

LAND USE ORDINANCE

Planning Board Meetings
2nd Tuesday of each month, 6:00 p.m.
West Bath Town Hall

Town of West Bath
219 Fosters Point Rd.
West Bath, ME 04530
Tel: (207) 443-4342
Fax: (207) 443-3256
www.westbath.org

Last Amended: February 2026

Table of Contents

Article I. General Provisions 5
Purposes 5
Statutory Authority 5
Applicability 5
Administrative Bodies 6
Approvals and Permits 8
Validity and Severability 10
Conflicting Ordinances 10
Amendments 11
Effective Date 12
References 12

Article II. Land Use Districts, Overlay Zones, and Requirements **13**
District Boundary Descriptions, Overlay Zones, & Map 13
District 1. High Density Coastal 13
District 2. Residential 14
District 3. Rural Residential 15
District 4. Business & Commercial 15
District 5. Urban Development Park 15
Mobile Home Park Overlay Zone 16
Resource Protection Overlay Zone 16
Shoreland Overlay Zone 17
Special Industrial & Transportation Overlay Zone 19
Use Regulations & Requirements 20
Land Use Matrix 21
Minimum Lot Standards 28

Article III. Site Plan Review 30
Project Classes 30
Procedure 31
Pre-Application Meeting 31
Fees 32
Application 32
Final Approval 32
Submissions 33
General Performance Standards for Site Plan Review 35
Waivers 57

Article IV. Subdivisions **58**
Purpose 58
Definitions & Standards: Small vs. Large Subdivision 58
Pre-Application Procedure 59
Application Procedure 60
Preliminary Plan Submission 62
Final Plan Submission 68
Final Approval and Filing 72
Revisions to Approved Plans 73
General Standards 74
Performance Guarantees 88

Article V. Specific Standards **90**
Accessory Dwelling Units 90
Affordable Housing Development 91
Business and Commercial Development 92
Mineral Exploration and Extractions 94
Mobile Home Parks 94
Home Occupations 96
Setback Reduction Plan – UDP District 97
Small Wind Energy Conversion Systems 97
Domesticated Chickens 101
Solar Energy Systems 102
Communication Towers 105
Indoor and Outdoor Places for Eating and Drinking; Live Entertainment 109
Food Trucks 110
Agriculture 110
Campgrounds not in the Shoreland Zone 111
Kennels and Animal Accommodations 111
Bed and Breakfasts 111
General Industrial/Manufacturing Uses 111
Junkyards 111
Daycares 112
Change of Use 112

Article VI. Non-Conformance **113**
Purpose 113
Definition 113
Non-Conforming Uses 113
Non-Conforming Lots 113
Non-Conforming Structures 114
Reconstruction/Replacement 114
Expansions 115
Greatest Practical Extent Criteria 118

Article VII. Appeals **119**
Composition, Appointments, Qualifications, & Terms 119
Organization & Meetings 119
Conflict of Interest 120
Powers & Duties 120
Variances 121
Application 122
Procedure 122
Standards of Review 122
Conditions of Approval 125
Expiration 125
Re-application 125
Misrepresentation 125
Prior to Work 125
Notice to Department of Environmental Protection 125

Article VIII. Shoreland Zone **126**
Shoreland Zone Overlay District 126
Purpose 126
SZO District Applicability 126
Additional Requirements 127
Lot Size and Shore Frontage 129
Piers, Docks, Wharves, Bridges, and Other Structures 130
Shoreland Zone Overlay Permit Requirements and Exceptions 131
Shoreland Zone Administration 150
Special Exceptions for Development within Resource Protection 153

Article IX. Enforcement & Penalties **155**

Article X. Definitions **156**

ARTICLE I. GENERAL PROVISIONS

1.1 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;
- Integrate findings of the Comprehensive Plan; and
- Anticipate and respond to the impact of development.

1.2 STATUTORY AUTHORITY

This Ordinance is prepared in pursuant to Maine Revised Statutes Annotated (M.R.S.A), Title 30-A, Sections 2691, 3001, 4351-4353, 4358, 4403, and 4452; 38 M.R.S.A Sections 435-449, and any other applicable provisions of the statutes; as well as pursuant to the Comprehensive Plan of the Town of West Bath.

1.3 APPLICABILITY

1.3.1: The present uses of land and existing **structures** shall not be affected by this Ordinance unless public health and safety is threatened.

1.3.2: The use of any land, building, or structure; the division of any tract of land; and any construction or alteration of any building or structure must be in conformance with the standards and procedures set forth in this Ordinance. All uses of land, buildings, or structures; construction or modification of buildings; and divisions of land that do not meet the requirements of this Ordinance are prohibited; except for those lawfully nonconforming uses, buildings, structures, or lots provided in Article VI (Nonconforming Uses).

1.4 ADMINISTRATIVE BODIES

1.4.1. PLANNING BOARD

A. Composition, Appointments, Qualifications and Terms

1. 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 Select Board. All members of the Planning Board shall be residents of the Town of West Bath. Members of the Select Board shall not be eligible to serve on the Planning Board. Members of the Planning Board shall serve staggered five (5) 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 30 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

1. The Planning Board shall elect annually a Chair and Vice Chair 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.

2. The Chair'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 Chair shall be responsible for carrying out the duties of the Chair 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.

3. 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 Chair, or upon a written request of at least three (3) members of the Planning Board.

4. Public notice of all meetings of the Planning Board shall be provided in accordance with State law, and outlined in Article III (Site Plan Review) or Article IV (Subdivision). 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.

5. 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
   1. No member of the **Planning Board** shall vote on or participate in any matter in which he/she has a bias or conflict of interest, including, but not limited to, 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 bias or 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
   1. The Planning Board shall administer the Land Use Ordinance:
      1. For all land uses outlined in Article II (Land Use Matrix).
      2. For all subdivision plan and amendments thereto.
      3. For all uses in the Shoreland Overlay Zone chart outlined in Article II (Shoreland Zone).

1.4.2. Code Enforcement Officer – The Code Enforcement Officer shall administer the Land Use Ordinance for all uses not administered by the **Planning Board** unless the Code Enforcement Officer requests **Planning Board** review.

1.5. APPROVALS AND PERMITS

1.5.1. 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).

1.5.2. Fees – For the purpose of defraying normal costs associated with the processing of applications by the Town, the Select Board 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.

