TOWN OF HARRISON
Bear River Aquifer Protection Ordinance

Adopted June 25, 1988

AMENDED AT THE ANNUAL TOWN MEETING
ON JUNE 14, 2006
AMENDED AT THE ANNUAL TOWN MEETING
ON JUNE 13, 2007
AMENDED AT THE ANNUAL TOWN MEETING
ON JUNE 10, 2009 A True Attested copy Date: June 11, 2009

A TRUE COPY ATTESTED

_____

Judith E. Colburn
TOWN CLERK

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Section 1. Purpose

A. To manage the groundwater recharge areas of the Bear River Aquifer in order to maintain the present rate of recharge and, where possible. To enhance recharge – thus ensuring a dependable water supply to the town for the future.

B. To protect the aquifer from contaminants, which can reasonable be, expected to accompany certain uses of land or activities, thereby maintaining the aquifer's high water quality.

Section 2. Findings

A. The Towns of Bridgton and Harrison are fortunate in that they have access to a water supply that is both plentiful and of excellent quality. From the Bear River Aquifer, the Harrison Water District draws water to serve many customers in Harrison and North Bridgton (including Bridgton Academy). The total demand from customers is 3,000,000 gallons of water per month, a rate that is consistent through out the year. The rate of demand is significantly lower than the rate defined as being a "safe yield rate" by Robert G. Gerber, Inc.

B. Rainfall replenishes the aquifer through a process known as a recharge. Increasing density of development creates impervious surfaces (areas which water cannot penetrate to reach ground water), which decrease the amount of water available for use from aquifers. Diminishing recharge also decreases the amount of water available to dilute pollutants.

C. The most likely sources of toxic water pollution are not necessarily large industries, but often-small businesses such as gas stations, dry cleaners, and automotive shops. Other pollution problems result from elevated concentrations of nitrates, and are linked to more common land uses such as household septic systems and use of fertilizers for agriculture.

D. W. Bradford Caswell, after completing a hydrogeological study of the Bear River Aquifer in the summer of 200 states:

> **"An overlying glacial-marine clay layer tends to protect the geographically small aquifer from accidental surface spills of contaminants. Much of the land overlying the aquifer is currently owned by the Water District. Establishment of the travel-time boundaries for control of certain land uses will provide still more protection of the aquifer from contaminants introduced at or near land surface. Most importantly, however, this investigation and analysis show without a doubt that the Bear River is your primary source of ground water recharge when the aquifer is pumped, and that maintenance of high quality river water through protection of the Bear River Watershed from introduction of potential contamination substances is of the utmost importance to the Water District and its customer. Commonsense land-use control measures to ensure that the present high quality of river water is not diminished in future years are required."**

E. Changes in the Federal Drinking Water Standards may require utilities; now using surface water supplies, to undertake additional treatment processed which could entail significant future costs. Maintaining the high quality of underground water sources such as the Bear river aquifer, including potential well points less influenced by the river itself, will give the Harrison Water District flexibility in the future when considering options for the efficient delivery of clean drinking water.

Section 3. Definitions

Agriculture: The cultivation of soil, producing or raising of crops, for commercial or other purposes, on more than one acre. The term shall also include tree, plant and shrub nurseries and versions thereof.

Animal Husbandry: Keeping more than 5 animal units (1 animal unit represents 1,000 pounds of live animal weight).

Automobile Graveyard: As defined by 30-A, M.R.S.A., Section 3752.

Aquifer: A saturated body of soil or rock that will yield economically significant quantities of water to wells and springs. Aquifers that yield over 10 gallons per minute are considered "high yield". The estimated yield of the Bear River Aquifer is 50 gallons per minute and over.

Commercial Animal Feedlots: A lot, building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals for commercial purposes and specifically designed as a confinement area in which manure may accumulate. Pastures shall not be considered animal feedlots under this Ordinance.

Commercial Use: A business in which the principal uses is the sale of goods and/or services to the general public or other businesses. Indoor storage of goods and equipment is permitted as an accessory use. Outdoor storage and uses that fit the definition of industrial use are not included in this definition.

