 | The moving of loam, peat, sand, or gravel or other material for re-use on the same property. | P | P | P | P | P | P | |
| 11 | ROAD and DRIVEWAY construction. | P | P | P | P | P | P | |
| 12 | Clearing of approved construction and other allowed use, filling or other earth-moving activity. | P | P | P | P | P | P | P |
| 13 | Business and Commercial Signs | | | | P | P | P | |
| 14 | Home Daycare with twelve (12) or less attendees. | P | P | P | P | P | | |
| 15 | Daycare on the same LOT as the primary use, restricted to children of employees | | | | | | P | |
| 16 | Small Wind Energy Conversion Systems | P | P | P | P | P | P | |
| 17 | Small Solar Energy Systems | P | P | P | P | P | P | |

## ARTICLE III
## LAND USE STANDARDS

All land use activities shall conform to the following applicable land use standards:

### A. MINIMUM LOT STANDARDS

Not withstanding any provisions in a local ordinance to the contrary, all STRUCTURES shall meet the set-back requirements from the normal high watermark of any WATER BODY, except STRUCTURES that require direct access to the water as an operational necessity, such as piers, docks, and retaining walls.

All STRUCTURES and LOTS shall meet the minimum LOT standards for the district in which they are located as shown in the following table: [14,15,17]

| District | LOT Size | Shore Setback [1,16] | Shore Frontage | Road Setback [1, 6] | Road Frontage [2, 11] | Side & Rear Setback [1, 9] |
|---|---|---|---|---|---|---|
| 1. High Density Shoreland | | | | | | |
| a. Legally Non-Conforming Sized LOTS | | 75’ | 100’ | 40’ | 100’ | 15’ |
| b. All Other LOTS 1a, 1b, 1c, 1d, 1e, & 1g | 1 acre | 75’ | 125’ | 56’ | 137’ | 20’ |
| c. All Other LOTS 1f (Birch Point) | 2 acres | 75’ | 150’ | 56’ | 175’ | 20’ |
| 2. Residential [3, 10] 2a, 2b, 2c | 2 acres [4] | 75’ | 150’ | 56’ | 175’ | 20’ |
| 2d. Winnegance [3, 10] | 2 acres [4] | 100’ | 200’ | 56’ | 175’ | 20’ |
| 3. Rural Residential [10] | 3 acres | 75’ | 150’ | 56’ | 200’ | 20’ |
| 4. Mobile Home Park | 1 acre | 75’ | 150’ | 100’ | 100’ | 35’ |
| 5. Business and Commercial | | | | | | |
| a. All Uses, Not On MAJOR ROADS [5] | 1 acre | 75’ | 150’ | 56’ | 150’ | 20’ |
| b. All Uses on Major Roads | 1 acre | 75’ | 150’ | 75’ [8] | 200’ | 20’ |
| 6. Urban Development Park [7&12] | 1 acre | 75’ | 150’ | 50’[13] | 100’ | 35’ |

**FOOTNOTES**:

1 – All SETBACKS are measured as the minimum horizontal distance irrespective of the slope of the land, to the footprint of a STRUCTURE or the vertical projection to ground level of portions of the STRUCTURE having usable volume or FLOOR AREA whichever distance is smaller. Usable portions do not include eaves, decorative trim, flower boxes and trellises. STRUCTURES which are only or principally roofs such as car ports or gas station pump shelters shall have their SETBACKS measured from the vertical projection to ground of the outermost portions of the STRUCTURE. ROAD SETBACKS shall be measured from the center of the TRAVELED WAY. SETBACKS apply to any STRUCTURE with the exception of the following:
- Boundary fences and walls, SHARED DRIVEWAYS and rights of way on boundary lines,
- Small entities such as birdbaths, birdhouses and lampposts

SETBACKS apply not only to paved but also natural dirt, gravel or ledge parking LOTS. SETBACKS apply to large movable entities including stored vehicles (cars, trucks, RVs, trailers and boats), containers and dumpsters. ROAD SETBACKS do not apply to DRIVEWAYS.

2 – The Minimum ROAD Frontage shall be an uninterrupted distance measured along the property line adjacent to a single TRAVELED WAY. For corner LOTS it shall be measured along the most heavily TRAVELED WAY.

3 – Special standards allow CLUSTER SUBDIVISIONS in these districts. The number of LOTS allowed in any residential SUBDIVISION, in any district, whether it is a CLUSTER SUBDIVISION or standard SUBDIVISION, shall be calculated by dividing the NET RESIDENTIAL ACREAGE by the minimum LOT size standard for the district in which the SUBDIVISION is proposed. Any fractional portion of the result of this calculation shall not count for an additional LOT. NET RESIDENTIAL ACREAGE shall be calculated as provided for in Section 9.3 of the Development Review Ordinance, which is entitled "Land Not Suitable for Development". CLUSTER SUBDIVISION proposals on properties partially or wholly located in the Shoreland Overlay Zone shall not be permitted to reduce minimum LOT standards applicable in the underlying district under this Ordinance.

4 – A LOT size of 1 acre is allowed when municipal sewerage is used.

5 – The applicable MAJOR ROADS include the State Road (old Route 1), Berry's Mill Road, New Meadows Road, Foster's Point Road and Bull Rock Road (between the State Road and Foster's Point Road).

6 – The minimum ROAD SETBACK for residential and accessory uses on private right-of-ways may be reduced to 24 feet from the surveyed edge of the right-of -way, except that this provision shall not apply to SUBDIVISIONS <u>of 4 lots or more.</u>

*[Note: This is to limit the SETBACK change to minimum ROAD SETBACK and redefining the measurement of said SETBACK to avoid problems when a ROAD is not centered in the surveyed right-of-way. The 16 foot change in measurement assumes a two rod wide right-of-way.]*

7 – Public water and sewerage required in this district.

8 – In the Business and Commercial District the ROAD SETBACK for parking LOTS and side SETBACKS may be reduced by the PLANNING BOARD when necessary for functional or topographic reasons however the vegetative boundary strip requirement cannot be waived. When side SETBACKS are reduced special screening requirements may be imposed.

9 – For single LOTS with multiple detached DWELLING UNITS special standards for DWELLING UNIT separation are imposed to create the equivalent of side SETBACKS.

10 – High occupancy uses in Residential District 2 and Rural Residential District 3 intended to serve more than 12 PERSONS at one time shall have LOT Size, ROAD, Side and Rear SETBACK Standards increased by their nominal value for every tripling of the number of PERSONS beyond 12, thereby applying multipliers of 2 for 12 to 36 PERSONS, 3 for 36 to 108 PERSONS, 4 for 108 PERSONS, 4 for 108 to 324 PERSONS and so forth. High Occupancy Uses in Residential Districts may not be located in the Shoreland Zone.

Example

| PERSONS | LOT Size: District 2 | LOT Size: District 3 | ROAD SETBACK | Side & Rear SETBACK |
|---|---|---|---|---|
| 0-12 | 2 | 3 | 56' | 20' |
| 12-36* | 4 | 6 | 96' | 40' |
| 36-108* | 6 | 9 | 136' | 60' |
| 108-324* | 8 | 12 | 176' | 80' |
| 324-972* | 10 | 15 | 216' | 100' |

* denotes High Occupancy Categories

Depending on the nature of the use the PLANNING BOARD may require special screening of the use from abutting residential properties.

11 – Back LOTS not having frontage on a ROAD other than that of an access corridor or having access via an EASEMENT must have in lieu of frontage a configuration such that a square having sides equal in length to the ROAD frontage requirement for the district in which the LOT is located can be laid out on land suitable for development within the boundaries of the LOT.

12 – Construction of sidewalks required as part of infrastructure development.

13 – SETBACK is measured from the edge of the surveyed right of way. SETBACK may be reduced up to 30 feet (leaving a minimum SETBACK of 20 feet) with a SETBACK reduction plan approved by the PLANNING BOARD.

14 –AN ACCESORY RESIDENTIAL UNIT shall not count as a DWELLING UNIT in determining minimum LOT standards.

15 – A BUILDING under single ownership containing solely either professional or MEDICAL OFFICES shall count as a single BUSINESS UNIT in determining LOT standards.

16 – For PRINCIPAL STRUCTURES, water and wetland setback measurements shall be taken from the top of coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist or a Maine State Geologist to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

17. – Clearing of vegetation in excess of that required for LOT access or development shall not be conducted any closer to property lines than twice the applicable setback for the land use district in which the LOT is located. Any clearing of vegetation shall comply with all applicable State laws and regulations.

## B. RESIDENTIAL AND ACCESSORY USE STANDARDS:

1. LOTS shall meet the minimum LOT standards as defined in Article III. A., and in other paragraphs of Article III, except paragraph C.

2. If more than one residential DWELLING UNIT is constructed on a single parcel, the minimum LOT size and frontage requirements shall be met for each DWELLING UNIT. For multiple detached DWELLING UNITS on a single LOT including condominiums the NET RESIDENTIAL ACREAGE requirement shall be met. For condominiums either partially or wholly in the Shoreland Zone the number of DWELLING UNITS in the Shoreland Zone shall not exceed the total shore frontage of the LOT divided by the minimum shore frontage requirement for the district in which the condominium is located and the separation between DWELLING UNITS shall not be less than twice the side SETBACK for the district.

3. A LOT abutting a POND, river, STREAM, or tidal water shall have a minimum shore frontage of 150 feet, measured in a straight line between the points of intersection of the side LOT lines with the shorelines at normal high water elevation. On Campbell POND and Winnegance POND, and on STREAMS in the Shoreland Overlay Zone, the minimum shore frontage shall be 200 feet. Every STRUCTURE shall have a minimum SETBACK of 75 feet from the normal high-water line of a water body or tributary stream, or, in the case of a coastal or INLAND WETLAND, 75' from the UPLAND EDGE of said WETLAND, as measured horizontally, except on Campbell POND and Winnegance POND, where the minimum SETBACK for STRUCTURES and septic systems shall be 100 feet from the normal high-water mark.

4. Clearing for development in the Shoreland Overlay Zone in excess of 2500 square feet or 20 percent of a LOT'S area in said Zone whichever is less must be approved by either the PLANNING BOARD or alternatively, for conforming residential uses, the Codes Enforcement Officer.

5. STRUCTURES shall not cover more than 20% of any LOT and in addition, shall conform to the sideline and SETBACK requirements of the district in which the LOT is located; except that within 250 feet of the normal high-water mark of any GREAT POND, STREAM, TRIBUTARY STREAM, river, or tidal water, or within 250 feet of the UPLAND EDGE of a freshwater or COASTAL WETLAND 10 or more acres in size, STRUCTURES and man-made non-vegetated area combined shall not cover more than 20% of any LOT.

6. No dwelling or MOBILE HOME, new or existing, shall be placed on a BUILDING site until a full foundation with footings extending at least 4 feet below grade or alternatively for a MOBILE HOME a 6 inch thick reinforced concrete slab with provisions for tie-downs on a gravel or crushed stone bed and a sewage system that meets State Plumbing Code has been constructed and approved by the BUILDING and Plumbing Inspectors and the respective permits issued unless waived by the BUILDING Inspector due to unusual circumstances.

7. One MOBILE HOME, house trailer or recreational vehicle may be occupied as a dwelling temporarily on the same LOT during the construction of a permitted dwelling for a period of not more than 60 days, except upon application(s) for additional 30 day periods. A temporary occupation fee must be paid for each 60 & 30 day period.

8. Visitors to West Bath and property owners may occupy a recreational vehicle or trailer on land owned by a resident or themselves or rented by a tenant, provided there are provisions for sewage disposal that meet State Plumbing Code, for not more than 60 days in any calendar year, except that if there is no other dwelling on the LOT application can be made for additional 30 day periods. A temporary occupation fee must be paid for each 30 day extension period.

9. MOBILE HOMES located outside mobile home parks shall be defined and treated as single family dwellings and shall comply with the applicable provisions of all ordinances of the Town of West Bath. A BUILDING permit for a MOBILE HOME shall not be issued unless it meets the following requirements and standards:

    a. A minimum width of 14 feet and a minimum FLOOR AREA of 750 square feet.
    b. A roof pitch of 3 or greater.
    c. Exterior siding that is residential in appearance.
    d. It will be placed upon and anchored to a permanent foundation.
    e. Proof of payment of sales tax is presented to the Codes Enforcement Officer.

10. There shall be off-street parking for at least two cars per dwelling.

11. The median height of BUILDINGS or other STRUCTURES shall not exceed 35 feet, nor shall the greatest height exceed 45 feet, except that in the shoreland zone the waterside height of a BUILDING or other STRUCTURES shall not exceed 35 feet where the height is measured from the average finished grade level at the foundation of the side visible from the water (where the average grade measurement points can be no higher than 3 feet above original average grade level prior to construction) to the highest point of the STRUCTURE, excluding chimneys, copulas, antennas and other appurtenances that have no FLOOR AREA.

Explanatory Note: Posts having minimal visual impact which are supplemental to a STRUCTURE'S foundation, such as those for a BUILDING'S deck, are not considered when determining a BUILDING'S height. The non-shoreland median height restriction would be applicable to the inland, not visible from the water side(s) of the BUILDING. Diagrams illustrating how average grade levels are calculated are included as an Appendix to this Ordinance.

12. ACCESSORY RESIDENTIAL UNITS are allowed in all land use districts with Planning Board approval, provided that the owner submits a signed, notarized affidavit stating that the owner will reside in the principal structure, and that the ACCESSORY RESIDENTIAL UNIT will be occupied by the owner's relative (by blood, marriage or adoption), the owner's caregiver, or any other person who provides day-to-day assistance to the owner~~.~~ The affidavit must be recorded in the Sagadahoc County Registry of Deeds prior to issuance of a permit by the Codes Enforcement Officer. Planning Board approval of ACCESSORY RESIDENTIAL UNITS shall be limited to a term of five (5) years, which term may be renewed by the Planning Board for additional five (5) year terms upon application by the owner. The Planning Board's written decision granting any renewals shall be recorded in the Sagadahoc County Registry of Deeds. In the event the five (5) year term expires without renewal by the owner, the owner shall remove the kitchen facilities from the ACCESSORY RESIDENTIAL UNIT within thirty (30) days of the expiration of the term.

13. 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 or 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.

## C. BUSINESS, COMMERCIAL AND NON-RESIDENTIAL USE STANDARDS

1. LOTS shall meet the minimum LOT standards as defined in Article III.A., and in other paragraphs of Article III, except paragraph B.

2. For multiple BUSINESS UNITS, DWELLING UNITS or combination thereof to exist on a single parcel, the minimum LOT size requirement shall be met for each business and/or DWELLING UNIT, excepting that a single business owner occupied DWELLING UNIT is excluded from the minimum LOT size calculation if the owner operates a business on the LOT. The PLANNING BOARD may reduce the business portion of the LOT size so determined if the BUSINESS UNITS are configured as a cluster development but by not more than half an acre for each BUSINESS UNIT other than the first.

3. Business and commercial LOT coverage shall not exceed 40 percent unless the Planning Board approves an increase up to a maximum of 60 percent provided that no more than 40 percent of said coverage shall be impermeable and that the LOT is large

enough for, the width of any vegetative buffer strip to be increased to 30 feet and the side and rear SETBACKS shall be increased to 53 feet.

4. Each LOT shall have the required frontage on a TRAVELED WAY. Minimum ROAD SETBACK, except for parking LOTS, shall be 75 feet from the center of the TRAVELED WAY. In the Business and Commercial District the ROAD SETBACK for parking LOTS may be reduced by the PLANNING BOARD when necessary for functional or topographic reasons however the vegetative boundary strip requirement cannot be waived. Minimum SETBACK from side and back boundary lines shall be 35 feet. BUILDINGS, other STRUCTURES and manmade non-vegetative areas combined shall not occupy more than 40 % of the total LOT area.

5. Adequate off-street parking shall be provided for all employees and visitors. Retail and wholesale businesses shall provide one parking space for each 150 square feet of FLOOR AREA devoted to retail and wholesale sales in addition to spaces for employee parking. Where an applicant can demonstrate that the number of parking spaces so calculated is not required the PLANNING BOARD is authorized to reduce the parking requirement.

6. All signs and sign STRUCTURES shall be located only on the premises where the business identified is conducted, other than directional signs installed by the State: Two signs with the name of the business and any words relating to goods and services sold on the premises shall be permitted, provided that each sign including any attached subsign(s) shall not exceed 15 square feet in area. One free-standing sign is permitted which may have lettering on both sides of the sign. A second sign shall be permitted provided such sign is single sided and attached to the primary BUILDING. No other exterior signs, other than those mandated by the State, billboards, banners, commercial or decorative flags or symbols are permitted.

   Note: All commercial signs must meet the additional sign requirements in the Development Review Ordinance.

7. Minimum LOT size shall be one acre. If more than one principal STRUCTURE is constructed on a single parcel, the applicable minimum frontage and minimum LOT size from the Minimum LOT Standards Table in Article III. Section A. shall be multiplied by the number of principal STRUCTURES, excepting, if applicable, one business owner occupied DWELLING UNIT, to obtain the minimum frontages and minimum LOT size requirements for the parcel.

8. Every STRUCTURE shall have a minimum SETBACK of 75 feet from the normal high water mark, or, in the case of a coastal or INLAND WETLAND, 75' from the UPLAND EDGE of said WETLAND. In the case of a GREAT POND the minimum SETBACK for STRUCTURES shall be 100 feet from the normal high water line.

9. The median height of BUILDINGS or other STRUCTURES with the exception of telecommunication, utility and water towers and poles shall not exceed 35 feet except in District 4. Business & Commercial and District 5. Urban Development Park where BUILDINGS more than 75 feet from the boundaries of other districts can exceed 35 feet by up to 20 feet subject to architectural review and screening if the following conditions are met:

a. A functional need can be demonstrated
b. Any exterior or stair tower access to the uppermost floor does not exceed 45 feet above grade.
c. A sprinkler system is installed if required by the Fire Department and/or State Authority to meet NFP 101 or other applicable state or national code.
d. Any firefighting plan including access for firefighting vehicles required by the Fire Department is on file with said department.

10. Within 250 feet of the normal high-water mark of any GREAT POND, STREAM, river, or tidal water, or within 250 feet of the UPLAND EDGE of a freshwater or COASTAL WETLAND 10 or more acres in size, STRUCTURES and man-made non-vegetated area combined shall not cover more than 20 % of any LOT.

11. In the Business and Commercial District, in order to help preserve existing vegetation for meeting the buffer requirements associated with future development, PLANNING BOARD approval is required prior to the clearing of any more vegetation beyond that which is necessary to provide one vehicular access to the front of the property, even if no development is proposed at the time of the proposed clearing. Clearing for the one vehicular access shall not exceed 40 feet in width.

a. Prior to clearing of more vegetation than is needed for a vehicular access, the owner of the property shall prepare and submit to the PLANNING BOARD a clearing plan that demonstrates on a plan of the property:

i. How the owner plans to comply with the DRIVEWAY maximum width requirement and other locational requirements for DRIVEWAYS contained in Article X. Section 10.2, L. of the Development Review Ordinance; and

ii. How the owner plans to comply with the vegetative buffer requirements applicable to properties in the Business and Commercial District that are contained in Article XIII, Section 13.10 of the Development Review Ordinance.

b. The clearing plan shall indicate that cleared vegetation in excess of that needed to provide one access to the property shall be replanted within the buffer-strip areas required if and when the LOT is developed or redeveloped, and show the location of these buffer strip areas. The clearing plan shall also state that any areas planned for clearing, whether or not they are now part of a required buffer area shall be replanted if they fall within the buffer strip area on a LOT that is part of a future SUBDIVISION of the property.

c. The owner of the property shall obtain PLANNING BOARD approval of the clearing plan before clearing more vegetation than is necessary to create a single 40-foot wide access to the property.

d. This subsection C.9. shall apply to TIMBER HARVESTING as well as clearing of vegetation.

12. Any non-residential use shall be set back from the boundaries of districts or overlay zones where it is not allowed by at least the side/rear SETBACK of the district in which it is located.

13. Substance abuse medical treatment facilities shall be connected to public water and sewer and must have a vault for the storage of scheduled drugs and dangerous materials or objects and monitored by a 24 hour security service.

14. No commercial use may be made of vegetative boundary strips other than for free-standing signs and walkways which may be located in roadside vegetative boundary strips. For purposes of this subsection vegetative boundary strips as delineated in this Ordinance and the Development Review Ordinance are presumed to exist whether or not any vegetation is present.