1.5.3. It shall be unlawful to construct, add to, alter, remove, or demolish any STRUCTURE without first filing with the **Planning Board** or Code Enforcement Officer an application in writing and obtaining the necessary approval(s) and/or permit(s) as outlined in Article III. Upon receiving an application in the proper form, the **Planning Board** or Code 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 Code 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 Select Board. The Code Enforcement Officer shall file a monthly report with the Select Board description of activities which are within his jurisdiction and his action in respect to them.

1.5.4. Applications – Applications for approvals and permits shall be submitted in writing. The Code Enforcement Officer or the **Planning Board** may require the submission of whatever information is necessary to determine conformance with the provisions of this Land Use Ordinance.

1.5.5. Right, title or interest in the application property must be provided for all applications. Leases must be signed by lessor.

1.5.6 All required abutter notifications shall be sent to all appropriate parties via certified return receipt mail by Town staff no less than 14 days before any hearing. Notification fees shall be in accordance with the current Town Fees & Penalties Schedule and reimbursed to the Town by the Applicant at the time of application.

1.5.7. 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 and can be renewed if the project is still compliant with all standards and criteria as of the

date of renewal. Building permits issued by the Code Enforcement Officer are valid for 6 months and can be renewed by the Code Enforcement Officer.

1.5.8. All **Building** permits issued by the Code 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.

1.5.9. **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, birds and other wildlife habitat.
E. Will conserve actual points of public access to waters.
F. Will avoid problems associated with floodplain development and use.
G. Is in conformance with the provisions of this Ordinance and other applicable law..

1.5.10. 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.

1.5.11. Constructions must commence within six (6) months from the STRUCTURE building permit date of issue unless permit is renewed by the Code Enforcement Officer.

1.5.12. 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. A certificate of occupancy/use shall be required and obtained from the Code Enforcement Officer 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 Code Enforcement Officer shall determine that the proposed use of the STRUCTURE or land conforms to the requirements of the Land Use Ordinance.

B. 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 VIII (Enforcement and Penalties).

C. The Code Enforcement Officer 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 ensure the timely completion of the work. The Code Enforcement Officer may require the posting of a bond or other financial security or guarantee to ensure completion of the project in accordance with its permitting.

1.6. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance become void or invalid, such decision shall not void or invalidate any other section, subsection, or portion of this Ordinance.

1.7. CONFLICTING ORDINANCES

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

1.8. AMENDMENTS

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

B. Special Town Meeting.

1. 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 Budget 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 changes in a more timely fashion, where it is deemed that such change is appropriate and a more timely consideration by the Town Budget Meeting is deemed necessary.

2. 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 Code Enforcement Officer have reviewed the proposed Ordinance changes and have made a recommendation regarding the proposed amendments.
   b. 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.
   c. The **Planning Board** has determined the proposed Ordinance change(s) conform with the provisions of the Town of West Bath COMPREHENSIVE PLAN.
   d. The Town has had an opportunity to have Ordinance amendments reviewed by the Town Attorney and such other organizations and municipal consultants as the Select Board may deem appropriate.
   e. The procedures set forth in subsection 3 below have been followed.

3. Public Notification and Participation.
   a. **Planning Board** Public Hearing. 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 two (2) publications. The first no less than fourteen (14) days prior to the scheduled Public Hearing.

b. Select Board's Public Hearing. At the point in time when the proposed Ordinance amendments are in draft form, the Select Board 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.

c. Additional Public Hearing. If the Select Board's Public Hearing provided for in Section b, above, results in significant changes, as determined by the Select Board, 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.

d. 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 Budget Meeting.

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

1.9. EFFECTIVE DATE

The effective date of this Ordinance is May 4, 2026, with subsequent amendments effective as of the date of their adoption by Town Budget Meeting.

1.10. REFERENCES

A. References in the text of this Ordinance to Articles refer to Articles of this Ordinance, unless otherwise specified.
B. This document, originally titled "Town of West Bath Land Use Ordinances", shall, as of May 4, 2026, be entitled "Town of West Bath Land Use Ordinance".

ARTICLE II. LAND USE DISTRICTS, OVERLAY ZONE, AND REQUIREMENTS

2.1 DISTRICT BOUNDARY DESCRIPTIONS, OVERLAY ZONES AND MAP

2.1.1. Districts with Overlay Zones. Wherever a LOT or a portion of a LOT of 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

2.1.2. 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.

2.1.3. Description. 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 from the center of the traveled way in a direction perpendicular to the edge of the traveled way, unless otherwise noted. 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 As Amended 2016”, as may be amended from time to time, certified by the attested or conformed signature of 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.

A. DISTRICT 1. High Density Coastal (HDC)

This district, formerly known as the High Density Shoreland, is based on historical development trends along seven different coastal parts of the coast. This district is not to be confused with the Shoreland Zone requirements under the State statute 38 M.R.S.A. § 435-449.

This district consists of seven (7) areas as defined below:

1. Bull Rock – Includes from map U-11 LOTS 3, 3A, 2, 25 through 32, and from map U- 12 LOTS 17 through 20.
2. Kings Point – Includes from map U-13 LOTS 2 through 33 and the portion of LOT 34 southerly of LOT 10.
3. Rockhaven – Includes from map U-15 LOTS 2 through 15 and from map U-16 LOTS 6 through 17.
4. Fosters Point – Includes from map U-17 LOTS 7, 8, 10, 10A, 11, 12, 14, and 16
   through 22.
5. 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.

6. 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.
7. 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.

B. DISTRICT 2. Residential

The purpose of the Residential District is to protect residential properties by allowing small-scale developments with low-intensity development and other uses that compliment residential developments and uses. These areas are marked on the maps as follows:

1. New Meadows ROAD – the area near New Meadows Lake and Creek designated as “Residential” on the Land Use Ordinance District and Overlay Zone Map.
2. 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.
3. 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.
4. Winnegance – Including all land easterly of Campbells 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 sought 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.

C. DISTRICT 3. Rural Residential

The purpose of this district is to retain the rural character of West Bath. This district encompasses the majority of the land area in West Bath and is intended for non-intensive uses and traditional rural activities.

D. DISTRICT 4. Business & Commercial

The purpose of this district is to encourage commercial and high-density development along parcels surrounding the State highway as well as State Road between Bath and Brunswick.