Cone of Depression (or Draw down Cone): A depression that is created by a well in the potentiometric surface of a body of groundwater and that has the shape of an inverted cone and develops around the well from which water is being drawn.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking, incinerating, or placing of leach able materials in or on any land or water.

Dog Kennel: Possession of more than 3 dogs on any one property constitutes a kennel.

Draw Down: The difference between the elevation of static water elevation and of the water table at that point when the well is being pumped.

Dwelling Unit: A room or group of rooms designed and equipped exclusive for use as living quarters for only one family, including provisions for living, sleeping, cooking, and eating. This term shall not include hotels, motels, and bed and breakfast establishments without cooking facilities in individual rooms or suites.

Engineered Subsurface Disposal System: A system or a combination of individually or jointly owned systems that serve a single building or group of associated buildings with a total design flow in excess of 2,000 gallons per day. Examples include condominium projects and clustered systems serving residential dwellings. Residential dwellings with individual systems shall not be included.

Full Hydrogeological Study: A study by a Maine licensed geologist or hydrologist that analyzes the subsurface geology of a site, particularly as it relates to groundwater characteristics. Also, assesses the impact a proposed subsurface waste disposal system or other activity will have on the quality of this groundwater.

Hazardous Material: Any gaseous, liquid or solid materials or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

Home Occupation: An occupation or profession carried out for gain by a resident and conducted as an accessory use in or about the residential dwelling unit. To be considered a home occupation and not a commercial business, the home occupation must be secondary and incidental to the primary use of the premises as a residence, be carried on wholly within the principal structure or accessory structures hereto and be conducted primarily by a member or members of the family residing in the dwelling unit.

Examples of Home Occupations include; but are not limited to

1. **Beauty Shops**
2. **Office of Physician or dentist**
3. **Daycare center**
4. **Woodworking**

(The term does not include auto repair or auto body shops)

Impervious Surface: Natural or man-made material on the ground that does not allow water to penetrate into the soil. Impervious surfaces consist of all buildings, paved parking lots, roads and sidewalks, and any area of concrete, asphalt, plastic or metal or gravel.

Industrial Use: A use that involves the mechanical transformation of materials into new products, including manufacture, compounding, assembly or treatment of articles or materials.

In law Apartments – Separate living quarters included in an existing single-family residence for use by parents, grandparents, or dependents. An in-law apartment shall not be considered an additional dwelling unit if no expansion of the structure takes place to accommodate the apartment.

Junkyards: As defined by 30-A M.R.S.A. Section 3752.

Leachable Material: Liquid or solid materials that are capable of releasing harmful contaminants.

Multifamily Dwelling: A structure that houses two or more dwelling units as defined.

Off Road Vehicle: Any vehicle not manufactured for on highway use and intended for recreational purposes.

Petroleum: Oil, gasoline, petroleum products and their by-products, and all other hydrocarbons that is liquid under normal atmospheric conditions.

Primary Recharge Area: The area contributing most directly to the groundwater source. For the purpose of this ordinance, the primary recharge area is that area with the Town of Harrison identified in the Robert G. Gerber report as "Maximum Primary Recharge Area." The primary recharge area also includes the lateral limits of the aquifer, which is defined as the area of glacial outwash that extends approximately 1,000 feet to either side of the Bear River.

Recharge Area: The area of land or water that contributes water to an aquifer. For the purpose of this ordinance, the recharge area of the Bear River Aquifer is comprised of a primary and secondary recharge area.

Safe Yield: The amount of water that can be withdrawn annually from a groundwater source without producing an undesirable effect. Undesirable effects include depletion of groundwater reserves, intrusion of low quality water, contravention of water rights and other, such as depletion of stream flow and local subsidence.

Secondary Recharge Area: The area contributing less directly than the primary recharge area but which constitutes a significant percentage of total recharge to the aquifer. For the purpose of this ordinance, the secondary recharge area shall consist of the drainage area of the Bear River in Harrison and Bridgton as established by topographical high points, excluding the area defined as the primary recharge area.

Single Family Dwelling: A dwelling designed for or occupied exclusively by one family.

Sludge: Residual materials produced by water or sewage treatment processes and by septic tanks.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garage, scrap materials, junk and refuse.

Toxic Substance: Any substance that has the capacity to produce injury, or illness to humans through ingestion, inhalation, or absorption into the body.