## D. AGRICULTURE IN THE SHORELAND OVERLAY ZONE

1. There shall be no new tilling of soil, livestock grazing areas shall not be established, and Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a GREAT POND classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, TRIBUTARY STREAMS, or WETLANDS.

    a. Tilling operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained. Tillage of an area greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the PLANNING BOARD.

    b. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above SETBACK provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation filed with the PLANNING BOARD.

    c. All spreading or disposal 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). All manure storage areas within the Shoreland Overlay Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Spreading, disposal or storage of manure within the Shoreland Overlay Zone shall require a Soil and Water Conservation Plan to be filed with the PLANNING BOARD.

    d. Non-conformance with the provisions of a Soil and Water Conservation Plan shall be considered to be a violation of this Ordinance.

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

## E. BEACHES

a. Construction of a beach on any GREAT POND or COASTAL WETLAND shall require a permit from the Department of Environmental Protection. Beach

construction on any river, STREAM, or brook capable of floating watercraft shall also require approval by the Department of Environmental Protection, as required by State Law.

## F. EROSION AND SEDIMENTATION CONTROL

Development subject to site plan review and/or SUBDIVISION review under the Development Review Ordinance shall be subject to erosion and sedimentation control standards contained in Article XIII, Section 13.12. Irrespective of whether site plan or SUBDIVISION review is required, all soil disturbing activities that require a permit shall also be subject to the following standards:

1. Townwide Standards: Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such a manner as to prevent to the maximum extent possible erosion and sedimentation of surface waters.

2. In the Shoreland Overlay Zone: All filling, grading, lagooning, dredging, earth-moving activities, and other land use activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan.

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

      i. Mulching and re-vegetation of disturbed soil.

      ii. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

      iii. Permanent stabilization STRUCTURES such as retaining walls or riprap.

   b. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

   c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

   d. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

      i. 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.

ii. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

iii. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

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

*NOTE: Technical specifications for erosion and sedimentation control measures that can be used to meet the standards of Article III, Section F., above, can be found in the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" by the Cumberland County Soil and Water Conservation District, published by the Maine Department of Environmental Protection in March 1991, a copy of which shall remain on file with the Code Enforcement Officer in the Town Office.*

## G. MINERAL EXPLORATION AND EXTRACTION

a. 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. Mineral exploration or extraction shall be prohibited in the Shoreland Overlay Zone.

## H. PIERS, DOCKS, WHARVES, AND OTHER STRUCTURES EXTENDING INTO OR OVER WATER BODIES

PRIMARY STRUCTURES extending into or Over Water Bodies, Such as Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, and Bridges: In addition to federal and/or state permits which may be required for such STRUCTURES and uses, they shall conform to the following:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with developed beach areas.

3. The facility shall be located so as to minimize effects on fisheries.

4. The facility shall be no larger than is necessary to carry on the activity and be consistent with existing conditions, uses, and character of the area.

5. No new enclosed SECONDARY STRUCTURE shall be built on, over or abutting a pier, wharf, dock or other PRIMARY STRUCTURE extending beyond the high-water line of a WATER BODY or within a WETLAND unless the SECONDARY STRUCTURE requires direct access to the water as an operational necessity.

6. No existing SECONDARY STRUCTURES built on, over or abutting a pier, dock, wharf or other PRIMARY 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.

7. SECONDARY STRUCTURES built on, over or abutting a pier, wharf, dock or other PRIMARY STRUCTURE extending beyond the normal high-water line of a WATER BODY or within a WETLAND shall not exceed twenty (20) feet in height above the working surface of the PRIMARY STRUCTURE. Ramp-handling gantry frames and flagpoles shall be exempt from this height limitation.

*NOTE: Permanent STRUCTURES projecting into or over water bodies shall require a permit from the Department of Environmental Protection (DEP) pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Sect. 480-C. Permanent STRUCTURES (see above) and STRUCTURES projecting below the high-water mark, but above the low water mark, may also require a permit from the United States Army Corps of Engineers. Please refer to the Codes Enforcement Officer (CEO) for information on proper permitting. If the subject of application is a seasonal dock which is not a permanent STRUCTURE extending below the high-water line, and subject only to DEP Permit-by Rule requirements, DEP may not notify the applicant of their approval, as approval is automatic unless subject to a rejection. Please check with the CEO.*

8. SUBMISSION REQUIREMENTS: Application for Piers, Docks, Wharves, and Other STRUCTURES Extending Into or Over Water Bodies:

   a. Completed application.

   b. Approval or Permit from DEP or Army Corps of Engineers, or other such regulating entity as applicable.

   c. Survey or plot plan sketch of the LOT, drawn to scale, indicating shore frontage, side and riparian boundaries, primary and accessory STRUCTURES, and the proposed location of the dock, pier, or other STRUCTURE and its SETBACKS.

   d. Layout and elevation drawings of the proposed STRUCTURE as it will appear when completed.

9. SETBACK: The fixed portion of a pier, dock, wharf, or other STRUCTURE shall be constructed no closer than 25 feet, from any boundary line of an abutting property, or the adjusted projection of any boundary, by the Colonial Method or such other method as approved by the Board, of the boundary line thereof or not closer than the minimum SETBACK for the district in which the LOT is located, whichever is greater.

10. DOCK AND FLOAT SEPARATION: The minimum distance from any portion of a dock, including its float, shall not be less than 25 feet or the minimum side SETBACK requirement for the district in which it is located, whichever is greater, to any portion of another float or dock. Reduction of the requirement for minimum distance between docks, is available to the applicant through variance, provided that the applicant can demonstrate that no alternative design is practical, the inability to meet the requirement is due to the location characteristics, and/or design of the abutter's existing dock.

11. ACCESSORY STRUCTURES: Low level enclosed storage units for marine equipment no higher than 3 feet and no greater in volume than 75 cubic feet may be allowed within 75 feet of the high water mark provided that they are screened from water view by

vegetation or other natural means. Permissible uses include the storage of boating and fishing gear, and fuel stored in containers approved by the Department of Transportation (DOT) and the Environmental Protection Agency (EPA).

12. SHORELINE ACCESS: Stairways or similar STRUCTURES may be allowed to provide safe access in areas of steep slopes or unstable soils provided that the STRUCTURE is limited to a maximum width of four (4) feet and it does not extend below or over the normal high-water line of a WATER BODY or UPLAND EDGE of a WETLAND, and the applicant demonstrates that no reasonable alternative access exists on the property. Connection of said stairway or STRUCTURE to an approved dock is allowed.

## I. CUTTING OF TREES FOR DEVELOPMENT AND SAFETY

1. Relationship to Buffer Requirements. Developments subject to site plan or SUBDIVISION review are subject to the standards of this subsection and additional restrictions on clearing and buffer requirements contained in Art. XIII, 13.10 of the Development Review Ordinance.

2. Clearing or Removal of Vegetation in the Shoreland Overlay Zone for Activities Other Than Timber Harvesting.

   a. 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.

   b. Except in areas described in Section I(2)(a) above, except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a GREAT POND classified GPA or a river flowing to a great pond classified GPA extending seventy-five (75) feet, horizontal distance inland from the normal high-water line of any other WATER BODY, TRIBUTARY STREAM, or the UPLAND EDGE of a WETLAND, a buffer strip of vegetation shall be preserved as follows:

      (i) 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.

      (ii) Selective cutting of trees within the buffer strip is allowed, provided that a well- distributed stand of trees and other vegetation is maintained. For the purposes Section I, a "well distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified

GPA shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system:

| **Diameter of Tree at 4 and ½ feet Above Ground Level (inches)** | **Points** |
|---|---|
| - 2 to 4 inches | 1 |
| - Greater than 4 to 12 inches | 2 |
| - Greater than 12 inches | 4 |
| - 12 Inches or greater | 8 |

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

Note*:* As an example, adjacent to a great pond, if a 25-foot by 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two (2) trees between 4 and 8 inches in diameter, and three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

(4x1) + (2x2) + (3x4) = 36 points

Thus, the 25-foot plot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 – 24 = 12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

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

For the purposes of this Section I(b)(ii), "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 rectangular 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.

Not withstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 and ½ feet above ground level may be removed in any ten (10) year period.

(iii) 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 I paragraphs (2)(b) and (2)(b)(i) above.

(iv) Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

(v) Storm-damaged, diseased, dead or unsafe trees may be removed with the approval of the Codes Enforcement Officer. In order to maintain a buffer strip of vegetation, when such removal results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 1(2)(b) does not apply to those portions of public recreation facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(vi) At distances greater than one hundred (100) feet, horizontal distance, from the normal high-water line of a GREAT POND classified GPA or a river flowing to a great pond classified GPA, or seventy-five (75) feet, horizontal distance, from the normal high-water line of any WATER BODY, TRIBUTARY STREAM, or the UPLAND EDGE of a WETLAND, except to allow for the development of permitted uses, 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 and 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 Overlay Zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities Districts.

(vii) Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

(viii) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this Section I.

## J. TIMBER HARVESTING

1. In the Shoreland Overlay Zone.

a. In the Resource Protection Overlay Zone abutting a GREAT POND, TIMBER HARVESTING shall be limited to the following:

**i.** Within the strip of land extending 75 feet inland from the normal high-water line there shall be no TIMBER HARVESTING except to remove safety hazards.

**ii.** Beyond the 75 foot "no-harvest" strip referred to in paragraph a. above, TIMBER HARVESTING is permitted in accordance with paragraph (ii) below except that in no case shall the average residual basal area of trees over 1 inch in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

b. Except in areas as described in paragraph a., above, TIMBER HARVESTING shall conform with the following provisions:

i. 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 l/2 feet above ground level on any LOT in any ten (10) year period is permitted. In addition:

a. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a GREAT POND classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, TRIBUTARY STREAMS, or the UPLAND EDGE of a WETLAND, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation including existing ground cover, shall be maintained.

b. At distances greater than one-hundred (100) feet, horizontal distance, of a GREAT POND classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the UPLAND EDGE of a WETLAND, harvesting operations shall not create single clear-cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five- thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

ii. TIMBER HARVESTING operations exceeding the 40% limitation in paragraph a. above, may be allowed by the PLANNING BOARD upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The PLANNING BOARD shall notify the Commissioner of the

Department of Environmental Protection of each exception allowed, within fourteen (14) days of the PLANNING BOARD'S decision.

iii. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a WATER BODY. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a WATER BODY shall be removed.

iv. TIMBER HARVESTING equipment shall not use STREAM channels as travel routes except when:

a) Surface waters are frozen; and

b) The activity will not result in any ground disturbance.

v. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

1. 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.

2. Except for WATER CROSSINGS, skid trails and other sites where the operation of machinery used in TIMBER HARVESTING results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a WATER BODY or UPLAND EDGE of a WETLAND. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the WATER BODY or WETLAND, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a WATER BODY or UPLAND EDGE of a WETLAND.

K. **DRIVEWAY AND ROAD CONSTRUCTION**

Approval from the Town ROAD Commissioner is required for all DRIVEWAYS or ROADS when they intersect a public ROAD. Additional standards that apply to ARTERIAL, ROAD and DRIVEWAY construction subject to the SUBDIVISION or site plan review are contained in Article X, Section 10.2, sub-section L. 1-6.

v. ROADS and DRIVEWAYS shall be located, constructed, and maintained in such a manner that minimal erosion hazard results.

Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters, but in no case shall a DRIVEWAY or ROAD have more than a five percent grade within 50 (fifty) feet of an intersection of a Town Road, State Road or State Aid Road.

vi. Additionally, all ROADS constructed shall conform with the following standards:

i. ROAD crossings of watercourses shall be kept to the minimum number necessary.

ii. The bottom of culverts shall be installed at streambed level.

iii. All areas of exposed mineral soil shall be re-vegetated or otherwise stabilized as soon as possible.

iv. Bridges and culverts of adequate size and design shall be provided for all ROAD crossings of water courses which are to be used when surface waters are unfrozen. The requirement for a bridge or culvert will be left to the approval of the ROAD Commissioner and the PLANNING BOARD.

## L. ROADS AND DRIVEWAYS IN THE SHORELAND OVERLAY ZONE

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 100 feet, horizontal distance, from the normal high-water line of a GREAT POND classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, TRIBUTARY STREAMS, or the UPLAND EDGE of a WETLAND unless no reasonable alternative exists as determined by the PLANNING BOARD. If no other reasonable alternative exists, the PLANNING BOARD may reduce the ROAD and/or DRIVEWAY SETBACK requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the WATER BODY, tributary stream or wetland. Such techniques may include but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the WATER BODY, TRIBUTARY STREAM, or WETLAND.

   On slopes of greater than twenty (20) percent the ROAD and/or DRIVEWAY SETBACK shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent.

   This Section L(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, such as a boat launching ramp, excluding temporary docket for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall

comply fully with the requirements of Article III, Section L except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public ROADS may be expanded within the legal right-of-way regardless of its SETBACK from a WATER BODY, tributary stream or wetland.

3. New ROADS and DRIVEWAYS are prohibited in a Resource Protection Overlay Zone except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the PLANNING BOARD in a Resource Protected District, upon a finding that no reasonable alternative route or location is available outside 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 (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection F of this Article.

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 (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a WATER BODY, TRIBUTARY STREAM, or UPLAND EDGE of a WETLAND. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the ROAD, driveway or ditch. To accomplish this, the following shall apply:

   a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the ROAD or driveway at intervals no greater than indicated in the following table:

| **Grade (Percent)** | **Spacing (Feet)** |
|---|---|
| 0-2 | 250 |
| 3-5 | 200-135 |
| 6-10 | 100-80 |
| 11-15 | 80-60 |
| 16-20 | 60-45 |
| 21+ | 40 |

   b. Drainage dips may be used in place of ditch relief culverts only where the ROAD 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.

## M. PARKING AREAS IN THE SHORELAND OVERLAY ZONE

1. Parking areas shall meet the shoreline SETBACK requirements for STRUCTURES for the district in which such areas are located and minimum setback requirements from tributary streams within the Shoreland Zone. The SETBACK requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or UPLAND EDGE of a WETLAND if the PLANNING BOARD finds that no other reasonable alternative exists.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm-water 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.

## N. ESSENTIAL SERVICES IN THE SHORELAND OVERLAY ZONE

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 is not permitted in a Resource Protection Overlay Zone or within 75 feet, horizontal distance, of a STREAM, except to provide services to a permitted use within said overlay zone, 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. Essential services shall be defined to include the following: gas, electrical or communications facilities; steam, fuel, electric power or water transmission of 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 or Communications Towers.

4. Service drops shall be defined to include the following: any utility line extension which does not cross or run beneath any portion of a WATER BODY provided that:

   a. In the case of electric service:

      i. 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

      ii. The total length of the extension is less than one thousand (1,000) feet.

   b. In the case of telephone service:

      i. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

      ii. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length

## O. SANITARY STANDARDS

1. Toilet Facilities for Workers: Suitable toilet facilities shall be provided and maintained in a sanitary condition for the use of workers during construction.

2. Subsurface Sewage Disposal Systems:

   All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

   a. All new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

   b. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend any 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.

   c. A holding tank is not allowed for a first-time residential use in the Shoreland Zone.

## P. SOILS

Land uses shall be located on soils in or upon proposed uses or STRUCTURES can be established or maintained without causing adverse effects, including server erosion, mass soil movement, 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 be required to file a soils report prepared by a State certified soil scientist or geologist based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth of water table.

## Q. STRUCTURES

No STRUCTURE in the Shoreland Overlay Zone shall be erected in the COASTAL FLOODPLAIN or on unstable soil subject to slumping, mass movement, or severe erosion. This provision shall not apply to STRUCTURES which require access to water as an operational necessity, such as piers, docks, and retaining walls.

## R. WATER QUALITY PROTECTION

No activity shall locate, store, or permit the discharge of any untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, obnoxiousness, toxicity, or temperature that run off or percolate into surface or ground waters so as to contaminate or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to animal or plant life.

## S. MOBILE HOME PARK STANDARDS

1. Individual LOT size:

    a. LOTS served by a public sewer system shall be at least 6,500 square feet.

    b. LOTS served by a central on-site subsurface wastewater disposal system approved by the Department of Human Services shall be at least 12,000 square feet, provided that the overall density of the mobile home park shall be at least 20,000 square feet for every home.

    c. LOTS with on-site subsurface wastewater disposal shall be at least 20,000 square feet.

2. Park size shall include the sum of the individual LOTS plus the following:

    a. Area required for ROAD rights of way.

    b. Area required for buffer strips.

    c. Area set aside for open space, storage or recreation.

3. MOBILE HOMES on LOTS adjacent to a public ROAD shall be set back 100 feet from the center of the right of way and each LOTS shall have 100 feet of frontage.

4. Privately owned ROADS within a mobile home park shall:

   a. Be built according to acceptable engineering standards and with a professional ENGINEER's seal as required by the Manufactured Housing Board.

   b. Have a right of way at least 23 feet in width, 20 feet of which is paved.

   c. Conform to reasonable safety standards applicable to intersections with public way adjacent to the mobile home park. Approval of all intersections is required from the Town ROAD Commissioner.

5. A buffers trip 50 (fifty) feet wide, including individual LOT SETBACKS, shall be provided along any mobile home park boundary which abuts land used for residential use if the per acre density of homes within the park is at least two times greater than the allowed density of residential development on adjacent parcels of land. Natural screening requirements within the first 25 (twenty-five) feet of the buffer strip shall conform to the standards found in the Development Review Ordinance.

6. Dimensional requirements:

   a) Individual LOTS shall have 50 (fifty) feet of frontage on private ROADS within the park. Homes shall be set back 15 (fifteen) feet from any LOT line and 40 feet from the center of the interior ROAD.

7. For mobile home parks served by a public sewer an area equal to 10 (ten) percent of the combined area of the individual LOTS shall be set aside for open space, storage or recreations.

## T. CAMPGROUNDS IN THE SHORELAND OVERLAY ZONE

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including ROADS and DRIVEWAYS, for each site. Land supporting WETLAND vegetation, and land below the normal high-water line of a WATER BODY shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service BUILDINGS shall be set back a minimum of one hundred (100) feet from the normal high-water line of a GREAT POND classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, TRIBUTARY STREAMS, or the UPLAND EDGE of a WETLAND.

## U. INDIVIDUAL PRIVATE CAMPSITES IN THE SHORELAND OVERLAY ZONE

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

1. One campsite per thirty thousand (30,000) square feet of LOT area within the Shoreland Overlay Zone, or per LOT which is smaller than 30,000 square feet and existing as of June 5, 1999, may be permitted.

2. Campsite placement on any LOT, including the area intended for a single recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a GREAT POND classified GPA, and seventy-five (75) feet from the normal high-water line of other water bodies, TRIBUTARY STREAMS, or the UPLAND EDGE of a WETLAND.

3. 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(s) except canopies shall be attached to the recreational vehicle.

4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District Overlay Zone shall be limited to one thousand (1000) square feet, provided that the applicable standards of Section I of this Article are met.

5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner 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.

7. No campsite shall be occupied by more than one recreational vehicle at any time.

## V. HOME OCCUPATION STANDARDS

A Home Occupation use may be approved by the PLANNING BOARD if the applicable municipal and state approvals are obtained and the following standards are met.

1. The existence of the business shall not be discernable from outside the BUILDING.

2. The FLOOR AREA used for the business whether located in the dwelling or an outbuilding shall not exceed 25 percent of the total FLOOR AREA of the dwelling except for a Bed and Breakfast which is exempt.

3. Signage shall be limited to the name of the business on a standard size mailbox and a sign not exceeding one square foot in area for the business entrance.

4. The business shall be conducted by resident(s) of the household and no more than one additional PERSON at a given time.

5. Customary parking for assistants, clients, customers, and visitors shall be limited to two vehicles. Bed and Breakfasts shall have at least one parking space on-site per sleeping room.

6. There shall be no retail sales other than incidental sales related to the service provided.

7. Business uses must comply with all State requirements for that use.

## W. SETBACK REDUCTION PLAN – UDP DISTRICT

1. Applies to new and expanded uses in UDP District.

2. The purpose of the SETBACK Reduction Plan is to allow the SETBACK distance to be reduced if a plan for establishing a landscaped buffer is agreed to by the applicant and approved by the PLANNING BOARD.

3. The landscaped buffer must meet the following criteria:

   a. The plan must be prepared by a landscape architect registered in the State of Maine.
   b. The buffer may include plant materials such as trees or shrubs, walls or fences, and earthen berms, or a combination thereof (but may not consist of only a fence).

   c. The buffer must be sufficient in density and height so as to screen noise, light, or other visual nuisances.

   d. The buffer must be visually pleasing and effective year-round.

   e. The buffer must be maintained.

   f. The burden of proving that these criteria are met is that of the applicant.