Beginning at a point where the high water mark of the New Meadows Lake intersects with the south side of the Route #1 right-of-way; thence southerly along the high waterline of the New Meadows Lake and River to a point offset 500′ and southerly of the State Road (Old Route #1); thence easterly paralleling State Road to a point of intersection offset 300′ westerly of Fosters Point Road; thence southerly paralleling, and 300′ offset, the west side of Fosters Point Road to the southern boundary of map U-12 Lot 10; thence easterly along the southern boundaries of map U-12 Lots 10, 10A and 9 and continuing across the Fosters Point Road to the northern boundary of map U-12 Lot 15D and continuing easterly along said boundary to a point offset 300′ from Fosters Point Road; thence northerly paralleling the Fosters Point Road, and 300′ offset, to an intersection point offset 500′ southerly of the Bull Rock Road; thence easterly paralleling the Bull Rock Road at an offset of 500′ to an intersection point that is also offset 500′ southerly of the State Road; thence easterly paralleling the State Road at an offset of 500′ to the West Bath/Bath town line; thence northerly along the West Bath/Bath town line to a point on the southerly right-of-way boundary of Route 1, the divided highway right-of-way, thence westerly along said highway right-of-way to New Meadows Lake and the point of beginning.

E. DISTRICT 5. Urban Development Park

The purpose of this district is to encourage industrial and commercial uses likely requiring access to centralized sewer and water systems. 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 and 03. The majority of land in this district is in Wing Farm Business Park.

F. 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.

G. 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:

1. 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.
2. 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.
3. Areas within the Shoreland Overlay Zone of two (2) or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting WETLAND vegetation and hydric soils, which are not part of a freshwater or COASTAL WETLAND as defined and which are not surfacially connected to a WATER BODY during normal spring high water.
5. 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.

6. 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 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. PUT IN STANDARD FROM DEFINITIONS

H. 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 435-448, 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.

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

d. 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;

e. 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;

f. 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;

g. The FRESHWATER WETLAND adjacent to the Lily POND

h. 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;

The COASTAL WETLAND at the north end of Berrys Mill Pond.

i. STREAMS – The Shoreland Overlay Zone includes the land on both sides of the following STREAM, as the term is defined in Article IX 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:The STREAM flowing from Campbells Pond to Dam Cove;

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

    i. Campbells Pond and the adjacent WETLAND at its northern end;
    ii. Winnegance Pond and its adjacent WETLANDS.

j. All other areas which fall within the description contained at 38 M.R.S.A. § 435 as amended.

I. 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:

1. 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.

2. 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

3. 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.

4. 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.

J. UNCERAINTY OF DISTRICT BOUNDARIES

When the Code Enforcement Officer cannot determine the location of a district boundary, the Code Enforcement Officer may refuse action, and the Board of Appeals, upon request, shall interpret the location of the district boundary with reference to the scale of the Land Use Map and the purposes set forth in all relevant provisions of this Ordinance.

2.2 USE REGULATIONS AND REQUIREMENTS

A. 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.

All uses listed in this section are Major Developments, as defined under Site

Plan Review, that require site plan reviews for approval.
For Minor Developments, as defined under Site Plan Review, structures changing the use or having an addition to a non-residential use are only permitted if the corresponding use is permitted in the Table below regardless of the municipal permitting authority. If the Minor Development is proposing a changed use to something that the Table lists as “PB”, the site plan review is done through the Code Enforcement Officer unless they request a public hearing through the Planning Board, as noted in the Minor Development procedure.

A use listed in the Table of Use Regulations is permitted in any district or overlay zone denoted by the following:

- Yes- No permit is required but still must comply with local and state requirements if applicable.
- CEO- Permitted use which requires a site plan reviewed by the Code Enforcement Officer
- PB- Permitted use which requires a site plan reviewed by the Planning Board
- No- Use is not permitted

Name of District or Overlay Zone	**Abbreviation in Table**
Shoreland Overlay Zone	SOZ
Stream Protection Overlay Zone	SP
Resource Protection Overlay Zone	RP
High Density Coastal	HDC
Residential	R
Rural Residential	RR
Mobile Home Park	MHP
Business and Commercial	BC
Urban Development Park	UDP

Table 2.1: Land Use Matrix

A. RESIDENTIAL	Shoreland Zone			Land Use Districts					
	SOZ	**SP**	**RP**	**HDC**	**R**	**RR**	**MHP**	**BC**	**UDP**

1. Single-family and duplex units	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
2. Accessory Dwelling Unit	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
3. Accessory additions such as, but not limited to, garages, solar systems for personal use, septic systems, and wells, swimming pools, personal storage.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
4. New multi-family housing between 3-4 units per structure.	No	No	No	CEO	CEO	CEO	CEO	CEO	CEO
5. New multi-family housing of 5 or more units per structure	No	No	No	No	No	No	No	CEO	No
6. 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.	No	No	No	No	No	No	PB	PB	PB
7. Group homes and halfway houses	No	No	No	No	No	No	No	PB	PB
8. Mobile Homes	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
9. Mobile Home Parks	No	No	No	No	No	No	PB	No	No

10. Piers, wharves, docks, breakwaters, causeways, marinas, bridges, and uses projecting into water bodies.	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
11. Subdivisions and Cluster Subdivisions	PB	No	PB	PB	PB	PB	PB	PB	PB
B. INSTITUTIONAL, RECREATIONAL, EDUCATIONAL	**Shoreland Zone**			**Land Use Districts**					
	SOZ	**SP**	**RP**	**HDC**	**R**	**RR**	**MHP**	**BC**	**UDP**
1. Places of Worship	No	No	No	No	PB	PB	PB	PB	PB
2. Schools	No	No	No	No	No	PB	No	PB	PB
3. Trade Schools	No	No	No	No	No	No	PB	PB	PB
4. Municipal and county governmental buildings and related or supporting facilities including, but not limited to, libraries and museums.	No	No	No	No	No	PB	PB	PB	PB
5. Cemeteries, other than family burial plots	No	No	No	No	PB	PB	PB	PB	PB
6. Publicly-owned parks and playgrounds.	No	No	No	No	CEO	CEO	CEO	CEO	CEO
7. Public Utilities,	PB	PB	PB	PB	PB	PB	PB	PB	PB

excluding utility office									
8. Private non-profit community center buildings, adult education centers, or other similar facilities	No	No	No	No	No	No	PB	PB	PB
9. Child Care for up to twelve (12) attendees	No	No	No	CEO	CEO	CEO	CEO	CEO	CEO
5. Child Care with no limits	No	No	No	PB	PB	PB	PB	PB	PB
6. Infirmaries and Hospitals	No	No	No	No	No	No	PB	PB	PB
7. Child Care	No	No	No	No	No	No	CEO	CEO	CEO
8. Country clubs, golf courses, swimming pools, tennis courts, or other recreational club facilities	No	No	No	No	No	No	PB	PB	PB
9. Public and private recreation areas involving minimum structural development (e.g. trails, baseball fields)	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
10. Individual Private Campsite for non-commercial use.	No	No	CEO	CEO	CEO	CEO	No	No	No
11. Public and private campgrounds for commercial use	No	No	No	No	PB	PB	No	PB	PB
12. Small non-residential facilities for scientific, educational, or nature	Yes	No	CEO	Yes	Yes	Yes	Yes	Yes	Yes

interpretation purposes									
13. Solid waste transfer and recycling building and facilities	No	No	No	No	No	No	No	PB	No