Watershed: The area of contribution to a surface water body. Topographic high points define it.

Section 4. District Boundaries

A. For the purpose of this ordinance, and in order to carry out its regulations, the Bear River Aquifer Protection District shall be delineated on a tax map titled "Aquifer Protection District Map: Town of Harrison"

B. A copy of said map will be available for inspection in the Town Office and shall be updated as new information relevant to the criteria listed below, provided by a Maine Licensed Geologist, warrants that it be changed.

C. The Aquifer Protection District includes two sub districts.

1. **District A consists of the primary recharge area for the acquifer within the Town of Harrison as defined herein.**

2. **District B consists of the watershed of the Bear River within the Town of Harrison as determined by U.S.G.S. maps, exclusive of District A. This area constitutes a secondary recharge area.**

D. Revisions to Map

1. **Where the bounds of Aquifer Protection district, or the position of a site in relation to the District, is in dispute, the burden of proof shall be upon the owner (s) or occupier (s) of the land in question to show where they should be properly located.**

2. **No changes to the Aquifer Protection District Map shall be made until the Planning board holds a public hearing. Notice shall be at least ten (10) days prior to such hearing in a**

newspaper of general circulation in the Town of Harrison and to all abutters of affected property. At said hearing the Planning Board shall hear evidence demonstrating why the boundary of the Aquifer Protection District or sub district shall be changed. Evidence shall include a report from a geologist licensed in the State of Maine with proven experience in hydrogeology. The Board shall also notify the Harrison Water District of the hearing at least fourteen (14) days prior to the date of the hearing. Within thirty (30) days of the hearing, the Planning board shall decide whether to recommend to the Selectmen that the proposed Aquifer Protection Map amendment be placed on the next Annual Town Meeting warrant.

3. **Any time the Aquifer Protection Map is revised, the date of adoption of the revised map by the Annual Town Meeting and the signature of the Town Clerk certifying the revision shall be noted on the map.**

E. Revisions to Ordinance

1. No changes to the Aquifer Protection Ordinance shall be made until the Planning Board holds a public hearing. Notice shall be at least 14 days prior to such hearing in a newspaper of general circulation in the Town of Harrison. At said hearing, the Planning Board shall hear evidence pertaining to the proposed changes. The Board shall also notify the Harrison Water District at least 14 days prior to the hearing. Within 30 days, the Planning Board shall decide whether to recommend to the Board of Selectmen that the proposed changes be placed on the next Annual Town Meeting Warrant.

Section 5. District Uses and Space Standards

A. Uses of Land within Districts A and B

Land Use	Zone A	Zone B
1. Residential		
Accessory uses	P	P
Single-Family homes	P	P
Home occupation	PB	PB
Multi-family home	PB	PB
In-Law apartments	PB	PB
2. Commercial		
Agriculture	P	P
Animal husbandry other than Commercial animal feedlots	X	PB
Boat, Small Engine, and Motor Vehicle Service and Repair	X	PB
Campgrounds	X	X
Car washes	X	X
Commercial uses with non-domestic Waste systems	X	X
Dry Cleaning establishments	X	X

Forestry/timber harvesting subject to the performance standards of the Town's Shoreland Zoning Ordinance within 250 ft of Bear River.	**P**	**P**
Furniture Stripping	**X**	**X**
Gas Stations	**X**	**X**
Kennels	**X**	**X**
Photo processors	**X**	**X**
Truck terminals	**X**	**X**
3. Industrial		
Sand and gravel extraction	**X**	**PB**
Junkyard/Automobile graveyard	**X**	**X**
Manufacturing	**PB**	**PB**
Metal plating	**X**	**X**
Sawmills or wood processing plants	**PB**	**PB**
Other industrial uses	**PB**	**PB**
4. Miscellaneous		
Cemetery	**X**	**X**
Disposal or storage of solid waste, Hazardous materials, or leach able Materials (unless specifically permitted within the District)	**X**	**X**
Engineered (wastewater disposal) system When accompanied b a full hydrogeological study and meeting the performance standards herein	**X**	**PB**
Open Space	**P**	**P**
Outdoor recreation, except those which Disrupt the surfaces of hillsides or other Watershed areas	**P**	**P**
Footbridge and bicycle paths	**P**	**P**
Uncontained salt, sand/salt storage piles	**X**	**X**
Wastewater disposal system	**P**	**P**
Use of off-road vehicles	**X**	**P**
Public Utilities	**PB**	**PB**
Contained salt, sand/salt storage piles	**X**	**X**
Roads and parking areas within impervious surface standards	**P**	**P**
Application of chemical fertilizer, herbicides or pesticides on more than 1 acres of land	**X**	**P**
Application of chemical fertilizer herbicides or pesticides on more than 5 acres of land	**X**	**PB**
Demolition stump dumps	**X**	**PB**
Subsurface storage of petroleum and other refined petroleum products with the exception of household heating oil where the underground storage tank in full compliance with volume 2 of the Code of Maine Rules, 4th Printing, DEP Bureau of Oil and Hazardous Materials, Ch. 691	**X**	**X**