4. The SETBACK Reduction Plan will be reviewed by the PLANNING BOARD as part of the Site Plan Review.

## X. SMALL WIND ENERGY CONVERSION SYSTEMS

1. Purpose

The purpose of this ordinance is to regulate the placement and construction of and to provide standards for small wind energy conversion systems that are used to produce electrical power primarily for on-site consumption, in order to promote their safe and efficient use and to minimize the visual, environmental and operational impacts of these systems.

2. Definitions

a) Applicant: The PERSON, firm, corporation, company, limited liability corporation or other entity, which applies for approval under this Ordinance.

b) Negative Visual Impact: A change in the appearance of the landscape as a result of a small wind energy conversion system development that is excessively out of character with its surroundings. Mere visibility, even startling visibility of a small wind energy conversion system, does not of itself constitute a negative visual impact.

c) Small Wind Energy Conversion System: A STRUCTURE consisting of a wind turbine or rotor, a tower, footings, electrical infrastructure, generator, fence and any other associated equipment or STRUCTURES, which has a rated capacity of not more than 50 kilowatts and which is intended to produce electrical power for on-site consumption.

d) Total Height: The vertical distance measured from a point on the ground at the finished grade adjoining the foundation to the top of the wind turbine blade or rotor when it is at the highest position.

e) Tower: The vertical component of a small wind energy conversion system that elevates the wind turbine generator and rotor above the ground.

3. Approval Required

No small wind energy conversion system may be sited, constructed or operated without approval from the West Bath PLANNING BOARD in accordance with the provisions of this Ordinance and applicable provisions of the Town of West Bath Site Plan Review Ordinance.

4. Location

Small wind energy conversion systems are permitted as an accessory use in all Districts within the Town except the Resource Protection Zone.

5. Submission Requirements

a) Applicant: Identification of the property owner and agent or representative if applicable, including all contact information. If the property owner is represented by agent, the agent must supply documentation with the original signature of the owner authorizing the agent or representative to represent the property owner during the application process.

b) Location Map: A location may that will generally show the location of the site within the Town where the small wind energy conversion system is proposed, together with the STREET address, map and LOT number of the property, the book and page reference of the property's deed evidencing title to the site.

c) Site Map: A site plan showing the planned location of the small wind energy conversion system on the property, showing all property lines and SETBACK lines. Map shall also show all existing STRUCTURES, fencing, access ROADS and drives, right-of-ways, turnout locations, electric cabling from the system to the utility, accessory equipment,

within 100' of the system's Safety Zone. The PLANNING BOARD may require the showing of additional physical features of the property and/or a topographical contour map of the area adjacent to the system location.

d) System Definition: Specifications, schematics and drawings prepared by the manufacturer or a professional ENGINEER of the proposed system together with its tower and base or foundation. If an attachment to an existing STRUCTURE is proposed, a description of, or drawing acceptable to the PLANNING BOARD, shall be submitted. This submission shall also include the power generating capacity of the generator, hub weight, rotor diameter, the total height of the STRUCTURE and its specified noise level measured in dB(A), and that noise levels will be in compliance with the development standards in Subsection 7(c) below.

e) Description of the Use: A description of the uses on site that the system is accessory to.

f) Visual Study: A visual representation of the small wind energy conversion system as proposed which may be drawings and or a computerized photographic overlay. The visual study shall also indicate the color treatment of the system's components and any visual screening incorporated into the site that is intended to lessen the system's visual prominence.

g) Notice to Utility: If connection to the publicly regulated utility grid is proposed, a copy of the contract between the applicant and Utility is required, verifying the proposed connection is acceptable or such other evidence that the Utility is aware of and will accept the proposed connection.

h) Clearing: If any clearing/tree cutting is proposed for development of the site, a clearing plan shall be submitted. Within the shoreland zone, tree and other vegetation removal for the development or construction of a small wind energy conversion system shall fully comply with the standards in Article III, Section I.

i) Site Plan Requirements: Such other submissions and information as may be required by the PLANNING BOARD in order to meet site plan review requirements, as determined by the PLANNING BOARD.

j) Property Owners: List of property owners, with their mailing addresses, whose properties are within 200 feet of the boundaries of the proposed project parcel.

6. Siting and Dimensional Requirements

a) LOT Size: The minimum LOT size for a small wind energy conversion system shall be one (1) acre.

b) Limit Per LOT: There shall be no more than one (1) small wind energy conversion system per LOT.

c) Safety Zone: All small wind energy conversion systems shall be SETBACK a minimum horizontal distance of 1.25 times the total height of the system from the property lines, ROADS, EASEMENTS and STRUCTURES. New STRUCTURES shall not be constructed

within the SETBACK area after a small wind energy conversion system is constructed and operating.

d) Height: The total height of a small wind energy conversion system shall not exceed 150 feet.

e) Tree clearing: No clear cutting on a ridge line in excess of a fifty by fifty foot (50’ x 50’) area is allowed.

7. Development Standards

a) On-Site Construction: It shall be the primary purpose of a small wind energy conversion system to produce electrical power for on-site consumption to service a use on that LOT.

b) Maximum Power: The maximum power output for each small wind energy conversion system shall be 50 kilowatts.

c) Noise: Audible noise generated by the small wind energy conversion system at the property boundary line of the proposed site shall not exceed 45 dB(A). Excluded from these noise levels limits are short term events such as severe windstorms.

d) Non-Reflective Color Scheme: The system’s tower, hub and rotor shall be a non-reflective color that blends the system and its components into the background to the greatest extent possible.

e) Visual Impacts: The system shall be designed and located in such a manner to minimize negative visual impacts.

f) Exterior Lighting Prohibited: Exterior lighting on any tower or turbine associated with the small wind energy conversion system shall not be allowed unless required by the FAA.

g) Underground Wiring: All on-site electrical wires associated with the systems shall be installed underground except for “tie-ins” to a public utility company transmission poles, towers and lines. This standard may be modified by the PLANNING BOARD if the project terrain is determined to be unsuitable due to reasons of the need for excessive site work such as blasting.

h) Electromagnetic Interferences: The system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception or off-site communications, surveillance or other similar systems, is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the owner shall promptly eliminate the disruptive interference or cease operation of the system.

i) Signage: At least two signs shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery.

j) Access Control: Towers shall be constructed to provide one of the following means of access control or another appropriate method of access control as approved by the PLANNING BOARD:

(1) Tower climbing apparatus located no closer than twelve (12) feet from the ground.

(2) A locked anti-climb device installed on the tower.

(3) A locked, protective fence surrounding the tower at least six feet in height and at all points at least 6 feet from the tower and any base STRUCTURES.

k) Anchor Points: Anchor points for any guy wires for a system tower shall be located within the site and such that the guy wires do not pass over or under any above-ground electrical transmission lines. The point of attachment for the guy wires shall be enclosed by a fence or sheathed in bright orange or yellow covering from three to eight feet above the ground.

l) Rotor design and Over-Speed Control: The conformance of rotor design and fabrication and over-speed control with good engineering practices shall be certified by the manufacturer.

m) Site Plan Review Standards: Standards in the Town's Ordinances applicable to the siting, construction and operation of the system shall be met unless they are in conflict with this section.

8. Abandonment

A small wind energy system which is not used for eighteen (18) consecutive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.

**Y. Domesticated Chickens**

1. Purpose

The purpose of this ordinance is to provide standards for the keeping of domesticated chickens. The ordinance is intended to enable residents to keep a small number of chickens while limiting the potential adverse impacts on the surrounding neighborhood.

2. Definitions

(a) Henhouse: a structure for the sheltering of chickens.

(b) Chicken Pen: an enclosure connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment.

(c) Enclosure: the combined area of the Henhouse and Chicken Pen.

3. Domesticated Chickens will only be allowed on Lots of at least one acre and must meet the following requirements:

a. Enclosures shall be setback seventy-five (75') feet from any abutting property line, water body, tributary stream or wetland.

b. Chickens shall be kept for personal use only.

c. Chickens shall be secured within the enclosure during non-daylight hours.

d. Enclosures must be clean, dry and odor free, kept in neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of abutters due to noise, odor or other adverse impact.

e. Excessive noise from chickens shall not be a disturbance to abutters.

4. Penalties

a. Violation of any provision of this article shall be a civil violation and a fine not to exceed one-hundred dollars ($100) may be imposed. Each day a violation continues will be treated as a separate offense.

5. Removal of Chickens

a. Any violation of the provisions of this article shall be grounds for an order from the Codes Enforcement Officer to remove the chickens and/or the chicken-related structures. The Animal Control Officer may also order the removal of the chicken s upon a determination that the chickens pose a health risk. If a chicken dies it must be disposed of promptly in a sanitary manner.

## Z. SOLAR ENERGY SYSTEMS

1. Purpose

The purpose of this section is to regulate the placement and construction of and to provide standards for small and large solar energy systems that are used to produce electrical power, in order to promote their safe and efficient use and to minimize the visual, environmental and operational impacts of these systems.

2. Definitions

a. Small Solar Energy System: A solar collection system consisting of one or more rooftop or ground collector devices, which is intended and sized for on-site power consumption. A small solar energy system may be used at a residence or property that also receives electrical power supplied by a utility company.

b. Large Solar Energy System: A complete design or assembly consisting of: one or more rooftop or ground collector devices; an energy storage facility (if applicable); concentrators; buildings; and/or components for the transmission and distribution of transformed energy for offsite use.

3. Location

a. Small Solar Energy Systems are permitted as an accessory use in all land use districts within the Town.

b. Large Solar Energy Systems are permitted as a principal use in the Business & Commercial and Urban Development Park land use districts.

4. Approval Required

a. No Small Solar Energy Systems may be sited, constructed or operated without approval from the Code Enforcement Officer, and must meet the following criteria:

i. The layout, design and installation shall meet and conform to industry standards, including but not limited to the standards of ANSI, UL, ASTM, or other certifying organization.

ii. The Small Solar Energy System shall comply with the requirements of all applicable building codes and life safety codes.

iii. The Small Solar Energy System shall be designed to minimize reflective glare toward adjacent properties, roadways and rights of way.

iv. If the Small Solar Energy System is a ground-mounted system, it shall be set back twice the applicable setback requirement, measured from the point on the device closest to the abutting property line.

v. If the Small Solar Energy System is a rooftop mounted system, it shall not exceed a maximum height of 35 feet above grade.

vi. If the Small Solar Energy System is a ground mounted system, it shall not exceed 15 feet in height.

vii. All onsite utility and transmission lines extending to and from a Small Solar Energy System that is not attached to the principal structure on the property shall be placed underground, unless the applicant demonstrates good cause for the Planning Board to waive this requirement.

b. No Large Solar Energy Systems may be sited, constructed or operated without approval from the Planning Board, and must meet the following criteria:

i. The layout, design and installation shall meet and conform to industry standards, including but not limited to the standards of ANSI, UL, ASTM, or other certifying organization.

ii. The layout, design, and installation shall comply with all building code and applicable life safety requirements.

iii. All onsite utility and transmission lines shall be placed underground, unless the applicant demonstrates good cause for the Planning Board to waive this requirement.

iv. The Large Solar Energy System shall be designed and located to minimize reflective glare toward adjacent properties, roadways and rights of way.

v. If the Large Solar Energy System is mounted on a building, it shall not exceed a maximum height of 35 feet above grade, unless the system is located in the Urban Development Park District and meets the height exceptions contained in Article III, Section (C)(9) of this Ordinance.

vi. Clearly visible warning signage concerning voltage shall be placed on all ground mounted devices and substations.

vii. Clearly visible signage identifying the owner of the facility with contact information shall be mounted on the security fence.

viii. An 8-foot-high security fence shall be erected around the entire ground mounted system with a self-locking gate.

ix. In the event the owner ceases to operate the Large Solar Energy System, the owner shall notify the Town immediately and shall dismantle and remove all solar system components from the property within 12 months of the last day that the system was operational.

x. The Planning Board, in its sole discretion, may hire a consultant to review the design of the Large Solar Energy System, including any technical aspects and/or safety issues related to the site or the design. Any required consultant fees incurred by the Town shall be paid by the applicant.

## AA. COMMUNICATIONS TOWERS

1. Purpose

The purpose of this Section AA is to provide standards for the construction, maintenance and removal of Communications Towers such as cellular, radio, television, pager services, and other wireless telecommunication facilities.

2. Definitions

a. Communications Tower: Any tower, wireless telecommunication facility, structure, antenna, or other device or facility that provides cellular, radio, mobile radio, television, pager services, or other wireless communications.

b. Tower height: The vertical distance from the lowest point on the base of the tower at finished grade to the highest point of the tower, including the antenna and ground rod.

c. FCC: The Federal Communications Commission.

d. FAA: The Federal Aviation Administration.

e. Co-location: The use of a Communications Tower by more than one wireless telecommunications provider.

3. Applicability

This Section AA applies to the construction, expansion, removal of, and/or the co-location on any Communications Tower except:

a. An antenna that is an accessory use to a residential dwelling unit.

b. An amateur (ham) radio station licensed by the FCC.

c. A parabolic antenna less than seven (7) feet in diameter that is an accessory use of a residential dwelling unit.

d. The maintenance, repair, or reconstruction of a Commercial Communications Tower and related equipment, provided that there is no change in the tower height or other dimension of the facility.

e. A temporary Communications Tower erected for emergency communications by public officials that is in operation for less than 90 days and then promptly removed.

4. Approval Required

No Communications Tower may be sited, constructed, or operated without approval of the Planning Board in accordance with the provisions of this Ordinance and the Town of West Bath Development Review Ordinance.

Notwithstanding the foregoing provision, the Code Enforcement Officer shall approve, approve with conditions, or deny any eligible facilities request under Section 6409(a) of the Spectrum Act, 47 U.S.C. § 1455(a), for modification of an existing Communications Tower that does not substantially change the physical dimensions of such tower or base station, as those terms are defined under the Spectrum Act.

5. Notification of Abutters and Public Hearing

The Planning Board shall hold a public hearing within thirty (30) days of the filing of a completed application for a new Communications Tower. The Planning Board shall publish the time, date and place of hearing at least twice in a newspaper of area-wide circulation, the date of the first publication to be at least seven days prior to the public hearing. The abutting landowners within 1,000 feet of the proposed Communications Tower shall be notified by the Applicant via certified letter of the hearing at least fourteen (14) days prior to the public hearing. Applicant shall provide proof of mailings to the Planning Board at the Public Hearing. Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30-A, M.R.S.A. § 2691(3)(a)-(e). The cost of publication and notification of abutters shall be borne by the applicant.

Notwithstanding any other provision of this Ordinance to the contrary, the Planning Board may expedite the application review process set forth in this Section in order to comply with the federal Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7), and its accompanying rules and regulations, as may be amended from time to time, or any other federal or State law that imposes specific time periods for completion of review of completed Planning Board applications.

6. Application for Proposed Communications Tower

In addition to the requirements set forth in Article XII, Sec. 13.1(C) of the Development Review Ordinance, an application for a Communications Tower shall include the following:

a. A survey plan delineating fall zones, setbacks, proposed structures, and all other details of the proposed Communications Tower as are required herein.

b. A proposed landscaping and driveway access plan showing size and type of plantings in order to create an adequate vegetative buffer to reduce the impact of the Communications Tower and associated facilities on adjacent properties to the greatest extent possible.

c. At least three (3) simulated depictions of the Communications Tower from locations as requested by the Planning Board, including views from nearby roadways and elevations within a two (2) mile radius of the proposed site.

7. Co-location; Speculative Towers

As a prerequisite for obtaining approval for the construction of a new Communications Tower, the applicant shall demonstrate to the Planning Board that co-location or shared use of an existing tower or structure within 1.5 miles of the proposed site is impossible or unfeasible. The application for a new Communications Tower must include evidence of an existing contract with a carrier for the future use of the tower. The applicant shall further demonstrate that the Communications Tower would be suitable and available for co-location of other future wireless providers. No Speculative Towers are allowed

8. Location

Communications Towers are permitted in the following land use districts:

a. Business & Commercial District.

b. Rural Residential District, provided that the tower is a camouflaged monopine tower or is co-located on an allowed building or structure, such as a church steeple. All tower setback and height restrictions apply.

c. Urban Development Park District, provided that the tower is a camouflaged monopine tower or is co-located on an allowed building or structure, such as a church steeple. All tower setback and height restrictions apply.

9. Safety and conformance with existing standards

A Communications Tower and all appurtenant facilities shall conform with and be constructed to all applicable American National Standards Institute (ANSI) technical and structural codes and shall comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.”

10. Height limits

A Communications Tower may not exceed a tower height of 150 feet above finish grade, including antennas or other structures attached to the tower.

11. Fall Zone, Setbacks

A Communications Tower shall have a “fall zone” setback from all property boundary lines equal to a distance of 125% or more of the tower height, or two times the applicable setback requirement for the land use district, whichever is greater. Accessory buildings, guy wires, and other facilities must meet all applicable setback requirements for the land use district.

12. Access, noise, and lights

The Communications Tower and associated building(s) and facilities shall be enclosed with an eight-foot-high fence and locked gate in order to discourage trespassing on the property and climbing on the tower or other structures. The property shall have signage warning of the dangers at the facility including “Keep Out” and “No Trespassing” signs.

Noise levels shall not exceed 45 dBA Sound Pressure Level, measured at the property boundary line of the proposed site, except that noise associated with an emergency backup generator is exempt from this standard if running during an emergency. In addition, the emergency backup generator may be tested for short durations sufficient to test reliability and for maintenance between the hours of 9:00 a.m. and 5:00 p.m. local time, Monday through Friday.

No lights or security lights are allowed which will illuminate an abutting property. Any lighting that is required by FCC or FAA regulations are exempt from this standard but must avoid illuminating an abutting property as much as practical.

13. No inference with existing towers, antennas, and microwave paths

The applicant shall demonstrate through an engineering study that the Communications Tower will not create any interference with any existing towers, antennas, wireless signals, microwave paths and/or existing wind generation facilities, and shall provide proof of all required FCC and FAA approvals for the Communications Tower.

14. No applicability to small wind energy conversion systems

This Section AA applies only to Communications Towers as defined herein and not to towers related to small wind energy conversion systems regulated under Article III, Section X of this Ordinance.

15. Abandonment

A Communications Tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. It is the Tower Owner’s responsibility to notify the Town when the tower is no longer needed and that its use will be discontinued. If the Town discovers the tower has been abandoned the CEO shall notify the owner of the abandoned facility in writing and order the removal of the facility within ninety (90) days of the owner’s receipt of the CEO’s written notice. The owner of the facility shall have thirty (30) days from the receipt of the

notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.

16. Removal Bond

Prior to the commencement of the construction of any Communications Tower, the applicant shall provide the Town with a performance bond or letter of credit in an amount sufficient to cover the cost of removal of the facility if it is abandoned as set forth above, including all site reclamation costs deemed necessary to return the site to its pre-construction condition, such as the removal of any road and reestablishment of vegetation. In order to determine the initial cost of removal of the facility and site reclamation costs, the applicant shall provide an estimate from an independent professional engineer. The applicant shall maintain such bond or replacement bond/letter of credit in place throughout the time period that the Communications Tower is in existence, and for three (3) years thereafter. The performance bond or letter of credit or any replacement performance bond/letter of credit shall be subject to the prior approval of the Town Attorney. The amount of the performance bond or letter of credit or any replacement performance bond/letter of credit shall be increased by 15% on the first of January every five years. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

# ARTICLE IV
# BOARD OF APPEALS

## A. COMPOSITION, APPOINTMENTS, QUALIFICATIONS AND TERMS

The Town of West Bath shall have a Board of Appeals consisting of five members and one associate member, all of whom shall be appointed by the Board of Selectmen. All members of the Board of Appeals shall be residents of the Town of West Bath and registered voters thereof. Members of the Board of Selectmen, their spouses, and members of the PLANNING BOARD shall not be eligible to serve on the Board of Appeals. Members of the Board of Appeals shall serve staggered three-year terms. If a vacancy occurs, the term of the PERSON appointed to fill the vacancy shall be for the period of the unexpired term. The terms of the members shall expire on January 31st unless a replacement has not been appointed, in which case the term of the expiring member shall be extended until a replacement is named.

## B. ORGANIZATION AND MEETINGS

The Board of Appeals shall annually elect a Chairman, Vice Chairman, and Secretary and other such officials as it chooses from its membership. The election of officials shall occur at the first meeting of the Board after January 31st of each year.