C. RESOURCE UTILIZATION	Shoreland Zone			Land Use Districts					
	SOZ	**SP**	**RP**	**HDC**	**R**	**RR**	**MHP**	**BC**	**UDP**
1. Agriculture, orchards, and horticulture	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2. Farms	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3. Domesticated chickens	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
4. Aquaculture and landside fish harvesting operations	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
5. Harvesting of wild crops	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
6. Forest management, silvi-culture, Timber Harvesting, and temporary on-site wood processing.	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8. Extractive industries, mineral explorations, and quarries.	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
D. OFFICES, LABORATORIES, AND COMMUNICATIONS	**Shoreland Zone**			**Land Use Districts**					
	SOZ		**RP**	**HDC**	**R**	**RR**	**MHP**	**BC**	**UDP**

		SP							
1. Business, financial, or professional offices	No	No	No	No	No	No	PB	PB	PB
2. Medical, psychiatric, or other health services for the examination or treatment of persons as outpatients. This may include laboratories or research facilities.	No	No	No	No	No	PB	PB	PB	PB
3. Radio, television, or other wireless communications buildings and facilities. This does not include communication towers.	No	No	No	No	No	No	PB	PB	PB
4. Communication Towers	No	No	No	No	No	No	PB	PB	PB
5. Home Occupations	No	No	No	No	CEO	CEO	CEO	CEO	CEO
E. COMMERCIAL AND INDUSTRIAL USES	**Shoreland Zone**			**Land Use Districts**					
	SOZ	**SP**	**RP**	**HDC**	**R**	**RR**	**MHP**	**BC**	**UDP**

1. Vehicle services and stores.	No	No	No	No	No	No	PB	PB	PB
2. Bank and other financial institutions	No	No	No	No	No	No	No	PB	PB
3. Retail and wholesale stores with no manufacturing or assembly on the premises	No	No	No	No	No	No	PB	PB	PB
4. Commercial studios for arts and handcrafts	No	No	No	No	No	No	CEO	CEO	CEO
5. Service businesses such as, but not limited to, barber shops, dry cleaning, laundromats, beauty parlors, tailoring shops, printing stores, and caterers.	No	No	No	No	No	No	PB	PB	PB
6. Veterinary Establishments , kennels, pet shop	No	No	No	No	No	PB	No	PB	PB
7. Places for repair, sale, rental, and/or storage of boats	No	No	No	No	No	No	PB	PB	PB
8. Indoor and outdoor places restaurants.	No	No	No	No	No	No	PB	PB	PB
9. Motels, Hotels, and Inns	No	No	No	No	No	No	PB	PB	PB
10. Bed and Breakfast Establishments	No	No	No	No	No	No	CEO	CEO	CEO
11. Enclosed storage facility	No	No	No	No	No	No	No	PB	PB
12. Flea Markets	No	No	No	No	No	No	No	No	PB
13. Industrial, manufacturing, and assembly	No	No	No	No	No	No	PB	No	PB

14. Wholesale businesses and storage	No	No	No	No	No	No	No	PB	PB
15. Trucking and freight terminals	No	No	No	No	No	No	No	PB	No
16. Bulk petroleum and propane facilities and other Hazardous substances	No	No	No	No	No	No	No	PB	No
17. Large Solar Energy Systems	No	No	No	No	No	No	No	PB	PB
18. Small Wind Energy Systems	PB	No	No	PB	PB	PB	PB	PB	PB
19. Food Trucks	No	No	No	No	No	No	CEO	CEO	CEO
20. Junkyard	No	No	No	No	No	No	No	No	No

MINIMUM LOT STANDARDS

Notwithstanding any provisions in a local Ordinance to the contrary, all structures and lots created after the adoption of this Ordinance shall meet the minimum lot standards

for the district in which they are located as shown in the following table. If a lot is legally non-conforming, it is not required to meet the area or shore frontage of a legally conforming lot.

Table 2.2. Minimum Lot Standards

District	Lot Size	Road Setback	Side & Rear Setback	Road Frontage	Shore Setback	Shore Frontage
High Density Coastal (HDC)	1 Acre	56 ft	20 ft	137 ft	75 ft	125 ft
Residential (R)	2 Acres	56 ft	20 ft	175 ft	75 ft	150 ft
Rural Residential (RR)	3 Acres	56 ft	20 ft	200 ft	75 ft	150 ft
Mobile Home Park (MHP)	1 Acre	100 ft	35 ft	100 ft	75 ft	150 ft
Business and Commercial (BC)	1 Acre	56 ft	20 ft	150 ft	75 ft	150 ft
Urban Development Park (UDP)	1 Acre	50 ft	35 ft	100 ft	75 ft	150 ft

Notes associated with Dimensional Requirements

A. 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, 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, right-of-way on boundary lines, and small entities such as birdbaths and lampposts.

B. The minimum lot size requirement shall be met for each newly built dwelling unit located on a parcel of land with the following exceptions:
    1. Multiple units within a single structure in the Business Commercial (BC) or Urban Development Park (UDP) shall be subject to the same minimum lot size requirement as a single unit. By way of illustration, a new building in the BC or UDP districts would require one (1) acre of land for each building that is proposed; however, if multiple uses/units are proposed in the same building, the lot hosting this structure will only need one (1) acre of land. All uses within the structure are still subject to other local and state standards including access to water and wastewater.
    2. An Affordable Housing Development shall have a density of two and a half (2.5) times the minimum lot size that is otherwise allowed in that location if it complies with the standards found under Article V. This is not applicable to units in the Shoreland Zone.
    3. One (1) Accessory Dwelling Unit per lot shall be exempt from the minimum lot size requirements with the exception of setback requirements. This is not applicable to units in the Shoreland Zone.