Regulations for…Underground Storage Facilities.		
Petroleum storage for commercial or industrial use	X	X
Land application of manure on one acre or more of land	X	X
Nonresidential pipelines for transmission of oil, gas, or hazardous materials	X	X
Aerial spraying of herbicides, pesticides	X	X

X = Not Permitted
P = Permitted (provided that performance standards contained in Section 8 of this Ordinance are met)
PB = Required Planning Board review according to the procedures and standards contained in the Town of Harrison Site Plan Review Ordinance

C. Space standards within Zone A

1. **Minimum Lot size: 120,000 square feet**
2. **Maximum Density: One dwelling unit per 120,000 square feet**
3. **Minimum Road Frontage: 250 feet per lot. Road frontage may be measured at the building setback line for lots on cul-de-sacs.**
4. **Minimum Setbacks:**
   a. **Street – 50 feet, Side and rear – 20 feet**
5. **Maximum lot coverage with impervious surface: 10%**
6. **Setbacks from Bear River**
   a. **Building – 100 feet**
   b. **Waste Water disposal**
      New construction – 200 feet
      Replacement system – as close to 200 feet as lot will allow

D. Space Standards within Zone B

1. **Minimum Lot Size: 40,000 square feet**
2. **Maximum Density: One dwelling unit per 40,000 square feet**
3. **Minimum Road Frontage: 150 feet per lot, plus 50 feet for each additional dwelling unit beyond the first. Road frontage may be measured at the building setback line for lot on cul-de-sacs.**
4. **Minimum Setbacks:**
   a. **Building: Front – 50 feet, Side and rear – 20 feet**
   b. **River: 100 feet**
   c. **Septic: New construction – 200 feet from river**
      Replacement system – as close to 200 ft as lot will allow
5. **Maximum lot coverage with impervious surface: 30%**

Section 6. Administration and Enforcement

A. Enforcement

1. **No activity or land use may be conducted in Zone A or B except in accordance with these provisions. Failure to conform to these provisions shall constitute a violation and shall be subject to penalties and actions set forth in this Ordinance.**