The Chairman's duties shall consist of calling of the meetings, establishing agendas for the meeting, presiding at meetings, and for representing the Board before other bodies. The

Vice Chairman shall be responsible for carrying out the duties of the Chairman in his absence or incapacity. The Secretary shall be responsible for keeping minutes of the proceedings of the Board of Appeals, and for making these minutes available to the public.

The Board of Appeals shall meet monthly, provided there is business for the Board to address. The Chairman shall also call such other meetings as are necessary, or a meeting may be called upon a written request of three members of the Board.

All meetings of the Board of Appeals shall be announced to the general public in accordance with State law. Meetings of the Board shall be open to the public, and shall be conducted in accordance with such rules of procedure as the Board may determine, in compliance with applicable State and local laws.

A quorum shall consist of three members of the Board. If one or more regular members are absent, then the associate member shall participate as a regular member if he is present.

All members present and not excused from voting shall vote on each item. The Secretary shall record results of all votes, and the vote of a majority of those members present and voting shall be required for the passage of any item of the Board's business.

## C. CONFLICT OF INTEREST

No member of the Board shall vote on or participate in any matter in which he as direct or indirect financial or personal interest. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged. No member of the Board shall represent any third party in matters coming before the Board.

## D. POWERS AND DUTIES

The Board of Appeals shall have the following powers and duties:

1. Variance Appeals – The Board shall hear and decide requests for a variance from the strict enforcement of the provisions of this Land Use Ordinance adopted in accordance with 30-A MRSA § 4353 as follows:

    a. Undue hardship zoning variance pursuant to 30-A M.R.S.A. § 4353(4) shall meet section 5A standards of review.

    b. Disability Variance pursuant to 30-A M.R.S.A. § 4353 (4-A) shall meet section 5B standards of review.

    c. Set-back variance for single-family dwellings pursuant to 30-A M.R.S.A. § 4353 (4-B) shall meet section 5C standards for review.

    d. Variance from dimensional standards relating to practical difficulty pursuant to 30-A M.R.S.A. § 4353 (4-C) shall meet section 5D standards of review. A practical difficulty variance may not be granted to allow an increase in either volume or

FLOOR AREA, or to permit the location of a STRUCTURE to be situated on a LOT in a way which is contrary to the provisions of the West Bath Land Use Ordinance.

2. Administrative Appeals – The Board shall hear and decide administrative appeals that are referred to it regarding decisions of the PLANNING BOARD, or the Building Inspector/Codes Enforcement Officer, with regard to the provisions of this Ordinance or the Town of West Bath Development Review Ordinance. The Board's role in these matters is strictly appellate review and in no case will the Board conduct a de novo review. Enforcement decisions by the Codes Enforcement Officer may not be appealed to the Board. Application for an administrative appeal shall be made to the Board of Appeals on a form provided for that purpose. The application shall be accompanied by the filing fee, which will be determined by the Selectmen on an annual basis. The applicant shall also pay all advertising fees that are required to meet legal notice requirements. Notwithstanding any other provision of this Ordinance to the contrary, the Board may expedite the application/appeal review process set forth in this Section in order to comply with the federal Telecommunications Act of 1996, 47 U.S.C. §332 (c)(7), and its accompanying rules and regulations, as may be amended from time to time, or any other federal or State law that imposes specific time periods for completion of review of completed Board of Appeals applications/appeals.

## E. VARIANCES

1. Variance Defined – Variance is the relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

    a. *Undue hardship* relates to a problem created by some feature of the land, not a personal problem of the applicant.

    b. *Practical difficulty* means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

    c. *Dimensional Standards* means and is limited to ordinance provisions relating to LOT area, LOT coverage, frontage and SETBACK requirements.

    d. An *undesirable change in the neighborhood* as it relates to the "practical difficulty" variance is defined so that the STRUCTURE can be no larger or closer to the ROAD or property lines than the majority of STRUCTURE within that neighborhood or would not result in a percentage of LOT coverage which was greater than the majority of LOTS in that neighborhood.

    e. *Unreasonable detrimental effect* is defined so that a variance for the subject property will not block an established view, pose a fire safety hazard, or reduce the appraised value of the adjoining LOT.

2. Items for which a variance may be granted – As used in this Code, a variance may be authorized for only the following items:

    a. Minimum LOT area except for Bulk Hazardous Substance Uses

    b. SETBACKS except for distance from normal high water mark <u>or</u> UPLAND EDGE of a WETLAND

    c. LOT Frontage, ROAD Frontage, Shore Frontage

    d. Percentage of a LOT coverage

    e. Temporary disability access

    f. DRIVEWAY or ROAD grade within fifty (50) feet of an intersection with a Town Road, State Aid Road, or State Road.

    Establishment of a use otherwise prohibited shall not be allowed by variance.

3. Application – Application for a variance shall be made to the BUILDING Inspector on forms provided for that purpose. The application shall be accompanied by the filing fee, which will be determined by the Selectmen on an annual basis. The applicant shall also pay all advertising fees required by state or local ordinances to meet legal notice requirements.

4. Procedure – The Building Inspector shall forward the application for variance to the Board of Appeals. Upon receipt of the application, the Board shall set the matter for hearing at its next scheduled meeting. The time, date, and place of the public hearing on the application shall be advertised in a newspaper having general circulation in the Town of West Bath at least seven days prior to the date of the hearing. The Board shall notify all abutters in writing of the pendency of the application by regular mail at least seven days prior to the date of said Hearing, said notice to indicate the nature of the application, and the time, date and place of hearing. The Board shall act on the application within 45 (forty-five) days of the date of the first consideration.

5. Standards of Review – Prior to allowance for variance, the Board of Appeals shall make specific findings that all of the standards for the type of variance being sought have been met and that the requirements of this Code applicable to an item for which a variance may be granted will impose an undue hardship on the property of the owner. No variance shall be granted solely on economic considerations.

    a. Undue Hardship Variance:

        1) That the relief sought would not adversely affect adjoining property or property in the same neighborhood, or in the same zoning district and would not endanger the public health, safety, or convenience of the inhabitants of the Town of West Bath, nor would it impair the integrity of the Ordinance and COMPREHENSIVE PLAN of the Town of West Bath.

2) That the hardship is not the result of action taken by the applicant or by a previous owner.

3) That the need for variance is due to unique circumstances of the property and not to general conditions of the neighborhood.

4) That all other requirements of the Land Use and Development Review Ordinances have been or will be met.

5) That the land in question cannot yield a reasonable return unless a variance is granted.

6) The granting of a variance will not alter the essential character of the locality.

b. Disability Variance – The Board 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 resides in or regularly uses that 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. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5 § 4553 and the term "STRUCTURES necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the STRUCTURE.

**c.** SETBACK Variance for single-family dwellings – A variance may be granted from a set-back requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The Board may attach reasonable conditions, which it finds necessary to protect the privacy of abutting property owners and neighbors. These conditions are limited to specifications for landscaping, fencing, and parking. The term "undue hardship" as used in this subsection means:

1) The need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;

2) The granting of a variance will not alter the essential character of the locality;

3) The hardship is not the result of action taken by the applicant or a prior owner;

4) The granting of the variance will not substantially reduce or impair the use of abutting property; and

5) That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance granted under this subsection is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-

round residence of the petitioner. A variance under this subsection may not exceed 20% of a SETBACK requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible LOT coverage.

d. Practical difficulty/dimensional standards variance – The Board may grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

1) The need for a variance is due to the unique circumstances of the property and not the general condition of the neighborhood;

2) The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

3) The practical difficulty is not the result of action taken by the petitioner or a prior owner;

4) No other feasible alternative to a variance is available to the petitioner or a prior owner;

5) The granting of a variance will not unreasonably adversely affect the natural environment; and

6) The property is not located in whole or in part within shoreland areas as described in Title 38 § 435

6. Conditions of Approval – The Board of Appeals is empowered to impose such conditions on the property owner as are necessary and appropriate to protect abutting property owners or the Town as a whole from any adverse impact resulting from the granting of such a variance. Any violation of such condition imposed by the Board of Appeals shall result in revocation of approval by the Board.

   The Board of Appeals shall limit any variances granted as strictly as possible 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.

~~7.~~ Expiration – The variance granted by the Board of Appeals shall expire if the construction or change involved is not commenced within one (1) year of the date on which the variance is granted, or if the work or change is not substantially completed within two (2) years from the date of approval, unless either of these time periods is extended by the order of the Board. A temporary disability access variance shall expire when the disability disappears or the disabled individual is no longer resident.

8. Re-application – If the Board of Appeals shall deny a variance, a second request of similar nature shall not be brought before the Board within one (1) year of the date of denial of the first request, unless in the opinion of the majority of the Board, substantial new evidence can be brought forward, or unless the Board finds in its own exclusive judgment that an error of law or a misunderstanding of facts has been made.

9. Misrepresentation – The Board of Appeals shall retain the right to vacate any approval of a variance if further information or additional investigation reveals that there has been a misrepresentation of information presented to the Board.

10. Prior Work – Any construction activity commenced prior to the granting of a required variance shall be a violation of this Code and shall be subject to the penalties stated herein.

11. Notice to Department of Environmental Protection – 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 action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

## ARTICLE V
## ENFORCEMENT AND PENALTIES

A. The Board of Selectmen is hereby given power and authority to enforce the provisions of this Ordinance. The Codes Enforcement Officer shall be delegated the authority to enforce the provisions of this Ordinance on behalf of the Selectmen.

B. It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this Land Use Ordinance and the Development Review Ordinance. If any provision of this Ordinance is being violated, the Codes Enforcement Officer shall notify in writing the PERSON responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, BUILDINGS, or STRUCTURES, or work being done, removal of illegal BUILDINGS or STRUCTURES, and abatement of nuisance conditions.

C. The BUILDING Inspector/Codes Enforcement Officer, upon being informed in writing of a possible violation of this Ordinance, or on his own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. After investigation, on evidence of any violation, the BUILDING Inspector shall give written notice of such violation to the owner and to the occupant of such premises. The BUILDING Inspector shall demand in such notice that such violation be abated within some designated reasonable time.

D. Legal Actions – When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers or the BUILDING Inspector are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, 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.

E. Fines – Any PERSON who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to $100.00 for each violation. Each day such violation is continued a separate offense is considered.

F. If any conflict exists between this Ordinance and any other ordinance, the more strict will prevail.

# Development Review Ordinance

THIS UNOFFICAL TABLE OF CONTENTS IS NOT A PART OF THE ORDINANCE AND IS PROVIDED FOR CONVENIENCE ONLY.

TABLE OF CONTENTS


ARTICLE I. PURPOSES ……..… 72

ARTICLE II. AUTHORITY AND ADMINISTRATION ……. 74

SUBDIVISIONS (header not addition)

ARTICLE III. ADMINISTRATIVE PROCEDURE FOR SUBDIVISIONS …….. 76

ARTICLE IV. SKETCH PLAN FOR SUBDIVISION …….. 76

ARTICLE V. PRELIMINARY PLAN FOR SUBDIVISION …….. 77

ARTICLE VI. FINAL PLAN FOR SUBDIVISIONS …….. 82

ARTICLE VII. REVISIONS TO APPROVED PLANS …….. 87

ARTICLE VIII. ENFORCEMENT ……. 87

ARTICLE IX. GENERAL STANDARDS ……. 89

ARTICLE X PERFORMANCE GUARANTEES …… 101

STREETS & DRAINAGE

ARTICLE XI. STREET AND STORM DRAINAGE- CONSTRUCTION STANDARDS …….102

SITE PLANS (header not addition)

ARTICLE XII. PROCEDURES AND SUBMISSIONS FOR SITE PLAN REVIEW APPLICATIONS …… 109

ARTICLE XIII. GENERAL PERFORMANCE STANDARDS FOR SITE PLAN REVIEW ……... 113

ARTICLE XIV. WAIVERS …… 123

ARTICLE XV. APPEALS …… 123

DEFINITIONS. ..…… 124

## ARTICLE I. – PURPOSES

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of West Bath, to protect the environment and to promote the development of an economically sound and stable community. To this end, in reviewing proposed SUBDIVISIONS and site plans within the Town of West Bath, Maine, the PLANNING BOARD shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed SUBDIVISION or site plan review will meet the guidelines of Title 30-A, M.R.S.A. Section 4404. Each development requiring SUBDIVISION and/or site plan review:

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

**1.2** Has sufficient water available for the reasonable foreseeable needs of the SUBDIVISION and/or site plan;

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

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

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

**1.6** Will provide for adequate solid and sewage waste disposal;

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

**1.8** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

**1.9** Is in conformance with a duly adopted SUBDIVISIONS regulation or ordinance, COMPREHENSIVE PLAN, development plan or land use plan, if any. In making this determination the PLANNING BOARD may interpret these ordinances and plans.

**1.10** The developer has adequate financial and technical capacity to meet the standards of this section.

**1.11** Whenever situated in whole or in part, within the watershed of any POND or lake or 250 feet of any WETLAND, GREAT POND, river, as defined in Title 38 M.R.S.A. chapter 3, subchapter I, article 2-B, or within 250 feet of tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

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

**1.13** If the SUBDIVISION or site plan or any part of either the SUBDIVISION or site plan, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant, is in a flood prone area, the sub-divider or developer shall determine the 100-year flood elevation and flood hazard boundaries within the SUBDIVISION or site plan. The proposed SUBDIVISION plan or site plan must include a condition of plan approval requiring that principal STRUCTURES in the SUBDIVISION or site plan will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

**1.14** All FRESHWATER WETLANDS within the proposed SUBDIVISION or site plan have been identified on any maps submitted as part of the application, regardless of the size of the these WETLANDS. Any mapping of FRESHWATER WETLANDS may be done with the help of the local soil and water conservation district;

**1.15** Any river STREAM or brook has been identified on any maps submitted as part of the application. For purposes of this section, "river, STREAM or brook" has the same meaning as in Title 38, M.R.S.A. section 480-B, subsection 9;

**1.16** Will provide for adequate storm-water management;

**1.17** If any LOTS in the proposed SUBDIVISION and/or site plan have shore frontage on a river, STREAM, brook, GREAT POND or COASTAL WETLAND as those features are defined in Title 38 M.R.S.A. section 480-B, none of the LOTS created within the SUBDIVISION and/or site plan shall have a LOT depth to shore frontage ratio greater than 5 to 1;

**1.18** The long term cumulative effects of the proposed SUBDIVISION and/or site plan will not unreasonably increase a GREAT POND'S phosphorus concentration during the construction phase and life of the proposed SUBDIVISION and/or site plan; and

**1.19** Impact on adjoining municipality. For any proposed SUBDIVISION that crosses municipal boundaries, the proposed SUBDIVISION will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the SUBDIVISION is located.

# ARTICLE II – AUTHORITY AND ADMINISTRATION

## 2.1 TITLE

This Ordinance shall be known and be cited as the "Development Review Ordinance of the Town of West Bath."

## 2.2. AUTHORITY AND ADMINISTRATIVE BODIES

A. This Ordinance is adopted pursuant to the Home Rule Powers as provided for in Title 30-A, chapter 111, section 2101 thru 2109, and the Constitution of Maine, Article VIII, part 2nd, and Title 30-A, section 4403 of the Maine Revised Statutes Annotated.

B. 1. PLANNING BOARD - The PLANNING BOARD shall administer the Land Use Ordinance and the Development Review Ordinance

a. for all business and commercial uses;
b. for all home occupations;
c. for all SUBDIVISION plans and amendments thereto;
d. for all uses in the Shoreland Overlay Zone except conforming residential and; associated accessory uses including DRIVEWAYS and residential docks;
e. for all uses in the Resource Protection Overlay Zones; and
f. for all Communications Towers

2. BUILDING Inspector/Codes Enforcement Officer - The BI/CEO shall administer the Land Use Ordinance for all uses not administered by the PLANNING BOARD, unless the BI/CEO requests PLANNING BOARD Review. In addition, the Code Enforcement Officer shall approve, approve with conditions or deny any eligible facilities request under Section 6409 (a) of the Spectrum Act, 47 U.S.C. §1455 (a) for modification of an existing Communications Tower that does not substantially change the physical dimensions of such tower or base station, as those terms are defined under the Spectrum Act.

## 2.3. APPLICABILITY

The provisions of this Ordinance shall apply to the following land uses and BUILDINGS within the boundaries of the Town of West Bath.

A. SUBDIVISIONs as herein defined:

B. Site Plan Reviews for BUILDING(s), STRUCTURE(s), and use(s) of land for commercial, industrial, office, multiple dwelling residences, municipal, institutional, utility, fraternal, and recreational purposes, including:

1. New BUILDINGS and STRUCTURES;

2. New uses of existing BUILDINGS, STRUCTURES and land;

3. Resumption of uses which have been discontinued for at least two years; and

4. Existing uses which seek to expand by either 1000 square feet or 25% in area, whichever is lesser, within any 10-year period, in floor space, parking area, seating capacity, or outdoor storage area.

**2.4 EXEMPTIONS**

This Ordinance does not apply to the following:

A. Existing uses or uses which were legally established prior to the adoption of this Ordinance:

B. Detached single family and two family DWELLING UNITS, when not part of a new SUBDIVISION or new development proposal;

C. AGRICULTURAL land management and forest management practices; and

D. Small-scale home occupations and workshop operation if, and only if, the Board finds that the proposed use will not create undue disturbances to abutting and neighboring landowners from noise, smoke, dust, fumes, odor, glare, traffic, storm water runoff or the pollution of ground or surface water resources.

**2.5 CONFLICTING ORDINANCES**

Whenever a provision of this Ordinance is in conflict with another provision of this Ordinance or of any other lawfully adopted rule, regulation, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

**2.6 REPEAL AND SUPERSEDURE**

This Ordinance upon adoption by the Town repeals SUBDIVISION Regulations of West Bath and supersedes all other provisions of said Ordinance.

**2.7 SEPARABILITY**

In the event that any section, subsection or any provision of this Ordinance shall be declared by any other court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

**2.8 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 PLANNING BOARD or by request of the Board of Selectmen or by petition signed by a number of registered voters greater than 10% of the votes cast in the last gubernatorial election in the Town. The PLANNING BOARD shall conduct a public hearing on the amendments.

**2.9 EFFECTIVE DATE**

The provisions of this Ordinance shall become effective on April 1, 1988.

## ARTICLE III – ADMINISTRATIVE PROCEDURE FOR SUBDIVISIONS

**4.1** **Purposes**. The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing SUBDIVISIONS.

**4.2** **Agenda**. In order to avoid unnecessary delays in processing applications for SUBDIVISION review, the Board shall have an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda by submitting their application to the Town at least 12 days in advance of the regularly scheduled meeting. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's agenda as published in the local paper.

## ARTICLE IV – SKETCH PLAN FOR SUBDIVISIONS

**5.1** **Purpose**.

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

**5.2** **Procedure**

A. Applicant submission of Sketch Plan Application to Town prior to initial meeting per application instructions.

B. Applicant presentation and submission of sketch plans.

C. Question and answer period. Board may make specific suggestions to be incorporated by the applicant into subsequent submissions.

D. Scheduling of on-site inspection.

**5.3** **Submission.** The Pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of STREETS, LOTS, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with a clarification letter to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed SUBDIVISION, and provide a copy of the County soil survey showing the outline of the proposed SUBDIVISION.

For SUBDIVISIONS on 10 or more acres in the Residential District or Urban Development Park District the PLANNING BOARD encourages applicants to consider the possible advantages of utilizing a CLUSTER SUBDIVISION approach as provided for in Article IX 10.8 of this Ordinance.

Accordingly, all residential SUBDIVISIONS on a parcel of 10 or more acres located in the Residential District or Urban Development Park District shall be submitted with one layout as a standard SUBDIVISION, and a second layout showing the proposed development as a CLUSTER SUBDIVISION indicating open space and significant natural features. The number of buildable LOTS or DWELLING UNITS in the cluster development shall not exceed the number of LOTS or DWELLING UNITS permitted in the standard SUBDIVISION.

The Clarification Letter shall describe, or the sketch plan shall indicate, the natural features to be preserved using the cluster approach.

Ultimately, it will be the Developer's decision whether to apply for approval of a standard, or CLUSTER SUBDIVISION.

**5.4 Contour Interval and On-Site Inspection.** Within thirty days of the on-site inspection of the property, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan.

**5.5 Rights not Vested.** The submittal or review of the Sketch Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A. §302.