ARTICLE III. SITE PLAN REVIEW

3.1. Project Classes. The Code Enforcement Officer shall classify each development as one of three classifications: Minimal Impact Development, Minor Development, or Major development.

A. Minimal Impact Development. Minimal Impact Development shall include those projects involving the single-family homes and change of ownership of an existing development which does not involve exterior construction or alterations excluding changes to signs. Minimal Impact Developments will not require site plan review but will still be required to have an approved permit issued by the CEO.

B. Minor Development. Minor Development shall include those projects involving:

1. The construction of multi-unit residential buildings

2. The conversion from one use to another without enlargement of the gross floor area, provided that the new use is allowable in the lot's current district.

3. Exterior additions/alterations to non-residential use

4. Only the installation of outdoor impervious surfaces

Minor Developments will not require public hearing but will still be required to have an approved permit issued by the CEO. However, applications may be sent to the Planning Board for further review at the discretion of the CEO.

C. Major Developments. Major Development shall include those projects involving:

1. The construction of non-residential buildings

2. The conversion from one use to another that also enlarges the gross floor area, provided that the new use is allowable in the lot's current district as determined by the Land Use Matrix.

3. Projects involving the establishment of a campground, communications tower, or other projects in the Land Use

Matrix not classified as a Minimal Impact or Minor Development.

Major Developments will require site plan approval based on Planning Board approval. All uses listed as “PB” in the Land Use Matrix that are not a change of use, Minor Developments designated by the CEO as needing review, or a proposal that the CEO determines matches the category of 3.1(c) above shall be deemed as a Major Development.

3.2. Procedure: The following procedure shall govern the submission and review of applications for site and building plans, other than subdivisions

3.2.1. Pre-Application Meeting

A. 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.

B. The Planning Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Planning Board’s agenda at least one week in advance of a regularly scheduled meeting by contacting the Town Clerk. The Planning Board shall have up to 60 days to review an application submitted to the Town Clerk. Applicants who attend a meeting, but who are not on the Planning Board’s agenda or missed the deadline, may be heard but only after all agenda items have been completed and if a majority of the Planning Board votes to amend the agenda.

C. 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 the Planning Board in making its determinations.

D. 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 Chair to act as the Board’s representative.

E. 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.

3.2.2. Fees

A. All applications for Site Plan Review shall be accompanied by a non-refundable application fee as listed in the Fees Schedule payable by check to the Town.

3.2.3 Application

A. The application and fee shall be emailed or mailed to the West Bath Town Clerk for the Planning Board to review fourteen days prior to a regularly scheduled Planning board meeting. 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.

B. The Planning Board may hold a public hearing within 14 days of the filing of the completed application. The Town of West Bath, in addition to notifying abutting landowners, shall publish the time, date and place of hearing in two or more of the following ways at least seven days prior to the meeting:

1. At least one publication in a newspaper of area-wide circulation;
2. Posted on the town-owned sign in front of the West Bath Fire Department; or
3. Posted in the lobby of the West Bath Town Office.

C. 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.

D. 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.

3.2.3. Final Approval

Approval shall expire one (1) year from the date of final approval unless the

applicant has started substantial construction. The Planning 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.

3.2.4. 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 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 Planning Board. One reproducible, stable based transparent original to be recorded at the Registry of Deeds and three (3) copies of the plan shall be submitted. In addition, one (1) 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 Planning 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.

A. Plot plan(s) or map(s) including the following:
    1. 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;
    2. A copy of high intensity soils map
    3. Town tax map and lot number and names and addresses of abutting landowners and any others specified by the Planning Board;
    4. 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;
    5. Existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights- of-way;
    6. Location, ground floor area and elevations of buildings and other structures on the site; including all existing and proposed setback dimensions;

7. 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;

8. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;

9. Topography by actual survey, indicating contours at five-foot intervals for slopes averaging five percent or greater and at two-foot intervals for land of lesser slope, in relation to mean sea level.

10. Location of aquifers and aquifer recharge areas, if mapped;

11. The size, location, and direction and intensity of illumination of all major outdoor lighting apparatus and signs;

12. The type, size and location of all incineration devices;

13. The type, size and location of all machinery likely to generate appreciable noise;

14. 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. 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.

B. Written statement or statements including, as a minimum, the following:

1. Evidence by the applicant of the title and interest in the land that the application covers;

2. A description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;

3. Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure

4. Summary of existing and proposed easements, restrictions and covenants placed on the property;

5. Method of solid waste disposal;

6. Erosion and sedimentation control plan;

7. 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;

8. A plan for fire protection as reviewed by the Fire Chief.

9. If public water and/or sewer are to be used, a statement from the water and/or sewer district or utility as to the availability of public water and/or sewer lines;

10. 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 impact will be on existing Town Roads

11. An estimate of the date when construction will start and when the development will be completed;

12. Any other information or data necessary for proper review and conformance with all requirements set forth in the municipal Subdivision and General Review Standards. Appropriate places for the signatures of the Site Review Board.

    See General Standards Article below for Additional Requirements.

3.3 General Performance Standards for Site Plan Review

3.3.1 Buffers and Screening Standards

A. Vegetative Buffer Strips. All lots, except for those in the Urban Development Park District (UPD) shall have vegetative buffer strips with a minimum depth of 20 feet along their road and side boundaries except for designated access points along U.S. Route One 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).

B. 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 it is within the applicant's property 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 Article III, section 3.10 of this Ordinance.

C. 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.
D. 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.

E. The Planning Board may modify side buffer requirements to the extent necessary to accommodate shared access and/or shared parking areas and other common facilities.

F. 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.

G. 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.

H. Buffers shall be considered in the following areas or for the following 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
4. To block prevailing wind patterns and to stop wind-borne debris from leaving the site.

I. 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.

J. 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.

K. 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.

L. Natural features shall be maintained wherever possible to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties.

M. 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.

N. 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.

O. 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.

P. Fencing and screening shall be durable and properly maintained at all times by the owner.

Q. Fencing and screening shall be so located within the property line to allow access for building maintenance on both sides without intruding upon abutting properties.

R. All buffer areas shall be maintained in a neat and sanitary condition by the owner.

3.3.2. Setback Reduction Plan:

This section applies to new and expanded uses in all districts other than those in the Urban Development Park District, where no buffers are required.

A. The purpose of the Setback Reduction Plan is to allow the Buffer and Screening to be reduced if a plan for establishing a landscaped buffer is agreed to by the applicant and approved by the Planning Board.