2. **In reviewing subdivisions and site plans located entirely or partially within Aquifer Protection Districts, the Planning Board shall apply requirements and standards of this ordinance to those of the Subdivision Guidelines or Site Plan Ordinance.**
3. **For areas within the Aquifer Protection Districts that are governed by the Shoreland Zoning Ordinance, the more restrictive standards shall be applied.**
4. **If any portion of a lot is located in Zone A or B, all the land located in Zone A shall be governed by regulations for Zone A, and the land located in Zone B shall be governed by regulations in Zone B.**
5. **Individuals proposing uses permitted in Section 5 shall submit all applicable information required in Section 7 (submission requirements) to the CEO with a building permit application. The CEO shall review this information to determine whether the proposed use or dwelling meets the requirements of the Aquifer Protection District. The CEO shall notify the Chairperson of the Planning Board and the chairperson of the Harrison Water District Trustees of any applications for uses proposed in the Aquifer Protection District. <u>The Harrison Water District Board of Trustees will have 30 days from the postmarked date to review the application before the permit is issued by the Code Enforcement Officer.</u>**
6. **The Planning Board (hereafter referred to as "the Board") shall review all other proposed uses required listed in Section 5.**
   a. **The Board may consult other local boards or groups regarding uses or development in the Aquifer Protection District such as the Conservation Commission.**
   b. **The board may require an applicant to submit a hydrogeological study examining the potential impact of the proposed use on groundwater quality. A state Certified Geologist must prepare the study with proven experience in hydrogeology. The Board may hire an expert to review all information submitted by the applicant and may charge the applicant the cost of the consultant.**
   c. **The Board shall notify the Harrison Water District of any applications for uses proposed in the Aquifer Protection District. The Board shall request Water District review of the development or use as a condition of its approval.**
   d. **Such information requested by the Board from outside parties shall be incorporated into the public record and be made available to the applicant.**
   e. **The Board shall, after a public hearing with due notice, approve, deny, or approve with conditions an application if it makes a positive finding, based on the information presented that:**
      - **The proposed use meets the specific requirements set forth in this ordinance and will be in compliance with all applicable state and federal laws:**
      - **The proposed use meets all applicable performance standards:**
      - **The proposed use will not create the risk of bacterial or viral contamination of groundwater in Zone A;**
      - **Control measures proposed to prevent adverse impacts on water quality are adequate and reliable;**
      - **The use will not involve disposal of solid waste, hazardous materials, or Leach able materials as prohibited under the terms of the District;**
      - **Petroleum stored-on-site will be properly contained so as to prevent contamination of the groundwater by leaks or spills.**
7. **The Code Enforcement Officer shall enforce the provisions of the Aquifer Protection District. The Code Enforcement Officer may, at reasonable hours, with the consent of the property owner, occupant, or agent, enter on any property for compliance with the provisions of this District.**
8. **The Board can require installation and regular sampling of water quality monitoring wells for any use deemed to be significant actual or potential source of pollution.**

a. **The number, location, and depth of the monitoring wells shall be determined by a licensed engineer or hydrogeologist chosen or approved by the Town in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983).**
b. **Results from monitoring well samples shall be submitted to the Water District with evidence showing that the contaminate concentrations meet the performance standards for pollution levels.**

9. **For subdivisions located in the Aquifer Protection District, the Planning Board shall apply the purpose, terms, and criteria of this District to its review. The Board may require submissions of a hydrogeological study prepared by a State Certified Geologist with proven experience in hydrogeology, which examines a subdivision's impact on groundwater quality.**
10. **The code Enforcement Officer is authorized to issue a cease and desist order whenever he becomes aware of violations of this ordinance. Any person, firm or corporation being the owner of or having contact or use of any building or premises, who violates this cease and desist order, or is found guilty of violating any other provisions of this Ordinance, commits a civil violation is subject to a fine of not less than $100 and not more than $2,500 for each violation. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense.**

Section 7. Submission Requirements

A. Applications for permission to carry out any activity in Zone A or B shall be accompanied by a fee of $25.00 and the following information.
1. **Site Plan drawn to a scale no smaller than 1 inch equals 100 feet showing:**
   a. **Aquifer Protection District boundaries if they cross the parcel.**
   b. **Boundaries of the property and abutting streets.**
   c. **Outlines of all buildings.**
   d. **Layout and location of access drives, parking areas and vehicular maneuvering areas.**
   e. **Location of all petroleum storage tanks.**
   f. **Location of buffers, landscaping, and existing vegetation which will be retained.**
   g. **Location and description of storage areas and types of materials to be stored.**
   h. **Location of wastewater disposal systems or public sewer facilities.**
   i. **Location of all public and private water supplies on the property and abutting properties.**

A description of the manner in which the applicant shall meet all applicable Performance Standards.

B. Where applicable:
1. **A complete list of all chemicals, pesticides, fuels and other potentially toxic or hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use, and a description of measures to provide for control of spills.**
2. **For animal husbandry operation, a Conservation Plan, approved by the local Soil and Water Conservation District.**
3. **For dwellings with subsurface waste disposal systems, a completed site evaluation form (HHE-200).**

C. If required by the Board:
1. **A map showing groundwater contours of the seasonal high water table.**
2. **A hydrogeological study of the proposed use's impact on groundwater quality.**
3. **Water quality data from on-site monitoring wells.**
4. **Any other information needed to prove that the use will not adversely affect groundwater quality.**

Section 8. Performance Standards

All site plan and subdivision proposals and other proposals for structures, uses and activities within the Aquifer protection district shall conform to use and space standards of the governing subdistrict and the following minimum levels of performance.