## ARTICLE V – PRELIMINARY PLAN FOR SUBDIVISION

### 6.1 Procedure.

A. Within six months of the on-site inspection by the Board, the applicant shall submit 3 copies of the preliminary plan for review. Failure to do so shall require resubmission of the Sketch Plan to the Board. Applications shall be submitted at least 12 days prior to a scheduled meeting of the Board by mail or delivered by hand to the Town Office.

B. The applications for preliminary SUBDIVISION approval shall be accompanied by a non-refundable application fee in accordance with the Town of West Bath PLANNING BOARD Fee Schedule. In addition, the Applicant shall pay all fees incurred by the Board to hire independent consulting services to review the application when necessary.

C. The Applicant shall notify in writing all owners of property abutting the proposed subdivision, including property on the opposite side of the ROAD that an application for SUBDIVISION approval has been submitted. The notification letter shall specify the location of the proposed SUBDIVISION and include a general description of the project. The applicant shall provide in his application the names and addresses of all abutting property owners notified.

D. Upon receiving an application form and fee for a Preliminary Plan, the Town Clerk shall issue a dated receipt. The Clerk shall forward the application to a Board Member for review to determine submission requirements have been met. The

Board shall notify the applicant in writing (email) whether or not the application is complete, and what, if any, additional items are required for a COMPLETE APPLICATION.

E. Upon determination that a COMPLETE APPLICATION has been submitted for review, the Board_member will ask the Clerk to add applicant to the Board meeting Agenda and schedule a public hearing.__The Board shall hold the hearing within thirty days of receipt of a COMPLETE APPLICATION, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. Abutters will be notified of the hearing by the Applicant via mail.

F. The Applicant, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan. Failure to attend the meeting to present the preliminary plan application shall result in the Board not acting on the application until the next meeting that the applicant attends.

G. Within three days of the meeting at which a Preliminary Plan application for SUBDIVISION is initially presented, the Board shall:

1. Make Findings of Fact on the application and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its Findings of Facts and reasons for any conditions or denial.

2. Notify the clerk and the review authority of the neighboring municipalities if any portion of the SUBDIVISION abuts or crosses the municipal boundary.

H. When granting approval to a Preliminary Plan, the Board shall state and follow-up in writing the conditions of such approval, if any, with respect to:

1. The specific changes which the Board will require for the Final Plan submission;

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

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

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

## 6.2 Submissions.

The Preliminary Plan shall consist of the following items.

A. Application Form and Checklists.

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

1. All existing SUBDIVISIONS and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any STREET adjoining the proposed SUBDIVISION.

2. Locations and names of existing and proposed STREETS, EASEMENTS, and rights of way.

3. Boundaries and designations of zoning districts and overlay zones.

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

C. Preliminary Plan. The Preliminary Plan shall be submitted with all dimensions shown in feet or decimals of a foot. The reproducible transparencies shall include the seal of the individual responsible for preparing the plan. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for SUBDIVISIONS containing more than 75 acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Space shall be provided for endorsement by the Board with 5 signature lines.

The Preliminary Plan shall include the following information:

1. Proposed name of the SUBDIVISION, the name of the municipality in which it is located, and the Tax Assessor's Map and LOT numbers.

2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the plan shall indicate the type of surveyor monumentation per 30-A M.R.S.A. § 4406(2) set or found at each LOT corner.

3. Contour lines at intervals of not more than five (5) feet or at such intervals as the PLANNING BOARD may require, based on United States Geological Survey datum of existing grades where changes of existing ground elevation will be five (5) feet or more.

4. The zoning district in which the proposed SUBDIVISION is located and the location of any zoning boundaries affecting the SUBDIVISION.

5. The number of acres within the proposed SUBDIVISION, location of property lines, existing BUILDINGS, watercourses, and other essential existing physical features.

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

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

8. The location of all rivers, STREAMS and brooks within or adjacent to the proposed SUBDIVISION.

9. If any portion of the proposed SUBDIVISION is located within the watershed of Campbell POND, the preliminary plan shall show the Campbell POND watershed boundary location. The Plan shall also show preliminary locations of proposed phosphorous controls as required under Article 10.6.F

10. The location, names, and present widths of existing and proposed STREETS, highways, EASEMENTS, BUILDING lines, parks and other open spaces on or adjacent to the SUBDIVISION. The plan shall contain sufficient data to allow the location, bearing and length of every STREET line, LOT line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.

11. The proposed LOT lines with approximated dimensions and LOT areas.

12. All parcels of land proposed to be dedicated to public use. The conditions of such dedication should be represented in support documents.

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

14. Soil erosion and sedimentation control measures per Stormwater Best Management Practices shown on plan.

15. A Draft Stormwater Management Plan showing the disposal of surface drainage waters, prepared by a Registered Professional ENGINEER.

16. If any portion of the SUBDIVISION is in a flood-prone area, as depicted on the municipalities Flood Insurance Rate Map, the boundaries of any flood hazard areas and the 100-year flood elevation, shall be delineated on the plan.

17. Building envelopes for each proposed lot within the Subdivision shall be shown. They shall represent front, rear and side setbacks along with any additional setbacks required from easements, shoreland or wetland areas.

18. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

D. Supporting Documentation

1. Verification of right, title or interest in the property

2. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, Easements, right-of-way, or other encumbrances currently affecting the property.

3. A draft copy of any covenants or deed restrictions intended to cover all or part of the LOTS in the SUBDIVISION.

4. Indication of the type of sewage disposal to be used in the SUBDIVISION.

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

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

5. Indication of the type of water supply system(s) to be used in the SUBDIVISION.

   a. When water is to be supplied by public water supply, a letter from the servicing water district shall be submitted, indicating there is adequate supply and pressure for the SUBDIVISION and that the district approves the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the fire chief, stating approvals of the location of fire hydrants, if an, and a written statement from the district approving the design of the extension shall be submitted.

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

6. The names and addresses of owners of record of adjacent property, including any property directly across an existing public STREET from the SUBDIVISION.

7. A copy of the county Soil Survey showing the SUBDIVISON outline. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist, indicating the suitability of soil conditions for those uses. The intensity of

this study may be required to identify changes in soil conditions down to one-tenth acre.

8. Method of solid waste disposal.

9. At the discretion of the PLANNING BOARD, a hydrogeologic assessment, prepared by a Maine-certified professional hydrogeologist, describing proposed development's impacts on groundwater may be required. In cases where a multi-user wastewater disposal system is proposed, a hydrogeologic assessment shall be a required submission.

10. WETLAND areas, regardless of size, shall be identified by a Certified Soil Scientist or WETLAND scientist, and their locations shown on the plan.

11. If the proposed SUBDIVISION is in the Campbell POND watershed, include a long-term maintenance plan for all phosphorus control measures, including deed restrictions and/or conservation EASEMENTS.

12. A copy of any access management DRIVEWAY and/or entrance permit(s) required for the proposed SUBDIVISION under 17-229 Maine Administrative Rules, Chapter 299.

13. Copies of any other federal, state or local permits required for the proposed SUBDIVISION.

14. If the record owner or sub-divider is a corporation, the principles of such Corporation, LLC, or Partnership shall be listed with officers so designated and documentation showing that the organization is in good standing with appropriate registration agency shall be provided.

The PLANNING BOARD may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A, M.R.S.A., §4404 and this ordinance are met.

## ARTICLE VI – FINAL PLAN FOR SUBDIVISION

### 7.1 Procedure.

A. Within six months after the approval of the Preliminary Plan, the applicant shall submit 3 copies of the Final Plan application for approval with the Board. Applications shall be submitted at least 12 days prior to a scheduled meeting of the Board by mail or delivered by hand to the Town Office. If the application for the Final not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in

writing, with the Board prior to the expiration 6 month filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended since Preliminary Approval.

B. The applications for Final Subdivision approval shall be accompanied by a non-refundable application fee in accordance with the Town West Bath PLANNING BOARD Fee Schedule, payable by check to the Town of West Bath. In addition, the applicant shall pay all fees incurred by the Board to hire independent consulting services to review the application when necessary.

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

1. Maine Department of Environmental Protection under the Site Location of Development Act, and Natural Resources Protection Act or if a Wastewater Discharge license is needed.

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

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

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

5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.

D. Upon receiving an application form and fee for a Final Plan, the Town Clerk shall issue a dated receipt. The Clerk shall forward the application to a Board member for review to determine submission requirements have been met. The Board shall notify the applicant in writing (email) whether or not the application is complete and what if any, additional item are required for a complete application.

E. Upon determination that a COMPLETE APPLICATION has been submitted for review, the Board member will ask the Clerk to add applicant to the Meeting Agenda. The Board shall determine whether to hold a public hearing on the Final Plan application following same guidelines as outlined in Preliminary Plan Submission for Public hearings.

F. The Applicant, or their duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

Failure to attend the meeting to present the final plan application shall result in the Board not acting on the application until the next meeting which the applicant attends.

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

H. The Board, within thirty (30) days from the public hearing or within sixty (60) days of receiving a COMPLETE APPLICATION, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to by the Board and the developer, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, M.R.S.A. Section 4404 and in these regulations. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the SUBDIVISION. The reasons for any conditions shall be stated in the records of the Board.

I. Within 30 days of final approval, all lot corners must be marked on the ground as shown on the plan. No lot may be sold without the required monumentation.

**7.2 Submissions.**

The Final Plan application shall consist of the following items.

A. Application Form and Checklist

B. Location Map on Plan (Locus). Location may will show the relationship of the proposed subdivision to the adjacent properties and to also show its location in the municipality.

C. Final Plan. The Final Plan shall be submitted as drawings drawn to a scale of not more than one hundred feet to the inch. Plans for SUBDIVISIONS containing more than seventy-five (75) acres may be drawn at a scale of not more than two hundred (200) feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of one and a half inches outside of the border line on the left side for binding and a one half-inch margin outside the border along the remaining sides. Space shall be reserved thereon with at least 5 lines for endorsement by the Board. Applicant should provide one reproducible, stable based mylar transparent original to be recorded at the Registry of Deeds, and at least two copies of the plan for the Town to retain.

As required by Title 33 M.R.S.A., Section 652, any plan to be recorded at a Registry of Deeds must:

1. Be drawn upon polyester film;
2. Be embossed with the seal of an architect, professional ENGINEER or registered land surveyor;
3. Contain the signature and address of the PERSON who prepared the plan;
4. Provide a space for recording the county, date, time, plan book and page or file number and register's attest; and
5. Provide a title block containing the name of the plan, the record owner's name and address, the location by STREET and town and date of the plan.

The Final Plan shall include all the following information required for a Preliminary Plan plus the following information:

1. Street Information: The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each STREET shall be included.

Where the SUBDIVISION STREETS are to remain private ROADS, the following words shall appear on the recorded plan: "All ROADS in this SUBDIVISION shall remain private ROADS to be maintained by the developer or LOT owners."

D. Supporting Documentation:

1. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or LOT owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.

2. If Subdivision is in a public water supply area, a written statement shall be submitted from the Fire Chief, or their designee, approving all hydrant locations or other fire protection measures deemed necessary.

3. A list of construction items with cost estimates that will be completed by the developer prior to the sale of LOTS.

4 .A copy of the final covenants and/or deed restriction intended to cover all or part of the Lots in the Subdivision.

5. A final storm water management plan, prepared by a registered professional ENGINEER in accordance with the *Storm-water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may waive submission of the storm water management plan only if the SUBDIVISION is not in the watershed of a GREAT POND, the proposed SUBDIVISION will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and DRIVEWAYS is less than 5% of the area of the SUBDIVISION.

6. A <u>final</u> erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may waive submission of the erosion and sedimentation control plan only if the SUBDIVISION is not in the watershed of a GREAT POND, the proposed SUBDIVISION will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and DRIVEWAYS is less than 5% of the area of the SUBDIVISION.

7. If any portion of the proposed SUBDIVISION is in the watershed of Campbell POND and is not a Small SUBDIVISION as defined in Article 10.6, Section F., the following shall be submitted or indicated on the plan:

   1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.

   2. A long-term maintenance plan for all phosphorus control measures.

   3. The contour lines shown on the plan shall be at an interval of five or fewer feet.

### 7.3 Final Approval and Filing

A. No plan shall be approved by the PLANNING BOARD as long as the sub-divider is in violation of the provisions of a previously approved Plan within the Town of West Bath.

B. Upon findings of fact and determination that standards in Title 30-A, M.R.S.A. Section 4404, and these regulations have been met, and upon voting to approve the SUBDIVISION, a majority of the voting members of the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. Three paper copies of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Selectmen and another copy shall be forwarded to the Code Enforcement Officer. Any SUBDIVISION not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall render the approval and SUBDIVISION null and void.

C. No changes, erasures, modification, or revisions shall be made in any Final Plan after approval has been given by the PLANNING BOARD and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9.1C. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. Section 4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

D. The approval by the Board of a SUBDIVISION plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any STREET, EASEMENT, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title,

dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

E. Failure to commence substantial construction of the SUBDIVISION within two (2) years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a SUBDIVISION'S approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

F. Building Permits will not be issued on Subdivision Lots unless the Subdivision Road has been inspected and determined to be built to Town specifications by the Road Commissioner and Code Enforcement Officer.

## ARTICLE VII – REVISIONS TO APPROVED PLANS

### 8.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least ten days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of one or more additional LOTS, DWELLING UNITS, or BUSINESS UNITS, the procedures for Preliminary and Final Plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional LOTS or DWELLING UNITS, the procedures for final plan approval shall be followed.

### 8.2 Submissions.

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

### 8.3 Scope of Review.

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

## ARTICLE VIII - ENFORCEMENT

### 9.1 Inspection of Required Improvements

A. The inspecting officer for any construction of required improvements shall be identified to the satisfaction of the PLANNING BOARD prior to the commencement of any construction and given the opportunity to make a pre-construction inspection.

The sub-divider or builder shall notify the designated officer prior to commencing construction of such improvements.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the sub-divider, he shall so report in writing to the Selectmen, PLANNING BOARD, and the sub-divider or builder. The Selectmen shall take any steps necessary to preserve the Town's rights.

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

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

E. The sub-divider or builder shall be required to provide for the maintenance of all improvements and provide snow removal on STREETS and sidewalks until acceptance of the improvements by the Town.

## 9.2 Violations and Enforcement

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

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. No PERSON, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved SUBDIVISION which is not shown on the Final Plan as a separate LOT.

D. 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 $2500 for each such conveyance, offering or agreement. The Town may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.

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

F. Development of a SUBDIVISION without Board approval shall be a violation of law. Development includes grading or construction of ROADS, grading of land or LOTS, or construction of BUILDINGS which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.

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

## ARTICLE IX – GENERAL STANDARDS

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

**10.1** **Conformance with COMPREHENSIVE PLAN.** All proposed SUBDIVISIONS shall be in conformity with the COMPREHENSIVE PLAN or policy statement of the Town and with the provisions of all state and local codes and ordinances.

**10.2** **Landscape Plan.** The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 18" inches diameter breast height, the replacement of trees and vegetation, graded contours, STREAMS and the preservation of scenic, historic or environmentally significant areas. Cutting of trees on the northerly borders of LOTS should be avoided as far as possible to retain a natural wind buffer.

**10.3** **Land Not Suitable for Development.** The following lands shall not be included in calculation of NET RESIDENTIAL ACREAGE, for purposes of determining the number of LOTS allowed in a SUBDIVISION.

A. Land which is situated below the normal high water mark of any WATER BODY.

B. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the sub-divider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two feet above the 100 year flood level. The elevation of filled or made land shall not be considered.

C. Land which is part of a right-of-way, or EASEMENT, including utility EASEMENTS.

D. WETLAND or land that has been created by filling or draining a POND or WETLAND.

E. Land in the Resource Protection Overlay Zone.

## 10.4 LOTS

A. All LOTS shall meet the minimum requirements of the Land Use Ordinance for the district in which they are located, except as follows:

1. In a standard (non-cluster) SUBDIVISION all residential LOTS except those in the Rural Residential District shall have a minimum area of two (2) acres per DWELLING UNIT and the deeds shall contain a covenant prohibiting further division.
2. Special standards apply allowing CLUSTER SUBDIVISIONS in the Residential and Urban Development districts.
3. The number of LOTS allowed in any residential SUBDIVISION, in any district, whether it is a CLUSTER SUBDIVISION or standard SUBDIVISION, shall be calculated by dividing the NET RESIDENTIAL ACREAGE by the minimum LOT size applicable to the district in which the SUBDIVISION is proposed. Any fractional portion of the result of this calculation shall not count for an additional LOT. NET RESIDENTIAL ACREAGE shall be calculated as provided for in Section 10.3 of the Development Review Ordinance, which is entitled "Land Not Suitable for Development".

B. LOT configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated.

C. LOTS with multiple frontages shall be avoided wherever possible. When LOTS do have frontage on two or more ROADS, the Plan and deed restrictions shall indicate vehicular access shall be located only on the less TRAVELED WAY unless such access is prohibited by topography. A planting screen EASEMENT of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of LOTS abutting such a traffic artery or other disadvantageous use.

D. Wherever possible, side LOT lines shall be perpendicular to the STREET.

E. Where public utilities could be extended to the SUBDIVISION in the foreseeable future, the SUBDIVISION shall be designed to accommodate the extensions of utilities.

F. If a LOT on one side of a STREAM, tidal water, ROAD or other similar barrier fails to meet the minimum requirements for LOT size, it may not be combined with a LOT on the other side of the STREAM, tidal water, or ROAD to meet the minimum LOT size.

G. The LOT size, width, depth, shape and orientation and the minimum BUILDING SETBACK lines shall be appropriate for the location of the SUBDIVISION and for the type of development and use contemplated, and shall conform to the town Land Use Ordinance.

H. Except as provided for in Section 10.8 of this Ordinance, the subdividing of the land shall be such as to provide that all LOTS shall have the minimum horizontal frontage required by the Land Use Ordinance on a private or public STREET in the district(s) in which the SUBDIVISION is located.

## 10. 5 Additional Requirements

STREET trees, esplanades, and open spaces may be required at the discretion of the PLANNING BOARD. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the sub-divider as construction of the SUBDIVISION progresses.

The SUBDIVISION design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least 20 feet wide between abutting properties that are so endangered.

**10.6 Required Improvements**. The following improvements are required for all SUBDIVISIONS unless waived by the Board in accordance with provisions of these regulations.

A. Monuments. All SUBDIVISION boundary corners and angle points, as well as all LOT boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply

1. Individually drilled wells shall be designed, and installed on LOTS less than four (4) acres in accordance with requirements of the Maine Department of Health and Human Services. The location of the wells shall be drawn on the plot plan.

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

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

4. In a SUBDIVISION having more than four (4) LOTS which are in excess of 1,000 foot hose length from a public water system hydrant, the sub-divider shall construct PONDS and dry hydrants to provide for adequate water storage for fire-fighting purposes. An EASEMENT shall be granted to the Town granting

access to the dry hydrants and PONDS when necessary. The Board may waive the requirement for fire PONDS only upon submittal of evidence that the soil types in the SUBDIVISION will not permit their construction.

C. Sewage Disposal

1. Private Systems

a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. The location of the designed system shall be laid out on the plot plan.

b. In no instance shall a disposal area be permitted on soils or on a LOT which requires a New System Variance from Subsurface Wastewater Disposal Rules.

2. Systems for Commercial or Industrial Uses

a. Holding tanks shall be permitted provided that they comply with the applicable standards of the Maine Subsurface Wastewater Disposal Rules.

b. Public restroom facilities shall be provided in all commercial SUBDIVISIONS.

3. Multi-User Wastewater Disposal Systems

Multi-user wastewater disposal systems designed to serve three or more separately owned DWELLING UNITS and/or non-residential uses shall be permitted if approved in writing by the Maine Department of Human Services as required under the Maine State Plumbing Code, and provided the following standards are met. Multi-user wastewater disposal systems serving condominiums are also subject to this section.

a. Multi-user wastewater disposal systems shall be permitted only when all other options for serving the wastewater needs of the users included in the design have been examined by a licensed site evaluator or professional ENGINEER and found to be physically or legally infeasible. The number of users on any proposed multi-user system shall be limited to those without any individual system alternative, on-site or off-site except a multi-user system.

b. All parts of the multi-user wastewater disposal system beyond the BUILDING sewer shall be owned in common by the homeowners association or other association made up of LOT or unit owners in the development. In any development or group of homes or businesses served by a multi-user wastewater disposal system, the association shall be mandatory and membership in it by all owners that are users of the system, including absentee owners, shall also be required.

c. The owners association shall be an independent entity, legally established under Maine law. It shall be liable for the operation, maintenance, repair or replacement of all parts of the multi-user system beyond the individual BUILDING sewers. It shall keep the system free of any nuisance or threat to the public health or contamination of the environment.

d. The owners association shall charge a maintenance fee and other fees adequate to assure sufficient capitalization to meet its responsibility to maintain and to replace all parts of the commonly owned multi-user system.

e. The owners association shall acquire all necessary rights of entry and EASEMENTS across property for purposes of accessing elements of the multi-user system for evaluation, maintenance, or replacement. These shall include access to a suitable site for replacement of the leach-field.

f. Before a multi-user system can be approved by the Town, the applicants for a multi-user system permit shall submit

(i). A hydrogeologic assessment prepared by a Maine-certified hydrogeologist evaluating groundwater impacts of the proposed system and whether they will be consistent with standards contained in subsection D. 3. of this section.