B.. The landscaped buffer, at a minimum, must meet the following criteria:

1. The buffer may include plant materials such as trees or shrubs, walls or fences, and earthen berms, or a combination thereof.
2. The buffer must be sufficient in density and height so as to screen noise, vibration, light, or other visual nuisances in a manner exceeding that of the Setback or Yard Area required without a Setback Reduction Plan.
3. The buffer must be visually pleasing and effective year-round.
4. The buffer must be maintained.

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

C. The Setback Reduction Plan will be reviewed by the Planning Board as part of the Site Plan Review.

3.3.3. 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 Planning 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.

Dumpsters may not be located in Yard Areas or parking spaces and must be screened from abutting properties, public streets, and the New Meadows River. The Planning 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.

3.3.4. Business and Commercial Signs

A. General Regulations: No sign may be erected, placed, established, painted, created, or maintained in the town of West Bath except in conformance with the standards, definitions, procedures, exemptions, and other requirements of this Ordinance

B. 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.

C. Number and Size of Signs. A commercial lot with a single business can have two (2) exterior signs, one (1) freestanding and one (1) building mounted, each with a maximum area of twenty-five (25) square feet. The freestanding sign can have lettering on both sides and shall have a setback of at least ten (10) feet from paved road surfaces. Subsidiary signs such as those indicating credit card acceptance or notices may be directly attached to a 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 (2) major roads may have two (2) freestanding signs, one (1) on each road, if it can be shown that a single sign cannot be 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 (5) lots may have a single sided sign with the name of the subdivision subject to architectural review. Said sign shall not exceed twenty-five (25) square feet in area and can incorporate lot identification and real estate contact information for a period of one (1) year.

D. Sign Area and More Than One (1) 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 five (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 twenty-five (25) square feet in area.

E. 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 the standards of Article 3.3.7. of this Land Use Ordinance .

F. 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.

G. 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 fifteen (15) square feet. Temporary signage other than real estate signs may be displayed for not more than half the daylight hours in a given thirty (30) day period and are subject to fees scheduled by the Town of West Bath. One real estate sign per property not exceeding eight (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 two (2) square feet in area is allowed at the property.

H. Signs and Sight Lines. No sign shall interfere with the road access sight line distance as specified by the street design standards of Article III section 3.10 of this Land Use Ordinance.

I. Maximum Height. No part of any sign shall exceed a height of thirty-five (35) feet above the ground surface.

J. 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

3.3.5 Noise

A. This section applies to new or expanded non-residential uses.

B. The proposed development shall not increase noise levels to the extent that abutting or nearby properties are adversely affected. To comply with this, the development shall meet the following standards.

C. The maximum permissible sound-pressure level of any continuous, regular, or frequent source of sound produced by any activity must be limited by the period listed as follows. Sound levels will be measured at least 4 feet aboveground at the lot line of the noise source (Sound-pressure-level Limits are measured in dB scale)

7 a.m. - 8 p.m.: 60

8 p.m. - 7 a.m.: 50

D. The levels specified may be exceeded by 10 dBA for a single 15-minute period per day. Noise will be measured by a meter set on the A-weighted response scale, fast response. The meter must meet the American National Standards Institute's (ANSI S1.4-1961) American Standards Specifications for General Purpose Sound Level Meters.

E. The following uses and activities are exempt from this sound-pressure-level regulation:

1. Noise created by building or facility construction, forestry, agricultural, and temporary maintenance activities between 7:00 a.m. and 8:00 p.m.
2. The noises of safety signals, warning devices, emergency pressure-relief valves, and any other emergency activity
3. Traffic noises on public streets
4. Noise from live entertainment within the provisions contained in Article V, section 5.12.

3.3.6. Sanitary Provisions

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

B. 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:

C. New Meadows River Discharges: Treated industrial waste discharges to the New Meadows River shall be prohibited.

3.3.7. Lighting

A. The maximum height of free-standing lights shall be the same as the principal building but not exceed 25 feet.

B. All lights shall be shielded to restrict the maximum apex angle of the cone of illumination to 150 degrees.

C. Free-standing lights shall be so located and/or protected as to avoid being damaged by vehicles.

D. Lighting should be located along streets, parking areas, at intersections and crosswalks and where different circulation systems merge, intersect or divide.

E. Stairways, sloping or rising paths, building entrances, and building exits require illumination.

F. Display lighting and 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.

G. All exterior lighting shall be designed to not exceed 0.05 lumen within 10’ of neighboring residential properties.

H. All commercial, institutional and other similar activities shall provide adequate exterior lighting for occupants, customers, and employees.

3.3.8 Parking and Entrance Design Standards:

A. 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 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.

B. 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.

C. Size of Aisles. The width of 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

D. 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 where appropriate. Parked vehicles shall not overhang or extend over sidewalk areas unless additional sidewalk width of two and one half (2 1/2) feet is provided to accommodate such overhang.

E. Marking and Delineation of Parking Areas. Parking stalls, driveways, and aisles shall be clearly marked and delineated. The Planning Board may require that certain areas be maintained for firefighting, other emergency purposes, or accessible access and that such areas be appropriately designated.

3.3.9. Street Design Standards

A. Streets

1. These design standards shall be met by all STREETS within SUBDIVISIONS, and shall control roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

2. 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.

3. All STREETS in the SUBDIVISIONS shall be designed so that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic.

4. 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 are minimized while maintaining the grade standards above.

5. 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.

6. The PLANNING 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.

7. 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:

Item	**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 within 50 feet of intersections	5%	—
5. Minimum intersection angle	60°	60°
6. Width of shoulders	5’	—
7. Road base (minimum), gravel	18”	18”
8. Surfacing (gravel)	4”	4”
9. Road crown (minimum)	¼” per 1’	¼” per 1’
10. Sidewalks – minimum width (where required)	5’	—

11. Dead-end or cul-de-sac streets – radius of turn-around at enclosed end	65’	25’

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

9. 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 feet; outer edge of pavement 50 feet. 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.

10. 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 Planning Board. The developer shall reimburse the Municipality for the costs of installing STREET name, traffic safety and control signs.

B. 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 Planning Board so that clear visibility shall be provided for a distance of two hundred (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 to 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 thirty (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.

C. 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 ten (10) feet behind the curb (or edge of the shoulder) with the height of the driver's view at three and a half (3 1/2) feet above the ROAD surface and the height of the object viewed at four and a half (4 1/2) feet.

   b. The minimum sight distance will be one hundred (100) feet for every ten (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 c.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 two hundred (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 one hundred (100) feet.