A. General Standards

1. **All such proposals shall be consistent with the need to protect the quality and quantity of Harrison and Bridgton's groundwater supply.**
2. **In cases where proposed uses are not listed as permitted or prohibited uses above, the Board shall make a finding on whether the use is permitted or prohibited based on its similarity or dissimilarity with listed permitted and prohibited uses and whether its impacts would be more substantial than that of a low-density residential use.**
3. **Whenever possible, streets, roads and parking areas shall be designated and constructed so that reduced application of road salt can occur without creating winter safety problems and so that runoff from such uses is channeled to avoid or minimize groundwater contamination.**

B. Erosion and Sediment Control

1. **Erosion and sedimentation shall be minimized by adherence to erosion control management practices contained in the "Environment Quality Handbook", dated March 1986, published by the Maine Soil and Water Conservation Commission.**
2. **For residential subdivisions, commercial and industrial developments and other large-scale developments, a sedimentation and erosion plan meeting the standards of the Cumberland County Soil and Water Conservation District shall be prepared by the applicant.**

C. Home Occupations

1. **Home occupations shall be accessory to a residential use and clearly incidental and secondary to the residential use of the dwelling unit.**
2. **No more than two (2) persons other than the residents occupying such dwelling shall be employed.**
3. **In no way shall the appearance of the structure be altered or the occupation be conducted in a manner which would cause the premises to differ from its residential character either in the use of colors, materials, construction. lighting, or the emission of sounds, noises, smoke, dust, glare, odors, electrical interference, heat or vibrations.**
4. **No traffic shall be generated by such a home occupation that would be considered incompatible in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.**
5. **Provisions must be made for adequate off street parking requirements based on the maximum number of users that the home occupation may attract during peak operating hours, the vehicles of any outside employees, and parking to meet the normal requirements of the dwelling unit.**
6. **Evidence shall be provided that the subsurface disposal system on the site can accommodate the wastewater generated by the home occupation.**

D. Manure Storage

Agricultural operations must provide manure containment facilities for manure storage. Facilities must be adequate to hold one year's production and must be covered.

E. Preservation of Landscape

The landscape shall be preserved in its natural state, insofar as is practicable, by minimizing tree, vegetation and soil removal, retaining existing vegetation wherever possible, and keeping grade changes consistent with neighboring areas.

F. Runoff

1. **For residential subdivisions, commercial and industrial developments and other large-scale developments, the developer shall submit a storm water runoff plan, showing calculations for predevelopment and post development runoff for the site for a 25 year, 24 hour frequency storm, and planned runoff control measures.**

2. **Unless it can be shown that an increase in runoff will have no off-site impact, peak runoff from the site in the developed state will not be increased beyond that in the undeveloped state.**

G. Subsurface Waste Disposal Systems

1. **On-site waste disposal systems shall be designed and located so as to avoid or minimize groundwater contamination.**
2. **Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning septic systems is prohibited.**
3. **Engineered Systems in "B" districts shall be reviewed and approved by the Division of Human Services, Health Engineering Division. In addition, the applicant shall submit to the Board a full hydrogeological study of the proposed engineered system.**

   The study shall demonstrate that the development will not increase any contaminate concentration in the groundwater to more than one-half of the Primary Drinking Water Standards adopted by the State of Maine. The study shall also demonstrate that the project will not increase any contaminant concentration in the groundwater to more than Secondary Drinking Water Standard adopted by the State of Maine, Department of Human Services.