(ii). A letter of approval for the proposed system from the Maine Department of Human Services, including any applicable conditions of approval imposed by the department.

D. Impacts on Groundwater Quality or Quantity

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

a. A map showing the basic soil types.

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

c. Drainage conditions throughout the SUBDIVISION.

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

e. An analysis and evaluation of the effect of the SUBDIVISION on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the SUBDIVISION, or at the SUBDIVISION boundaries; or at a distance of 1,000 feet from potential contaminant sources, whichever is the shortest distance.

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

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

3. No SUBDIVISION shall increase any contaminant concentration in the ground water by more than one half of the federal Primary Drinking Water Standards, provided that no SUBDIVISION shall increase any contaminant concentration in the ground water to more than 80 % of the federal Primary Drinking Water Standards. No SUBDIVISION shall increase any contaminant concentration in the ground water to more than the federal Secondary Drinking Water Standards.

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

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

6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected LOTS.

E. Surface Drainage

1. Where a SUBDIVISION is traversed by a STREAM, river, or surface water drainage-way, or where the Board feels that surface water runoff to be created by the SUBDIVISION should be controlled, there shall be provided EASEMENTS or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the SUBDIVISION and over other properties. This storm-water management system shall be designated by a Registered Professional ENGINEER.

2. Drainage EASEMENTS for existing water-courses or proposed drainage ways shall be provided and indicated on the plan at least thirty (30) feet wide, conforming substantially with the lines of existing natural drainage.

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

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

F. Phosphorus Impacts on GREAT PONDS.

1. Phosphorus Export.

26. Any SUBDIVISION within the watershed of a GREAT POND shall limit its post development phosphorus export to the standards contained in Table 10.6-1.

| **Table 10.6-1** | |
|---|---|
| **Phosphorus Export Limits in GREAT POND Watersheds** | |
| **GREAT POND Watershed** | **Per Acre Phosphorus Export Limitation** |
| Campbell POND | 0.042 pounds per acre per year |

b. Phosphorus Controls for Small SUBDIVISIONS.

1) Small SUBDIVISIONS, for purposes of this subsection, shall be defined as:

a) Proposed SUBDIVISION of three or four LOTS with no new or upgraded STREETS and with a cumulative DRIVEWAY length not to exceed 450 feet for a three-LOT SUBDIVISION or 600 feet for a four-LOT SUBDIVISION;

b) Proposed SUBDIVISION consisting of multi-family dwellings that have a total of less than 20,000 square feet of disturbed area including BUILDING parking, DRIVEWAY, lawn, subsurface waste water disposal systems, and infiltration areas, and no new or upgraded STREETS.

2) Small SUBDIVISIONS shall meet the following standards:

a) Existing wooded buffers shall be provided wherever possible

b) Wooded buffers shall be a minimum of 75 feet in width.

c) Non-wooded buffers shall be at least 125 feet in width.

d) All drainage from the proposed SUBDIVISION shall pass through the proposed buffer or buffers shown on the plan.

e) Applicable buffer maintenance requirements from paragraph 4, below shall be met.

f) DRIVEWAYS and parking areas must be designated and constructed so that runoff is quickly shed from these areas to protected buffer areas (to the maximum extent reasonably feasible given LOT limitations) and disruption of natural drainage patterns is minimized. Best management practices (BMPs) such as swales, water bars, road based drainage dips, and proper grading of gravel drives should be used to prevent runoff from concentrating in the DRIVEWAY and to get it into the buffer areas as quickly as feasible. These requirements must be incorporated into the lot's deed covenants and

restrictions.

g) ROAD and roof runoff must be distributed over stable, well vegetated areas or be infiltrated into the soil using dry wells or other infiltration systems. These requirements must be incorporated into the lot's deed covenants and restrictions.

h) Deed covenants and restrictions must prohibit the use of lawn fertilizers containing phosphorus except during the establishment of new turf on bare soil.

i) The septic system must meet the standards of the Maine State Plumbing Code and shall incorporate a loam liner whenever appropriate.

3) A proposed small SUBDIVISION which creates LOTS which could be further divided such that five or more LOTS may result shall be subject to the phosphorus controls for larger SUBDIVISIONS and SUBDIVISIONS with new ROADS in subsections c and d, unless there are deed restrictions prohibiting future divisions of the LOTS.

c. Phosphorus Controls for Larger SUBDIVISIONS and SUBDIVISIONS with New ROADS.

This section shall apply to all proposed SUBDIVISIONS other than small SUBDIVISIONS as defined above. Phosphorus export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. When a proposed SUBDIVISION creates LOTS which are more than twice the required minimum LOT size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of LOTS, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

d. Maintenance and Use Restrictions for Phosphorus Control Measures.

Written provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

1) Vegetative Buffer Strips.

The locations of wooded buffers and non-wooded buffers shall be clearly designated on the plan. Requirements for maintenance of buffers shall be included in deed restrictions and/or conservation EASEMENTS, and as notes upon the plan. Copies of the plan showing the phosphorus control buffers shall be provided by the developer to the purchasers of LOTS in the SUBDIVISION at the time of sale.

2) Infiltration Systems.

Individual LOT owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*,

published by the Maine Department of Environmental Protection, revised September, 1992. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual LOT owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement.

Where infiltration systems serve more than one LOT, a LOT owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

3) Wet PONDS.

A LOT owners' association shall be established to maintain wet PONDS, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992.

## 10.7 Land Features

A. Topsoil shall be considered part of the SUBDIVISION and shall not be removed from the site except for surplus topsoil from ROADS, parking areas, and BUILDING excavations.

B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion in the proposed SUBDIVISION.

C. Clearing of trees and conversion of other vegetation is permitted for approved construction and landscaping. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

## 10.8 CLUSTER SUBDIVISIONS

A. Purpose

The purpose of these provisions is to allow for new concepts of housing development where maximum variation of design may be allowed, to maintain the low density character of the town, and to encourage open space preservation, including open spaces which are scenic or historic or provide habitat for critical natural resources, provided that the net residential density shall not be greater than is permitted in the District in which the development is proposed.

Cluster developments shall be permitted only in the Residential and Urban Development Districts. They shall meet all of the following criteria:

B. Basic Requirements

1. All cluster developments shall meet all requirements for a residential SUBDIVISION, except as these may be modified as provided for in this section.

   Each BUILDING site shall be shown on an overall plan for site development. The application shall illustrate the placement of BUILDINGS and the treatment of spaces, paths, ROADS, service and parking.

2. The minimum area of land in a cluster development shall be 10 acres. There shall be no approval of any proposed development which exceeds the number of LOTS permitted in the district in which it is located.

3. Any LOT abutting an existing public ROAD shall have a frontage and area no less than that normally required in the District. On internal ROADS within the proposed SUBDIVISION, LOT area and ROAD frontage may be reduced by not more than 50% from the requirements of the District in which the proposed development is located provided that:

   a. No BUILDING LOT shall have an area of less than 20,000 square feet.

   b. All LOTS except those abutting a circular turn-around shall have a minimum frontage of 75 feet.

   c. Average LOT width shall be no less than the ROAD frontage requirement for the District in which the development is proposed.

   d. Except for common land, LOTS in a CLUSTER SUBDIVISION shall be no larger than the minimum LOT size for the land use district in which the SUBDIVISION is proposed.

4. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District.

5. LOTS in a cluster development shall meet all other dimensional requirements for the District in which they are located.

6. The total area of common land within the development shall equal or exceed the sum of the areas by which any BUILDING LOTS are reduced below the minimum LOT area normally required in the District.

7. Multi-family dwellings, not to exceed four units, will be permitted on a separate LOT.

8. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the BUILDING LOTS, or by a land trust which has as its principal purpose the conservation or preservation of land in essentially its natural condition.

9. Further SUBDIVISION of common land or its use for other than non-commercial recreation or conservation, except for EASEMENTS for underground utilities, shall be prohibited. STRUCTURES and BUILDINGS accessory to non-commercial recreational or conservation uses may be erected on the common land.

10. Where a cluster development abuts a water-body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

11. Unless the developer shall clearly demonstrate to the PLANNING BOARD that it is not feasible, all DWELLING UNITS in the development shall be connected to individual water supply wells. Where a common water supply well(s) and distribution system, either public or private, are necessary, the developer shall clearly demonstrate to the PLANNING BOARD that such a system is feasible:

    a. That the costs of providing a common water supply and distribution system are is prohibitive;

    b. That adequate water is available to serve all locations proposed for individual or common water systems; and

    c. That the ground water source(s) proposed for individual water systems is safe from both on-site and off-site contamination.

12. All STRUCTURES with required plumbing in the development shall be connected to individual subsurface waste water disposal systems in accordance with minimum standards set forth in the State of Maine Plumbing Code, unless the developer shall clearly demonstrate to the PLANNING BOARD that a multi-user wastewater disposal system is necessary to serve all or some of the units proposed.

    All multi-user wastewater disposal systems shall comply with Article X, Section 10.6, C.3. and D.3. of this Ordinance.

13. BUILDINGS shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

14. Covenants for mandatory membership in the homeowner's association setting forth the developer's and each LOT or unit owner's rights and interest and privileges in the association and the common land, shall be reviewed by the PLANNING BOARD and included in the deed for each LOT.

15. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities, property taxes and other association assessments.

16. The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the PLANNING BOARD upon request of the neighborhood association or the developer or sub-divider.

17. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any BUILDING LOTS are reduced below the minimum LOT area normally required by the zoning ordinance. No more than 50 % of the reserved open space shall be land excluded from development as not suitable under Section 10.3 of this Ordinance.
    Every LOT in the SUBDIVISION shall have access by ROAD or path to the commonly owned open space.

18. Every BUILDING LOT that is reduced in area below the amount normally required shall be within 1,000 feet of the nearest boundary of commonly owned open space within the SUBDIVISION.

19. Individual LOTS or DWELLING UNITS shall have direct vehicular access only onto internal ROADS within the SUBDIVISION.

## 10.9 Dedication and Maintenance of Common Land and Facilities

This section shall apply to all commonly owned open space and facilities, whether located in CLUSTER SUBDIVISIONS or standard SUBDIVISIONS, or other developments.

1. All common land shall be owned jointly or in common by the owners of the DWELLING UNITS by means of a homeowners association, or by a land_trust which has as its principal purpose the conservation or preservation of land in essentially its natural condition.

2. Further SUBDIVISION of the common land or its use for other than non-commercial recreation or conservation purposes, except for EASEMENTS for underground utilities, shall be prohibited. STRUCTURES and BUILDINGS accessory to non-commercial recreational or conservation uses may be erected on the common land.

3. The common open space shall be shown on the Final Plan with appropriate notion on the plan to indicate that:

    a. It shall not be used for future BUILDING LOTS.

    b. It shall be reserved as common open space.

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

5. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each LOT or dwelling.

6. The homeowners association shall have the responsibility of maintaining the common property. Draft articles of incorporation for the proposed homeowners' or LOT owners' association as a not-for-profit corporation shall be submitted for review by the PLANNING BOARD.

   Draft by-laws of the proposed homeowners' or LOT owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for the proper capitalization of the association to cover costs of repairs, maintenance and replacement of common facilities shall also be submitted for review by the PLANNING BOARD. The scope of PLANNING BOARD review authority for these documents shall be limited to provisions affecting the association's capacity to meet this Ordinance's standards for multi-user wastewater disposal systems and for common land.

7. The association shall levy annual charges against all owners of DWELLING UNITS to defray the expenses connected with the maintenance of common property and tax assessments.

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

## ARTICLE X- PERFORMANCE GUARANTEES

**12 .1** **Types of Guarantees.** With submittal of the application for final Plan approval, the sub-divider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and inflation rate of construction costs.

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

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

C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the SUBDIVISION, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or

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

**12.2** **Contents of Guarantee.** The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction, provisions for the release of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish the construction.

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

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

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

**12.6** **Release of guarantee.** Prior to the release of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town's inspecting official and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements.

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

**12.8** **Improvements Guaranteed.** Performance guarantees shall be tendered for all improvements for which the PLANNING BOARD requires them.

## ARTICLE XI – STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

### 11.1 Classification

In accordance with a COMPREHENSIVE PLAN of the municipality and for the purposes of these standards, STREETS are classified by function as follows:

(1) Major STREETS. The term "Major STREETS" includes ARTERIAL STREETS which serve primarily as major traffic ways for travel between and through towns; and Collector STREETS, which serve as feeders to ARTERIAL STREETS, as collectors of traffic from minor STREETS and for circulation and access in commercial and industrial areas.

(2) Minor STREETS. Local STREETS which are used primarily for access to abutting residential, commercial or industrial properties

(3) Private ROADS. Privately built and maintained right-of-way providing access to two (2) or more properties.

## 11.2 STREET Design Standards

A. These design standards shall be met by all STREETS within SUBDIVISIONS, and shall control roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

B. Proposed STREETS shall conform, as far as practical, to such COMPREHENSIVE PLAN or policy statement as may have been adopted, in whole or in part, prior to the submission of a preliminary plan.

C. All STREETS in the SUBDIVISIONS shall be so designed that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic.

D. The arrangement, character, extent, width, grade, and location of all STREETS shall be considered in their relation to existing or planned STREETS, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such STREETS. Grades of STREETS shall conform as closely as possible to the original topography so that cut and fill minimized while maintaining the grade standards above.

E. Where a SUBDIVISION abuts or contains an existing or proposed ARTERIAL STREET, the Board may require reverse frontage (that is, frontage on a STREET other than the existing or proposed ARTERIAL STREET) with screen planting contained in a non-access reservation along the rear property line, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

F. The Board may require that SUBDIVISIONS containing fifteen (15) LOTS or more shall have at least two STREET connections with existing public STREETS or STREETS shown on the official map if such exists, or STREETS on an approved SUBDIVISION Plan for which a bond has been filled.

G. Design and Construction Standards. All STREETS in a SUBDIVISION shall be designed and constructed to meet the following standards for STREETS according to their classification as determined by the PLANNING BOARD:

(see next page)

## DESIGN AND CONSTRUCTION STANDARDS FOR STREETS

| ITEMS | MINOR STREETS | PRIVATE ROADS |
|---|---|---|
| 1. Minimum right-of way | 50’ | 33’ |
| 2. Minimum width of travel surface | 24’ | 16’ |
| 3. Maximum grade | 10% | 10% |
| 4. Maximum grade at intersections | 5% within 50 feet of intersections | |
| 5. Minimum angle of intersection | 60° | 60° |
| 6. Width of shoulders | 4’ | --- |
| 7. Road base (minimum) gravel | 18” | 18” |
| 8. Surfacing Gravel | 4” | 4” |
| 9. Road Crown (minimum) | ¼” – 1’ | ¼” – 1’ |
| 10. Sidewalks – width (minimum, where required) | 5’ | --- |
| 11. Dead-end or cul-de-sac STREETS – Radii of turn-around at enclosed end | 65’ | 25’ |

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

J. Dead End STREET. In addition to the design standards above, dead-end STREETS shall be constructed to provide a cul-de-sac around with the following requirements for radii: Property line 65 ft.; outer edge of pavement 50'. The Board may require the reservation of the 20 foot EASEMENT in line with the STREET to provide continuation of pedestrian traffic or utilities to the next STREET. The board may also require the reservation of a 50-foot EASEMENT in line with the STREET to provide continuation of the ROAD where future SUBDIVISION is possible.

K. Grades, Intersections, and Sight Distances

1. Grades of all STREETS shall conform in general to the terrain, and shall not be more than 10 percent for minor STREETS and private ROADS, but in no case more than 5 percent within 50 feet of any intersection.

2. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Board so that clear visibility shall be provided for a distance of 200 feet.

3. Intersections of STREETS shall be at angles as close to 90 degrees as possible and in no case shall two (2) STREETS intersect at an angle smaller than 60 degrees. To this end where one STREET approaches another between 60-90 degrees the former STREET should be curved approaching the intersection.

4. STREET surfaces at intersections shall be designed to provide for curb radii of not less than 25 feet or 90-degree intersections and 30 feet for intersections less than 90 degrees.

5. STREET intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner LOT which is necessary to allow 25 foot sight lines between intersection STREETS shall be cleared of all growth (except isolated trees) and obstructions above the level three feet higher than the center line of the STREET. If directed, ground shall be excavated to achieve visibility.

6. Cross (four-cornered) STREET intersections shall be avoided insofar as possible, except as shown on the COMPREHENSIVE PLAN or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between centerlines of side STREETS.

L. Business and Commercial District Access Management Standards

These standards shall apply to the ROAD surfaces, public rights of way and land areas adjacent to the ROADS, in the business and commercial and urban business and commercial districts with the goal that all DRIVEWAYS shall be located to afford maximum safety to traffic, minimizing conflict with traffic flow and providing vehicles safe ingress and egress to properties in the districts.

1. Sight Distances at Entrances and Exits

a. DRIVEWAY entrances and exits shall be located to achieve safe sight distances from the driver's seat of a vehicle that is 10 feet behind the curb (or edge of the shoulder) with the height of the driver's view at 3 1/2 feet above the ROAD surface and the height of the object viewed at 4 1/2 feet.

b. The minimum sight distance will be 100 feet for every 10 miles per hour of traffic speed based upon the posted speed on the ROAD.

c. In the event that insufficient frontage or other site constraints limit the ability of a property owner to meet the standard of paragraph L.1.b. above, the applicant must demonstrate to the PLANNING BOARD that sight distances have been met to the maximum extent possible. Should other portions of this ordinance come into conflict with sight distances, sight distances shall take precedence.

2. Minimum Distance Between DRIVEWAYS

The minimum distance between DRIVEWAYS shall be measured from the centerlines of the DRIVEWAYS. The minimum spacing of DRIVEWAYS for any LOT created after the effective date of this ordinance shall be 200 feet except on existing LOTS of record which cannot meet the standard because of insufficient frontage. If frontage is insufficient, the applicant must show the PLANNING BOARD the constraints of the LOT and provide the best remedy possible, for the Board's review. The minimum distance between DRIVEWAY entrances on LOTS with insufficient frontage shall be 100 feet.

3. Number of DRIVEWAYS

a. One DRIVEWAY is allowed per LOT. Exceptions may be made on a case-by-case basis subject to PLANNING BOARD approval. The need for more than one DRIVEWAY must be substantiated by traffic volume or other vehicular requirements consistent with MDOT standards.

b. NON-CONFORMING LOTS of record which, as of the effective date of this ordinance, have STRUCTURES and multiple DRIVEWAYS are prohibited from expanding or converting such STRUCTURES without reducing their access to a single DRIVEWAY.

c. SHARED DRIVEWAYS are encouraged for adjacent sites. LOT size and ROAD frontage requirements shall be eligible to be reduced by up to a total of 30% when the developer agrees to provide common DRIVEWAYS and 45% when the common DRIVEWAYS are on a STREET or ROAD other than an ARTERIAL; provided that the buffer requirements and SETBACKS can still be met.

d. Where there is a SHARED DRIVEWAY located on or near a shared property line, SETBACKS shall be measured from the property line held in common; not from the edges of the SHARED DRIVEWAY.

4. DRIVEWAY Design and Construction

a. Grade. DRIVEWAY width shall be no greater than 30 feet unless safety or volume concerns can be shown to require otherwise, subject to PLANNING BOARD approval. DRIVEWAY grades shall not be in excess of 10% over the entire length. The grade for the first 50 feet from the ROAD shall not be more than 5 percent unless otherwise approved by the PLANNING BOARD and the ROAD Commissioner.

b. Angle of Intersection. DRIVEWAYS shall intersect the ROAD at an angle of as near 90 degrees as site conditions permit, and in no case shall be less than 60 degrees. On properties with access onto ARTERIALS, the applicant shall provide a turn-around area to enable a vehicle to exit the property without backing into the roadway.