D. Number of DRIVEWAYS

1. 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 Maine Department of Transportation standards.

2. 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.

3. 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 thirty (30) percent when the developer agrees to provide common DRIVEWAYS and forty-five (45) percent 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.

4. Where there is a SHARED DRIVEWAY located on or near a shared property line, SETBACKS shall be measured from the property line in common; not from the edges of the SHARED DRIVEWAY.

E. DRIVEWAY Design and Construction

1. Grade. DRIVEWAY width shall be no greater than thirty (30) feet unless safety or volume concerns can be shown to require otherwise, subject to PLANNING BOARD approval. DRIVEWAY grades shall not be more than ten (10) percent over the entire length. The grade for the first fifty (50) feet from the ROAD shall not be more than five (5) percent unless otherwise approved by the PLANNING BOARD and the ROAD commissioner.

2. Angle of Intersection. DRIVEWAYS shall intersect the ROAD at an

angle of as near ninety (90) degrees as site conditions permit, and in no case shall be less than sixty (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.

F. Corner Clearances

The minimum distance between a DRIVEWAY served by an ARTERIAL and an intersecting side STREET shall be two hundred (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 one hundred and fifty (150) feet, subject to approval by the PLANNING BOARD.

G. 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.

H. Street Construction Preparation

1. Before any clearing has started on the right-of-way, the center line and side lines of the new ROAD shall be staked or flagged at 50-foot intervals.

2. Before grading 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 the right-of-way.

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

4. 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.

3.3.10. Stormwater 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.

B. 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 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.

C. The storm water management system shall be designed to accommodate upstream drainage, considering 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.

D. Downstream drainage requirements shall be studied to determine the effect of the proposed SUBDIVISION. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the SUBDIVISION. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

E. 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.

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

G. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

H. 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.

I. 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.

3.3.11. Dust, Fumes, Vapors, Gases, Odors, and Glare

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 in that town way.

3.3.12. Bulk Hazard Substance Uses

A. A Bulk Hazardous Substance Use is defined as any use that has 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, have been reviewed by the Planning Board, and approved at the Annual Town Meeting.

B. Bulk Hazardous Substances are only permitted to be used for bulk petroleum and propane uses.

C. Lot Size: All Bulk Hazardous Substance Uses shall be located on lots of at least three (3) acres or on lots meeting the minimum size that requires Maine Department of Environmental Protection approval under the Site Location and Development Act, whichever is greater. No variances shall be permitted.

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 1,000 feet from a public well.

E. Outdoor Storage: 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 one hundred and ten (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 fifty (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 forty-five (45) degrees from entering the containment area. The installation shall conform to all applicable Federal and State standards.

F. Highly Flammable Material: 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.

G. 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

H. 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)

I. Spill Prevention, Control, and Countermeasures Plans (SPCC Plans). An SPCC 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.

J. 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 (1) year with copies of all reports provided to the Town's Code Enforcement Officer.

K. 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:

    a. Propane tanks shall be installed in a manner such that leaking gas shall activate a leak sensor.

3.3.13. Stormwater Management

A. Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties. The stormwater drainage system and maintenance plan shall conform to one of the following options:

B. The stormwater management plan shall be prepared in accordance with the latest edition of the Maine DEP “Stormwater Management for Maine: Best Management Practices”. The stormwater plan must be designed so that the post-development stormwater runoff does not exceed the pre-development stormwater runoff for the 24-hour duration, 2-year, 10-year, and 25-year frequency storm events.

C. A stormwater plan developed in accordance with the Low Impact Development (LID) practices contained in the latest edition of the Maine LID Guidance Manual. This option is available for all single-family residential dwellings and non-residential and multi-family developments. (Non-residential and multi-family uses are smaller developments that do not require review under Chapter 500 of the Code of Maine Rules.)

    1. To the extent possible, the plan must retain stormwater on the site using the natural features of the site. 2. 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.

2. 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.

3. 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.

4. The design of the storm drainage system shall be designed with consideration of all upstream drainage that may affect the site and shall ensure safe and adequate conveyance of runoff across the property.

5. 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 of storm-water discharges into a bedrock aquifer area, other water supply source, lake, or pond.

6. Stormwater management plans shall be consistent with the standards of this subsection and, except where the standards of this subsection are more restrictive, strategies contained in each stormwater management plan shall be selected from a manual entitled, “Stormwater Management for Maine: Best Management Practices”, published by the Maine Department of Environmental Protection in their most latest version. This publication shall be available for public inspection at the Town Office.

3.3.14. 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 erosion and sedimentation control 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.

3.3.15. 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.

3.3.16. Soils

Land uses shall be located on soils in or upon proposed uses or structures that can be established or maintained without causing adverse effects, including severe 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.

3.3.17. 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.

3.3.18. Road Damage and Restoration

A. Responsibility. The developer, contractor, or subcontractor shall be fully responsible for any damage to town-owned roads, ditches, culverts, shoulders, or other public property damage resulting from construction vehicles, equipment, or activities associated with construction
B. Restoration. All damage identified by the Town of West Bath shall be repaired by the developer, contractor, or subcontractor at their sole expense, to a condition equal to or better than that which existed prior to commencement of construction. All restoration work shall be completed

in accordance with specifications and timeline approved by the Road Commissioner.

C. Financial Assurance. The Town of West Bath may require a performance guarantee, in an amount satisfactory to the Select Board or its designee, to ensure completion of all required repairs.

D. Failure to Comply. If the developer, contractor, or subcontractor fails to complete required repairs within the timeframe established by the Town of West Bath, the Town may undertake such repairs and recover all costs incurred, including administrative and inspection costs, from the developer, contractor, or subcontractor. Recovery may be made from the performance guarantee, through lien, or by other lawful means.

E. Inspections. The Town of West Bath may conduct inspections of road conditions before, during, and after construction to determine the extent of any damage attributable to the associated development. Prior to construction, the developer, contractor, or subcontractor shall take a dated photograph of the work location.

3.4 WAIVERS

A. Waivers of Non-Applicable Submission Requirements.

Where the Planning Board determines that a specific submission requirement is not applicable to a proposed subdivision or a 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.

B. Submissions

Where the Planning Board makes written findings of fact that extraordinary and unnecessary hardships may result from such compliance with these regulations, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economic 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.