4. **Proposals for on-site septic systems within the 200-day travel period of District A will also require a full hydrological study. The Planning Board may also require hydrological studies for proposed subdivisions within District A that because of size, type location or topography are deemed a potential threat to groundwater quality. In reviewing these studies, the Planning Board shall apply the standard of subsection G.3 above.**

D. Sand and Gravel Extraction

1. **Pits shall not be excavated lower than five (5) feet above the average seasonal high water table.**
2. **Petroleum products shall be kept out of pits. Refueling and oil changes that must be conducted in the pit shall take place over a containment area constructed to contain the maximum possible spill from entering the ground.**

3. **Absorbent pads shall be kept on-site to be used immediately should any petroleum products be spilled on the soil.**
4. **No hazardous materials shall be used, stored or deposited within the excavation area.**
5. **Access roads into and around the pit shall not be oiled, salted, or paved.**
6. **No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions.**
7. **Access to the pit shall be strictly controlled at all times with locking gates, and when the operations are finished, all vehicular entrances shall be made impassable.**
8. **Structures and subsurface waste disposal systems shall be sited a minimum seventy-five (75) feet from the gravel pit slopes in excess of forty (40) percent.**
9. **Reclamation projects shall whenever possible, use trees for re-vegetation purposes.**

Section 9. Nonconforming Uses

A. Structures, uses and lots which were legally existing as of _____ (effective date of this Ordinance shall be treated as nonconforming and may continue and be maintained, repaired and improved.

B. All expansions of structures (outside the Shoreland Zone) nonconforming because of density, lot size, frontage, and setback shall be permitted as long as they meet the other standards of this Ordinance and do not make the structure more non-conforming.

C. Expansions of non-residential structures/facilities that are nonconforming because the use carried out within the structure of facility is prohibited by this Ordinance shall not be permitted. In cases of undue hardship, the board of appeals may issue a variance for a one-time increase of no more than fifteen (15) percent of the gross floor area of the existing structure, as long as this expansion meets the other standards of this Ordinance.

D. Construction of one principal, permitted use on non-conforming lots of record legally in existence on _____ (effective date of this Ordinance), is permitted if all other standards of this Ordinance are met.

E. Expansions of uses or structures in excess of the impervious surface ratio shall only be permitted in cases of hardship and shall be reviewed by the Board of Appeals as variances.

Section 10. Appeals

A. Administrative Appeals

1. **If the Planning Board or Code Enforcement Officer disapproves an application for a building permit, septic or subsurface sanitary disposal system permit, or any use permit issued under the authority of this Ordinance, or grants any of these permits subject to conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, town officials, or other aggrieved party may appeal the decision of the Planning Board or code Enforcement Officer in writing to the Board of Appeals, within thirty (30) days of the Planning Board's or the code Enforcement Officer's decision. The Board of Appeals may reverse the Planning Board's or the Code Enforcement Officer's decision after holding a public hearing if a finding is made that the decision was clearly contrary to the provisions of the Ordinance or was unsupported by substantial evidence. Public hearings shall be held in accordance with the provisions of M.R.S.A. Title 30-A Section 2691 as amended. Administrative appeals shall be administered according to the provisions of Section 16 H. (3) of the Harrison Shoreland Zoning Ordinance.**

2. **If the Planning Board disapproves an application for subdivision which is subject to the provisions of the Ordinance, or approves an application for subdivision subject to conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent of the Ordinance has been misconstrued or wrongfully interpreted, an appeal from the order of decision of the Planning Board may be taken by the applicant, an abutting landowner, town officials, or any aggrieved party to Maine Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.**

B. Variances

In certain instances where a literal application of the standards of this Ordinance would cause the imposition of an undue hardship, as defined in M.R.S.A. Title 30-A Section 4353 as amended, upon an applicant, the Board of Appeals may grant a variance to these standards. A variance shall not be granted by the Board of appeals unless and until a written application for a variance has been filed and reviewed by the Board of Appeals in accordance with the provision of the Harrison Shoreland Zoning Ordinance.

Section 11. Legal Provisions

A. Authority

This Ordinance has been prepared in accordance with the provisions of Revised Statutes of Maine, as amended.

B. Title

This Ordinance shall be known and cited as the Bear River Aquifer Protection Ordinance.

C. Interpretation

Interpretation of what may not be clear in this Ordinance shall be according to the intent of the Ordinance and the Comprehensive Plan.

D. Conflict within this Ordinance or with other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of the Ordinance or any other Ordinance, regulation or statue, the more restrictive provision shall control.

E. Separability

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.

F. Effective Date

The effective date of this Ordinance is June 10, 2009