5. Corner Clearances

The minimum distance between a DRIVEWAY served by an ARTERIAL and an intersecting side STREET shall be 200 feet as measured from the tangent point of the corner with the ARTERIAL. Where the above cannot be met, and the possibility exists, access shall be limited to a side STREET and the corner clearance standard shall be met to the maximum practical extent as determined by the PLANNING BOARD. Should neither of the above be possible, the corner clearance shall be met to the maximum extent possible, but shall not be less than 150 feet, subject to approval by the PLANNING BOARD.

6. Traffic Studies

Should a proposed development present apparent traffic safety or capacity concerns in the vicinity of the development, the PLANNING BOARD may require an access review and impose design standards such as those found in the Maine Department of Transportation design manuals. Designs and/or independent impact studies shall be conducted at the expense of the applicant.

## 11.3 STREET Construction Preparation

A. Before any clearing has started on the right-of-way, the center line and side lines of the new ROAD shall be staked or flagged at 50-foot intervals.

B. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from right-of-way.

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

D. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

## 11.4 Storm Water Management Design Standards

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

1. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm, based on rainfall data for Portland, Maine.

2. The minimum pipe size for any storm drainage pipe shall be 12 inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

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

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

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

C. 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 sub-divider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Wherever the storm drainage system is not within the right-of-way of a public STREET, perpetual EASEMENTS shall be provided to allow maintenance and improvement of the system.

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

## 11.5 Additional Improvements and Requirements

A. **Erosion Control.** The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

B. **Clean-up.** Following STREET construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire STREET right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized and seeded.

C. **STREET Names, Signs and Lighting.** STREETS which join and are in alignment with STREETS of abutting or neighboring properties shall bear the same name. Names of new STREETS shall not duplicate, nor bear phonetic resemblance to the names of existing STREETS within the Municipality, and shall be subject to the approval of the Board. The developer shall reimburse the Municipality for the costs of installing STREET name, traffic safety and control signs. STREET lighting shall be installed as approved by the Board.

**11.6 Certification of Construction.** Upon completion of STREET construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional ENGINEER registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Municipal Officers.

## ARTICLE XII – PROCEDURES AND SUBMISSIONS FOR SITE PLAN REVIEW APPLICATIONS

### 13.1 Procedure:

The following procedure shall govern the submission and review of applications for site and BUILDING plans, other than SUBDIVISIONS:

A. Pre-Application Meeting

1. Prior to submitting an application for development, the developer or his authorized agent should appear informally at a regular or special meeting of the PLANNING BOARD to discuss the proposed development.

2. The developer shall present to the PLANNING BOARD at this time, for informal review and comment, a sketch plan of the proposed development. The sketch plan shall consist of a rough outline of the proposed development, and may be a free hand, penciled sketch of the parcel, showing the proposed layout of BUILDINGS, ROADS and other features which may be of assistance to PLANNING BOARD in making its determinations.

3. The PLANNING BOARD may request that the developer arrange for an inspection of the site with the PLANNING BOARD, or an individual appointed by the Board Chairman to act as the Board's representative.

4. No binding commitments shall be made between the developer and the PLANNING BOARD at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

5. In order to avoid unnecessary delays in processing applications for site plan review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board votes so.

B. Fees

All applications for Site Plan Review shall be accompanied by non-refundable application fees as listed in Fee Schedule payable by check to the Town.

C. Application

1. The application and fee shall be submitted to the PLANNING BOARD for review. Within 30 days of the filing of an application, the PLANNING BOARD shall notify the applicant in writing either that the application is a COMPLETE APPLICATION or, if the application is incomplete, the specific additional material needed to make a COMPLETE APPLICATION. After the PLANNING BOARD has determined that a COMPLETE APPLICATION has been filed, it shall notify the applicant in writing and begin its review of the proposed development.

2. The PLANNING BOARD may hold a public hearing within 30 days of the filing of the completed application. The PLANNING BOARD shall publish the time, date and place of hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area-wide circulation. The abutting landowners shall be notified by the board of the hearing. Public hearings by the PLANNING BOARD shall be conducted according to the procedures outlined in Title 30-A, M.R.S.A. Section 2691, Subsection 3(a), (b), (c), (d), and (e).

3. Within 30 days of the public hearings or 60 days of receiving a completed application, the PLANNING BOARD shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the PLANNING BOARD and the applicant.

4. Within fourteen (14) days of reaching their decision, the PLANNING BOARD shall notify the applicant in writing of any action taken and the reason for taking such action.

D. Final Approval

Approval shall expire one (1) year from the date of final approval unless the applicant has started substantial construction. The Board may extend final approval for one (1) year. Applicants shall be required, as a condition of any extension, to re-estimate improvement costs and to resubmit revised bonds or letters of credit in accordance therewith.

E. Submissions

The Site Plan shall consist of one or more maps or drawings drawn to scale of not more than 100 feet to the inch. Plans for developments containing more than 75 acres may be drawn at a scale not more than two hundred 200 feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two (2) inches of the borderline of the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable based transparent original to be recorded at the Registry of Deeds (if the development is a SUBDIVISION) and three (3) copies of the plan shall be submitted. In addition, one copy of the Site Plan, reduced to a size of 8 and 1/2 by 11 inches and all accompanying information shall be mailed to the Board no less than seven (7) days prior to the meeting.

The application for approval of the Site Plan shall include, as a minimum, the following information: The PLANNING BOARD may waive any of the submission requirements when it determines they would not be applicable or necessary, due to the nature of a specific development proposal.

1. PLOT plan(s) or map(s) including the following:

    a. Name and address of any applicant, his authorized agent, and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest.

    b. A copy of high-intensity soils map covering the development, and a written soils report, both prepared by a Maine-registered soils scientist.

    c. Town tax map and LOT number and names and addresses of abutting landowners and any others specified by the Board.

    d. Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. Areas within 200 feet of the proposed development site shall be included;

    e. Existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, EASEMENTS, drainage ways and public or private rights-of-way;

    f. Location, ground FLOOR AREA and elevations of BUILDINGS and other STRUCTURES on the site; including all existing and proposed SETBACK dimensions.

    g. If the site is not to be served by a public sewer line, then an on-site soils investigation report, including logs, by a Department of Human Services licensed site evaluator shall be provided. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;

    h. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to the public ROADS and curb and sidewalk lines;

    i. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;

    j. Topography by actual survey, indicating contours at intervals as specified by the Board in relation to Mean Sea Level;

    k. Location of aquifers and aquifer recharge areas, if mapped;

l. The size, location, and direction and intensity of illumination of all major outdoor lighting apparatus and signs.

m. The type, size and location of all incineration devices.

n. The type, size and location of all machinery likely to generate appreciable noise.

o. The location, type, and size of all existing and proposed catch basins, storm drainage facilities, STREAMS and water courses, and all utilities, both above and below ground.

p. The amount and type of any raw, finished or waste materials to be stored outside of roofed BUILDINGS, including their physical and chemical properties, if appropriate.

2. Written statement or statements including, as a minimum, the following:

a. Evidence by the applicant of his title and interest in the land that the application covers:

b. A description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;

c. Total FLOOR AREA and ground coverage of each proposed BUILDING and STRUCTURE and percentage of LOT covered by each BUILDING or STRUCTURE;

d. Summary of existing and proposed EASEMENTS, restrictions and covenants placed on the property;

e. Method of solid waste disposal;

f. Erosion and sedimentation control plan;

g. Statement of financial capacity which should include the names and sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both;

h. A statement from the Fire Chief as to the availability of fire hydrants and/or fire PONDS, or provisions of fire protection services;

i. If public water and/or sewer are to be used, a statement from the water and/or sewer district or utility as to be availability of public water and/or sewer lines;

j. A statement from either the Town's Consulting ENGINEER, or ROAD Commissioner that the proposed ROAD construction will meet town

specifications and a statement of what the impact will be on existing town ROADS.

k. An estimate of the date when construction will start and when the development will be completed.

l. Any other information or data necessary for proper review and conformance with all requirements set forth in the municipal SUBDIVISION Review Standards. An appropriate place for the signatures of the Site Review Board.

## ARTICLE XIII – GENERAL PERFORMANCE STANDARDS FOR SITE REVIEW

**14 .1** All applicable standards in this ordinance form Articles X, XI, and XII shall apply to site review.

### 14 .2 Refuse Disposal

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Board shall consider the impact of particular industrial or chemical wastes or byproducts upon the town sanitary landfill (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

### 14 .3 Advertising Features

The size, number, location, design, color, texture, lighting and materials of all permanent exterior signs and outdoor advertising STRUCTURES or features shall not detract from or adversely affect the design, appearance, and environmental and aesthetic qualities of proposed BUILDINGS and STRUCTURES and the surrounding properties.

### 14 .4 Business and Commercial Signs

A. Number and Size of Signs. A commercial LOT with a single business can have two exterior signs, one freestanding and one BUILDING mounted, each with a maximum area of 15 square feet. The freestanding sign can have lettering on both sides and shall have a SETBACK of at least 10 feet from paved ROAD surfaces. Subsidiary signs such as those indicating credit card acceptance or notices may be directly attached to the freestanding sign but their area(s) plus that of the freestanding sign must not exceed the maximum allowed area. Businesses on corner LOTS at the intersection of two MAJOR ROADS may have two freestanding signs, one on each ROAD, if it can be shown that a single sign cannot be properly seen from the ROADS or might prove distracting to drivers. The BUILDING mounted sign shall be single sided and mounted on the primary BUILDING. For purposes of this ordinance banners and flags, other than those of the nation and state, shall be considered as

signs. Residential SUBDIVISIONS with more than five LOTS may have a single sided sign with the name of the SUBDIVISION subject to architectural review. Said sign shall not exceed 15 square feet in area and can incorporate LOT identification and real estate contact information for a period of one year.

B. Sign Area and More than One Business Per LOT. In the case where there is more than one business on a single LOT, the maximum area of the freestanding sign is increased by 5 square feet for each additional individual business. The freestanding sign can be configured as a vertical array with a separate sign of each business provided that the total allowed area is not exceeded. Each business can have its own BUILDING mounted single sided sign provided that it does not exceed 15 square feet in area.

C. Signs and Statuary. Any object including statuary and sculpture intended to attract patrons shall be considered as signage for the purposes of this ordinance and shall be subject to the proceeding requirements.

D. Lighting of Signs. The lighting of permanent signs and exterior advertising STRUCTURES and features shall be limited to white floodlights directed at said objects. Any lighting of permanent signs shall meet of Article 14.5 of the Development Review Ordinance.

E. Directional Signs. Additional small signs required for the function of a business, such as entrance and parking designators may be allowed subject to PLANNING BOARD approval.

F. Temporary Signs. All temporary signage on a property such as moveable objects without lettering, banners, commercial flags and notices shall not have a combined area exceeding 15 square feet. Temporary signage other than real estate signs may be displayed for not more than half the daylight hours in a given 30-day period and are subject to fees scheduled by the Town of West Bath. One real estate sign per property not exceeding 8 square feet in area including any riders may be posted on the property or at the beginning of a private ROAD accessing said property. In the latter case if the property is not readily visible or identifiable from the sign a secondary sign not exceeding 2 square feet in area is allowed at the property.

G. Signs and Sight Lines. No sign shall interfere with the ROAD access sight line distance as specified by ordinance.

H. Maximum Height. No part of any sign shall exceed a height of 35 feet above the ground surface.

I. Gas Station Signs. Gas Station signs may have gasoline product pricing attached to or incorporated in permitted freestanding signs. Said pricing signage shall not exceed ten (10) square feet in area per sign surface and shall be exempt from total sign area computations.

## 14.5 Lighting Design Standards

A. The maximum height of free-standing lights shall be the same as the principal BUILDING but not exceeding 25 feet.

B. All lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150 degrees.

C. Where lights along property lines will be visible to adjacent residents, the lights shall be appropriately shielded.

D. Free-standing lights shall be so located and protected as to avoid being easily damaged by vehicles.

E. Lighting should be located along STREETS, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split.

F. Stairways and sloping or rising paths, BUILDING entrances and exits require illumination.

G. Display lighting shall be shielded and located and maintained so as not to create or constitute a hazard or nuisance to the traveling public or to neighbors.

H. Parking area lighting shall be shielded and located and maintained so as not to create or constitute a hazard or nuisance to the traveling public or to neighbors.

I. All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

## 14 .6 Dust, fumes, vapors, gases, odors, glare and explosive materials

A. Emission of dust, dirt, fly, ash, fumes, vapors and gases which could damage human health, animals, vegetation or property or which could soil or stain PERSONS or property, at any point beyond the LOT line of the commercial or industrial establishment creating that emission, shall be prohibited.

B. No land use or establishment shall be permitted to produce offensive or harmful odors beyond its LOT lines, measured either at ground or habitable elevation.

C. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its LOT lines onto neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.

D. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Sections 30, 58 and 59-A.d.

E. Any aboveground outdoor storage facility for fuel, chemicals, chemical industrial wastes and potentially harmful raw materials shall be located on a reinforced concrete slab enclosed by an impervious reinforced concrete dike, monolithically poured, which shall be high enough to contain 110 percent of the total volume of material kept within the containment area plus the rain which would fall into this area if it did not have a roof during a 50 year storm. However, all containment areas shall be covered by a permanent roof with overhangs sufficient to prevent precipitation falling at an angle of 45 degrees from entering the containment area. The installation shall conform to all applicable federal and state standards.

## 14.7 Bulk Hazardous Substance Uses

All aboveground outdoor storage facilities for fuel, chemicals, chemical industrial wastes and potentially harmful raw materials shall be located on reinforced cement and shall be completely enclosed by an impervious dike monolithically poured, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during the fifty (50) year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Installation shall conform to all state standards.

A. A Bulk Hazardous Substance Use is defined as any use that has as a principal part of its operation the storage, shipping or sale of a substance or substances in quantity, whether liquid, solid or gaseous, which are hazardous because of their combustibility, toxicity or other danger to public health and/or the environment. These uses are only permitted if they meet the general requirements of this section and have been reviewed by the PLANNING BOARD and approved at the Annual Town Meeting for compatibility with this section and are listed as such in Subsection 14.7 B.

B. Permitted Bulk Hazardous Substance Uses

1. Bulk Petroleum and Propane Uses

C. LOT Size: All Bulk Hazardous Substance Uses must be located on LOTS larger than 3 acres or larger than minimum LOT size that under the Site Location and Development Act requires Maine Department of Environmental Protection approval, whichever is greater, with no variances allowed.

D. Location: All Containment and Storage STRUCTURES, Transfer Systems and Vehicles containing Bulk Hazardous Substances which could leak or leach into the ground shall not be located or parked closer than 300 feet from a private well or 1000 ft from a public well.

E. Containment Areas

1. General: Any aboveground indoor and outdoor storage facility for bulk hazardous liquids and solids shall be located on a reinforced concrete slab enclosed by an impervious reinforced concrete dike, monolithically poured, which shall be high enough to contain 110 percent of the total volume of material kept within the containment area. All containment areas shall be covered by a permanent roof with

overhangs sufficient to prevent precipitation falling at an angle of 45 degrees from entering the containment area. Provisions shall be made to direct any precipitation which does enter a containment area to a tank for monitoring and decontamination or removal as necessary.

2. Liquids: All stations for transferring hazardous liquids to or from a vehicle, other than facilities for refueling vehicles, shall be located above a containment well having a capacity equal to 110 percent of the largest vehicular or storage tank that can be connected to the station. All piping connecting storage tanks to transfer stations shall be enclosed inside a secondary pipe when outside a containment area. The exterior pipes shall serve to return any liquid leaking from a primary pipe to a containment area.

F. Regulatory Authorities: Installations shall conform to all applicable federal, state and industry standards including but not limited to the following:

1. Federal
   a. DOT (Department of Transportation)
   b. EPA (Environmental Protection Agency)
   c. USCG (United States Coast Guard)

2. State:
   a. DEP (Department of Environmental Protection)
   b. MDOT (Maine Department of Transportation)
   c. OSFB (Oil and Solid Fuel Board)
   d. SFMO (State Fire Marshall's Office)

3. Other:
   a. NFPA (National Fire Protection Association) 101

G. SPCC Plans: A Spill Prevention, Control and Countermeasures Plan that conforms to EPA standards shall be provided by the operator even if it is not required by a federal or state regulatory body.

H. Monitoring and Inspection: The operator of any bulk hazardous substance facility shall provide at their expense for continuous electronic fire, leak and security monitoring of said facility by an independent alarm service and for regular inspections by an independent party acceptable to the PLANNING BOARD at intervals not exceeding one year with copies of all reports provided to the town's Codes Enforcement Officer.

I. Substance- Specific Requirements:

1. Petroleum:
   a. Medium and Heavy Distillates (includes Fuel Oil) Any precipitation runoff collection tanks shall be configured and function as oil/water separation tanks
   b. Light Distillates (includes Gasoline) Transfer stations for retail substance sales shall be located on a concrete pad surrounded by curbing or guards protecting any pumping or transfer valve unit, such as a gasoline pump from vehicular impact.

2 Propane: Propane tanks shall be installed in a manner such that leaking gas shall activate a leak sensor.

## 14 .8 Parking and Entrance Design Standards

A. General Requirements

1. The proposed development layout shall provide for safe access and egress from public and private ROADS by providing adequate location, numbers and control of access points including sight distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal ROAD systems.

2. The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

3. In the design of parking areas, special attention shall be given to the separation of pedestrian and vehicular traffic and the arrangement of parking areas that are safe and convenient, and which have a minimum adverse affect on the design, appearance, and environmental and aesthetic qualities of proposed BUILDINGS and STRUCTURES and neighboring properties.

B. PARKING AREA DESIGN STANDARDS

1. Location on the Property

All business and commercial parking areas whether paved, coated, gravel, dirt, grass or designated by plan shall be located so as to be contained behind the required vegetative buffer strips along the front and sides of the property. The buffer strip shall be crossed by pavement only as necessary to provide for access to the property. Exterior vehicle display and/or storage areas shall be considered as parking for purposes of this ordinance. This paragraph shall apply to all business and commercial parking areas, including the expansion of existing parking, created after July 1, 1998.

2. Access

There shall be adequate provisions for ingress and egress to all parking spaces. The width of access drives or DRIVEWAYS shall be determined as part of site plan review depending on use, topography and similar considerations.

3. Size of Aisles

The width of all aisles providing direct access to individual parking stalls shall be in accordance with the requirements set forth below. Only one-way traffic shall

be permitted in aisles serving single-row parking spaces placed at an angle other than ninety (90) degrees.

| Parking Angle (degrees) | Description | Minimum Aisle Width (feet) |
|---|---|---|
| 0 | parallel parking | 12 |
| 30 | degree parking | 12 |
| 45 | degree parking | 13 |
| 60 | degree parking | 18 |
| 90 | degree parking | 30 |

4. Sidewalk and Curbing

   Sidewalks between parking areas and principal STRUCTURES along aisles and DRIVEWAYS and wherever pedestrian traffic shall occur, shall be provided with a minimum width of four (4) feet of passable area and shall be raised six (6) inches or more above the parking area except where the sidewalks cross ROADS or DRIVEWAYS. Guardrails or wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas unless additional sidewalk width of two and one half (2.5) feet is provided to accommodate such overhang.

5. Marking and Delineation of Parking Areas

   Parking stalls, DRIVEWAYS, and aisles shall be clearly marked and delineated. The Board may require that certain areas be maintained for fire fighting or other emergency purposes, handicapped access, and such areas shall be appropriately designated.

## 14.9 Noise

Excessive noise shall be required to be muffled so as not to be objectionable due to intermittence, beat, frequency, shrillness or volume.

## 14.10 Buffers and Screening Standards

A. Vegetative Buffer Strips. LOTS in the Business and Commercial District and the Urban Development Park District shall have vegetative buffer strips with a minimum depth of 20 feet along their ROAD and side boundaries except for designated access and uses abutting U.S. Route One, the divided highway, where the vegetative buffer strips shall be 100 feet in width measured from the edge of the right of way except at interchanges where the width shall be 40 feet. Where side boundaries lie within a TRAVELED WAY across private property, the side buffer strip shall be set back from the side boundary of the LOT, or from the near edge of the TRAVELED WAY'S right-of-way when this is within the applicant's property, by at least 8 feet. The PLANNING BOARD may require a greater SETBACK for the side buffer where it determines this is necessary to accommodate the full buffer strip and the potential future development of the TRAVELED WAY as a ROAD meeting the design standards of Article 11.2 H. of this ordinance. Side boundary strips

having natural vegetative screening shall not be disturbed without PLANNING BOARD approval. When a natural screen does not exist on a side boundary, a side buffer planting plan may need to be submitted to the PLANNING BOARD for approval.

1. For the purpose of meeting the requirement of Article 14.10 A. a vegetative buffer strip must retain existing, undisturbed predevelopment vegetation to the maximum extent possible. Where the area has been disturbed before or during construction, or where existing vegetation is insufficient to provide a buffer, the PLANNING BOARD shall require plantings as reasonably necessary to fulfill the function of the vegetative buffer strip.

2. The Board may modify side buffer requirements to the extent necessary to accommodate shared access and/or shared parking areas and other common facilities.

3. The depth of a vegetative buffer strip alongside a ROAD shall be measured beginning at the Edge of the Right of Way or at the outer edge of the ROAD'S shoulder or drainage ditch whichever is furthest from the center of the TRAVELED WAY.

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B. Buffers in the form of fences, landscaping, berms and mounds shall be required for all commercial and business uses abutting residential uses and to minimize any adverse impacts or nuisance on the site or on adjacent properties.

C. Buffers shall be considered in or for the following areas and purposes:

1. Along property lines, to shield various users from each other;

2. Along interior ROADS running parallel to ROADS exterior to the site, to prevent confusion, particularly at night;

3. Parking areas, garbage collection areas, and loading and unloading areas; and

4. To block prevailing wind patters and to stop wind-borne debris from leaving the site.

D. Buffers shall be sufficient to shield STRUCTURES and uses from the view of incompatible abutting properties and TRAVELED WAYS, and to otherwise prevent any nuisances.

E. Exposed storage areas, service areas, exposed machinery installations, and gravel extraction operations, truck loading areas, utility BUILDINGS and STRUCTURES, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and STRUCTURES, shall have sufficient SETBACKS and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses

within the development site and surrounding properties, such as stockade fence or a dense evergreen hedge six (6) feet or more in height.

F. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.

G. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

H. Evergreens can be used as buffers, provided they are planted properly. An evergreen buffer requires two (2) or three (3) rows of staggered plantings. The rows should be five (5) feet apart and the evergreens planted four (4) feet on center.

I. Fencing and screening shall be durable and properly maintained at all times by the owner.

J. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.

K. All buffer areas shall be maintained in a neat and sanitary condition by the owner.

**14.11 Storm-water Management**

Adequate provisions must be made for the collection and disposal of all storm-water that runs off proposed STREETS, parking areas, roofs, and other surfaces, through a storm-water drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

A. To the extent possible, the plan must retain storm-water on the site using the natural features of the site.

B. Unless the discharge is directly to the ocean or major river segment, storm-water runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the pre-development rate.

C. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

D. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

E. The design of the storm-water drainage system must provide for the disposal of storm-water without damage to STREETS, adjacent properties, downstream properties, soils, and vegetation.

F. The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

G. The biological and chemical properties of the receiving waters must not be degraded by the storm-water runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development storm-water discharges into a bedrock aquifer area or other water supply source, or a lake or POND.

H. Storm-water management plans shall be consistent with the standards of this subsection and Section 11.4 of this Ordinance, and, except where the standards of this subsection are more restrictive, strategies contained in each storm-water management plan shall be selected from a manual entitled, "Storm-water Management for Maine: Best Management Practices", published by the Maine Department of Environmental Protection, in November 1995. This publication shall be available for public inspection at the Town Office.

### 14.12 Erosion and Sedimentation Control

All BUILDING, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Parking LOTS on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, by the Cumberland County Soil and Water Conservation District, dated March 1991.

### 14.13 Archeological Sites

The PLANNING BOARD shall retain the option of requiring submission of any proposed site plan to the Maine Historic Preservation Commission for review and comment to the PLANNING BOARD. If any portion of the site has been identified as containing archeological resources, the development must include measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

## ARTICLE XIV – WAIVERS

**15.1** **Waivers of Non-Applicable Submission Requirements.** Where the Board determines that a specific submission requirement is not applicable to a proposed SUBDIVISION or site plan review it may waive said requirement. Preliminary intent to waive a submission requirement as indicated on a submission checklist does not constitute a waiver since submission requirements may be increased if any need to do so is identified during the review process. Final approval of any waiver is granted only when it is recorded at the same time the proposed project is approved or denied.

**15.2** **Submissions.** Where the Board makes written findings of fact that extraordinary and unnecessary hardships may result from such compliance with these regulations, on the particular LOT proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the COMPREHENSIVE PLAN, the Land Use Ordinance, or these regulations.

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

**15.4** **Waivers Subject to Conditions.** In granting waivers to any of these regulations in accordance with Sections 15 .1 and 15 .2, the Board shall require such conditions as will assure the objectives of these regulations are met.

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

## ARTICLE XV – APPEALS

**An appeal from a decision of the PLANNING BOARD under this Ordinance may be taken within thirty (30) days to the Board of Appeals.**

# Definitions

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

ACCESSORY RESIDENTIAL UNIT: Secondary living quarters contained within and subordinate to a single-family detached dwelling or accessory STRUCTURE on a LOT that does not meet the minimum LOT size requirement for more than one DWELLING UNIT, and occupied by the owner's relative (by blood, marriage or adoption), the owner's caregiver, or any other person who provides day-to-day assistance to the owner.

ADDITION: Any construction which increases the area or the height of any portion of the BUILDING or STRUCTURE.

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 greenhouse products. AGRICULTURE does not include forest management and TIMBER HARVESTING activities.

AGGRIEVED PARTY: A PERSON whose land is directly or indirectly affected by the grant or the denial of a permit or variance under this Ordinance, a PERSON whose land abuts land which a permit or variance has been granted, or a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

ALTERATION: Any changes or modification in construction, existing facilities, or permanent fixtures or equipment which does not include an ADDITION to the BUILDING or STRUCTURE.

ARTERIAL: A roadway which serves long distance through-traffic and also allows access to abutting land.

BUILDING: A combination of materials to form a construction that is safe and stable, and adapted to permanent or continuous occupancy for assembly, business, educational, high hazard, industrial, institutional, mercantile, residential, or storage purposes.

BUSINESS UNIT: A distinct commercial use occupying a BUILDING or portion thereof and/or a LOT or portion thereof that has a distinct identity by virtue of legal status, stated name or signage.

CLUSTER SUBDIVISION: A SUBDIVISION in which the LOT sizes and ROAD frontages may be reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by LOT/unit owners, or land trust. Clustering shall not increase the number of allowable LOTS in a SUBDIVISION.

COASTAL FLOODPLAIN: The elevation of the 100-year flood is set at nine (9) feet above, vertical distance, mean sea level for the Town of West Bath.

COASTAL WETLAND: Any swamp, marsh, bog, beach, flat, or other land which is subject to tidal action above extreme low water and below its UPLAND EDGE, which is defined as the maximum spring tide as identified in tide tables published by the National Ocean Service.

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

COMPREHENSIVE PLAN OR POLICY STATEMENT**:** Any part or element of the overall plan or policy for development of the municipality as defined in Title 30-A M.R.S.A., Section 4326.

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

DRIVEWAY: A TRAVELED WAY providing access to a single LOT which is located on said LOT and/or on an EASEMENT granting access to said LOT.

DRIVEWAY: An entrance or exit used by vehicular traffic entering or exiting property abutting a highway or public ROAD. This term includes private residential DRIVEWAYS as well as commercial and other nonresidential DRIVEWAYS.

DWELLING UNIT: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

EASEMENT: The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

ENGINEER: Municipal Engineer or consulting engineer licensed by the State of Maine.

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

FLOOR AREA: The sum of the nominal areas of each floor of a STRUCTURE calculated as the projected areas extended to the exterior faces of the surrounding walls, plus the areas of any unenclosed portions of the STRUCTURE such as porches and decks, plus the area of an enclosed basement having a flat floor and ceiling height of at least six and a half feet (6.5'). If a floor level is completely discontinuous, such as in the way of a cathedral ceiling it shall not be projected through such a space. Minor discontinuities such as stairwells are not excluded from the calculation.

FOREST MANAGEMENT ACTIVITIES: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, TIMBER HARVESTING and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction of ROADS. Nevertheless, no timber shall be harvested within 150 feet of normal high water mark.

FORESTED WETLAND: A FRESHWATER WETLAND dominated by woody vegetation that is twenty (20) feet tall or taller.

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 10 contiguous acres and adjacent to a surface WATER BODY, excluding any river, STREAM or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

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

   FRESHWATER WETLANDS may contain small STREAM channels or inclusions of land that do not conform to the criteria of this definition.

GREAT POND CLASSIFIED GPA: Any GREAT POND classified GPA, pursuant to Title 38 Article 4-A Section 465-A.

HEIGHT OF A STRUCTURE: The vertical distance between the lowest point of the STRUCTURE at finished grade and the highest point of the STRUCTURE excluding chimneys, steeples, antennas and similar appurtenances which are incidental to the principal function of the STRUCTURE. *See also Median Height of a STRUCTURE*

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

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 tent platforms.

INDUSTRIAL PARK OR DEVELOPMENT: A SUBDIVISION in an area zoned for industrial uses or a SUBDIVISION planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

INLAND WETLAND: Areas of 2 or more acres enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as INLAND WETLANDS including but not limited to swamps, marshes, or bogs.

LOT: A parcel of land with ascertainable boundaries described in a recorded deed or defined by the boundary lines on a recorded sub-division plan which has been approved by the PLANNING BOARD.

LOT COVERAGE: The portion of a LOT covered by STRUCTURES, other impermeable surfaces, and dedicated permeable surfaces such as parking lots or exterior storage areas identified on the site plan of the LOT.

MAJOR ROADS: The State ROAD (old Route 1), Berry's Mill ROAD, Campbell POND ROAD, Old Brunswick ROAD, New Meadows ROAD, Foster's Point ROAD and Bull Rock ROAD (between the State ROAD and Foster's Point ROAD).

MEDIAN HEIGHT OF A STRUCTURE: The vertical distance between the average of the highest and the lowest points of a STRUCTURE at finished grade and the highest point of a STRUCTURE excluding chimneys, steeples, antennas and similar appurtenances which are incidental to the principal function of the STRUCTURE. *[Note: Defining a height measurement for assessing the heights of STRUCTURES on sloping ground.]*

MEDICAL OFFICE: Room or rooms whose principal use is as a space for a PERSON or PERSONS offering a service which requires specialized knowledge such as dentist, doctor or other medical professional and where no merchandise is sold.

MOBILE HOME: A moveable or portable dwelling built on a chassis, connectable to utilities.

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.

NET RESIDENTIAL ACREAGE: The total acreage of the SUBDIVISION, as shown on the proposed SUBDIVISION plan, minus the area for STREETS or access and the areas which are unsuitable for development as specified in Section 10.3.

NORMAL HIGH WATER MARK OF COASTAL WATERS: That line on the shore of tidal waters reached by the shoreward limit of the rise of the tide between the spring and the neap.

NORMAL HIGH WATER ELEVATION OF COASTAL WATERS: The elevations at which vegetation changes from predominately salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water elevation shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water elevation shall be the mean seaward limit of salt tolerant vegetation.

NORMAL HIGH WATER MARK OF INLAND WATERS: That line of the shore and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial. In places where the shore is of such character that the high water mark cannot easily be determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be determined from the places where it can be determined, by the above method. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NORMAL HIGH WATER ELEVATION OF INLAND WATERS: That line on the shores of banks on non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups. Water lily, POND lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

OFFICIAL SUBMITTAL DATE: The date upon which the Board issues a receipt indicating a COMPLETE APPLICATION has been submitted.

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

PLANNING BOARD: The PLANNING BOARD of the Town of West Bath

POND: Any inland body of water which has a surface area in excess of ten (10) acres, except where such body of water is manmade and in addition is completely surrounded by land held by a single owner, and except those privately owned PONDS which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

Preliminary SUBDIVISION Plan: The preliminary drawings indicate the proposed layout of the SUBDIVISION to be submitted to the Board for its consideration.

PRIMARY STRUCTURE: Shoreline STRUCTURES such as piers, docks, wharves, breakwaters, causeways, marinas, bridges, or similar STRUCTURES extending below the normal high water line into or over a waterbody.

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

PROFESSIONAL OFFICE: Room or rooms whose principal use is as a space for a PERSON or PERSONS offering a service which requires specialized knowledge such as an architect, engineer, insurance agent, lawyer, realtor or similar occupation and where no merchandise is sold.

RE-SUBDIVISION: The division of an existing SUBDIVISION or any change in the plan for an approved SUBDIVISION which affects the LOT lines, including land transactions by the sub-divider not indicated on the approved plan.

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.

SECONDARY STRUCTURE: any STRUCTURE located on a PRIMARY STRUCTURE.

SETBACK: The minimum horizontal distance between a STRUCTURE or other applicable entity and a boundary, ROAD centerline, body of water or WETLAND.

SHARED DRIVEWAY: A TRAVELED WAY providing access to two abutting LOTS from a private or public ROAD the shared portion of which is located at the boundary between said LOTS.

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.

SHORE 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.

SPECIAL INDUSTRIAL AND TRANSPORTATION USES: Industrial manufacturing and construction process and service uses and transportation and distribution service uses requiring special ordinance provisions governing isolation and screening for reasons of safety and/or inconsistency with other uses and restriction to an overlay zone. Such uses may involve bulk hazardous substances, other hazardous substances, significant exterior STRUCTURES, processing, storage and parking and also frequent or heavy truck or rail service. Bulk Hazardous Substance Uses, as defined and listed in Section 14.7 of the Development Review Ordinance, and trucking terminals are examples of Special Industrial and Transportation Uses.

STREAM: In the Shoreland Overlay Zone, a free-flowing body of water from the outlet of a GREAT POND or the confluence of two (2) perennial STREAMS as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another WATER BODY or WETLAND within the Shoreland Overlay Zone.

STREET: Public and private ways such as highways, ROADS, and other rights-of-way, as well as areas on SUBDIVISION plans designed as rights-of-way.

STRUCTURE: A manmade combination of materials at a specific location on and/or in the ground. A STRUCTURE may be primarily two dimensional, such as a parking LOT, or three dimensional, such as a BUILDING which functions as an enclosure.

STRUCTURE HAVING NEGLIGIBLE VOLUME: A STRUCTURE or portion thereof, principally two dimensional in nature, whose use does not utilize any of its volume, such as exterior stairs, a deck supported by an open framework or an impermeable slab on the ground.

STRUCTURE HAVING OPEN VOLUME: A STRUCTURE or portion thereof whose use utilizes the volume bounded by its STRUCTURE but which is always open to the weather, such as a screened porch.

STRUCTURE HAVING ENCLOSED VOLUME: A STRUCTURE or a portion thereof whose use utilizes the volume bounded by its STRUCTURE but which can be closed to the weather, such as a room.

SUBDIVISION: The division of a tract or parcel of land into three or more LOTS within any five-year period, which period begins on or after September 23, 1971, whether accomplished by sale, lease, development, BUILDINGS, or otherwise. The term "SUBDIVISION" also includes the division of a new STRUCTURE or STRUCTURES on a tract or parcel of land into 3 or more DWELLING UNITS within a 5-year period, the construction or placement of 3 or more DWELLING UNITS on a single tract or parcel of land and the division of an existing STRUCTURE or STRUCTURES previously used for commercial or industrial use into 3 or more DWELLING UNITS within a 5-year period. Leased DWELLING UNITS as well as owner-occupied DWELLING UNITS, including condominium units shall be counted as LOTS

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

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

(2) The division of the tract or parcel is otherwise exempt under this ordinance.

B. The dividing of a tract or parcel of land and the LOT or LOTS so made, which dividing or LOTS when made are not subject to this ordinance, do not become subject to this ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The PLANNING BOARD shall consider the existence of the previously created LOT or LOTS in reviewing a proposed SUBDIVISION created by a subsequent dividing.

C. A LOT of 40 or more acres shall be counted as a LOT, whether or not all or part of the parcel of land being divided is located within any shoreland area as defined in Title 38, section 435, or the Town's shoreland zoning.

D-1. A division accomplished by devise does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.

D-2. A division accomplished by condemnation does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.

D-3. A division accomplished by order of court does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.

D-4. A division accomplished by gift to a PERSON related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.. If the real estate

exempt under this paragraph is transferred within 5 years to another PERSON not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a LOT or LOTS for the purposes of this subsection. "PERSON related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate LOT does not create a LOT or LOTS for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.. If the real estate exempt under this paragraph is transferred within 5 years to another PERSON without all of the merged land, then the previously exempt division creates a LOT or LOTS for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more LOTS and upon each of which LOTS permanent dwelling STRUCTURES legally existed before September 23, 1971 is not a SUBDIVISION.

F. In determining the number of DWELLING UNITS in a STRUCTURE, the provisions regarding the determination of the number of LOTS shall apply, including exemptions from the definition of a SUBDIVISION of land.

G. Notwithstanding the provisions of this subsection, leased DWELLING UNITS are not subject to SUBDIVISION review if the PLANNING BOARD has determined that the units are otherwise subject to Town review at least as stringent as that required under this ordinance.

H. The grant of a bona fide security interest in an entire LOT that has been exempted from the definition of SUBDIVISION under paragraphs D-1 to D-6, or subsequent transfer of that entire LOT by the original holder of the security interest or that person's successor in interest, does not create a LOT for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this ordinance or the Title 30-A M.R.S.A., Section 4401 et seq.

For the purposes of the definition of a SUBDIVISION, a tract or parcel of land is defined as all contiguous land in the same ownership, as defined below, provided that lands located on opposite sides of a public or private ROAD shall be considered each a separate tract or parcel of land unless such ROAD was established by the owner of land on both sides thereof.

I. The division of a STRUCTURE into 3 or more units, whether they are commercial, industrial or DWELLING UNITS, or any combination thereof, within a five-year period shall constitute a SUBDIVISION.

TERRESTRIAL VEGETATION: Plants that grow along streams and wetland areas

TIMBER HARVESTING: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery. TIMBER HARVESTING does not include the clearing of land for approved construction the construction or creation of ROADS.

TRACT, LOT, OR PARCEL OF LAND: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable STREAM, tidal waters where there is no flow at low tide, or a private ROAD established by the abutting land owners.

TRAVELED WAY: The portion of a right of way having a surface, paved or otherwise, for vehicular traffic.

TRIBUTARY STREAM**:** 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 on exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. 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 Overlay Zone of the receiving WATER BODY or WETLAND. Note: Water setback requirements apply to tributary streams within the shoreland zone.

UNDERSIZED LOT: A LOT created that is smaller in size than the minimum at the time of the lot's creation as given in the Minimum LOT Standards Table for the district in which the LOT is located, that does not or will not have any BUSINESS UNIT or DWELLING UNIT located thereon and for which there is an annotated plot plan listing the approved use of the LOT and any PLANNING BOARD conditions recorded at the Registry of Deeds. No variances may be granted for an Undersized LOT.

UPLAND EDGE: The boundary between upland and WETLAND.

VEHICULAR RIGHT OF WAY: The land, defined by metes and bounds or otherwise so designated, within which a TRAVELED WAY is located.

VOLUME OF A STRUCTURE: The total volume of a STRUCTURE enclosed by roofs, decks and fixed exterior walls as measured to the exterior faces of the latter or projections thereof. The volumes of eves and other minor protuberances are excluded from the calculation. If an enclosed foundation, basement or lowest floor extends above finished grade, its volume shall be calculated by multiplying its nominal FLOOR AREA by its average height above finished grade. For a rectangular BUILDING this may be approximated by adding the heights above finished grade at each corner and dividing by four.

WATER BODY: Any GREAT POND, river, STREAM, TRIBUTARY STREAM or tidal area.

WATER CROSSING: Any project extending from one bank to the opposite bank of a river or STREAM, 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 crossing.

WATERSHED OF A GREAT POND: For the purposes of these regulations, GREAT POND watershed boundaries shall be as delineated on the Town of West Bath Land Use District and Overlay Zone Map. Due to the scale of this map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

WETLAND: A freshwater or COASTAL WETLAND.

WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS: WETLANDS contiguous with or adjacent to a GREAT POND or river, and which during normal high water, are connected by surface water to the GREAT POND or river. Also included are WETLANDS, which are separated from the GREAT POND or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the GREAT POND or river. WETLANDS associated with GREAT PONDS or rivers are considered to be part of that GREAT POND or river.