C. Improvements.

Where the Planning Board makes written findings of fact that due to special circumstances , 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 waive the requirement for such improvements, subject to appropriate conditions.

D. Waivers Subject to Conditions.

1. In granting waivers to any of these regulations, the Planning Board shall require such conditions as will assure the objectives of these regulations are met.

2. When the Planning 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 IV: SUBDIVISIONS

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

4.2: Definitions: Small vs. Large Subdivisions

A. Small subdivisions, for purposes of this ordinance, shall be defined as:

1. Proposed subdivision of three or four lots or dwelling units with no new or upgraded streets and with an aggregate driveway length not to exceed 450 feet for a three-lot subdivision or 600 feet for a four-lot subdivision

B. Large subdivisions, for the purpose of this ordinance, shall be defined as:

1. Prosed subdivision of five or more lots or dwelling units or a subdivision with aggregate driveway length exceeding 600 feet.

4.3: Standards. Small and large subdivisions shall meet the following standards:

A. Existing wooded buffers shall be maintained whenever 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. Driveway and parking areas must be designated and constructed so that runoff is quickly shed form 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.

F. 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.

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

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

I. 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 subsection 4.10.F.3 unless there are deed restrictions prohibiting future divisions of the lots.

4.4. Pre-Application Procedure

4.4.1: Pre-Application: An individual may test the feasibility of a subdivision as part of the pre-application conference described in Article III, as amended (Site Plan Review Application Procedure). 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. During this pre-application conference, there shall be a question and answer period where the Board may make specific suggestions to be incorporated by the applicant into subsequent submissions. The on-site inspection will be scheduled at this conference.

A. Pre-Application Sketch Plan. 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. topographical 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.

B. 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.

4.4.2 Contour Interval And On-Site Inspection.

Within 30 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.

4.4.3: 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.

4.5: Application Procedure

4.5.1: Within six months of the on-site inspection conducted by the Planning Board, the applicant shall submit 3 copies of the Preliminary Plan for the Planning Board's review. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. Applications shall be submitted at least twenty-two (22) days prior to a scheduled meeting of the Planning Board by mail, e-mail, or delivered by hand to the Town Office. The applicant is responsible for postage fees and for all printing prior to the Planning Board meeting.

4.5.2: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 Planning Board to hire independent consulting services to review the application when necessary.

4.5.3: 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.

4.5.4: 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

the Code Enforcement Officer or his or her designee. The Planning 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.

4.5.5: Upon determination that a Complete Application has been submitted for review, the Code Enforcement Officer or his or her designee will ask the Clerk to add the applicant to the Planning Board meeting agenda and schedule a public hearing. The Planning 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 in accordance with Land Use Ordinance, Article I, Section 5.6.

4.5.6: The applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan. Failure to attend the meeting to present the Preliminary Plan Application shall result in the Planning Board inaction on the application until the next meeting that the applicant attends.

4.5.7: Within fourteen days of the meeting at which a Preliminary Plan Application for subdivision is initially presented, the Planning Board shall:

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

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

4.5.8. When granting approval to a Preliminary Plan, the Planning Board shall state and follow- up in writing (mail or email) the conditions of such approval, if any, with respect to:

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

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

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

4.5.9: 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 Planning 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 Planning Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

4.6: Preliminary Plan Submissions

4.6.1: 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 Planning Board to locate the subdivision within the 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 plan shall be drawn to a scale of not more than one hundred (100) feet to the inch. The Planning Board may allow plans for subdivisions containing more than seventy-five (75) acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. Space shall be provided for

endorsement by the Board with five (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 and 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 Campbells Pond or Winnegance Pond, the preliminary plan shall show the corresponding watershed boundary location.[1] The

[1] Where there is a dispute as to exact location of a watershed boundary, the Planning Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the **Planning Board** and the applicant cannot

plan shall also show preliminary locations of proposed phosphorous controls as required under 4.10.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. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

    a. Mulching, Revegetation Mulching and revegetation of disturbed soil.

    b. Runoff Controls Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

    c. Stabilization Structures. Permanent stabilization structures such as retaining walls or rip-rap.

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

    e. Erosion Controls. 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

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 **Planning Board** with information from a registered land surveyor showing where the drainage divide lies.

activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

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

g. Mulch. 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.

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

i. Siltation Measures. 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.

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

k. A Draft Storm Water Management Plan showing the disposal of surface drainage waters, prepared by a Registered Professional Engineer. The Storm Water Management Plan must conform to one of the options for stormwater plans in Article III, section 3.11 of this ordinance (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)

l. If any portion of the subdivision is in a flood-prone area, as depicted on the municipality's Flood Insurance Rate Map, the boundaries of any flood hazard areas, and the one hundred (100) year flood elevation, shall be delineated on the plan.

m. 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.

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

4.6.2. Supporting Documentation

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

B. 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.

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

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

1. 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.

2. 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.

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

1. When water is to be supplied by public water supply, a 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, and a written statement from the district approving the design of the extension shall be submitted.

2. 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.

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

G. A copy of the County Soil Survey showing the subdivision 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 (1/10) acre.

H. Method of solid waste disposal.

I. At the discretion of the planning board, a hydrogeological assessment prepared by a Maine-Certified Professional Hydrogeologist describing the proposed development's impacts on groundwater may be required. A hydrogeological assessment shall be a required submission.

J. Wetland areas, regardless of size, shall be identified by a Certified Soil Scientist or Wetland Scientist, and their locations show on the plan.

K. If the proposed subdivision is in the Campbells Pond watershed, include a Long- Term Maintenance Plan for all phosphorous control measures, including deed restrictions and/or conservation easements.

L. 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.

M. Copies of any other federal, state, or local permits required for the proposed subdivision.

N. 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 agencies shall be provided.

O. 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.

4.7: Final Plan Submission

4.7.1. Procedure for Final Plan Submission

A. No later than six (6) months after the approval of the Preliminary Plan, the applicant shall submit 3 copies of the Final Plan Application for approval to the **Planning Board**. Applications shall be submitted at least twenty-two (22) days prior to a scheduled meeting of the **Planning Board** by mail, e-mail to the town clerk, or delivered by hand to the Town Office. If the application for the Final Plan is not submitted within six (6) months of Preliminary Plan approval, the **Planning Board** shall require the Applicant to resubmit the Preliminary Plan, unless the **Planning Board** approves an extension consistent with this Section. If for any reason the applicant cannot submit the Final Plan within six (6) months after approval of the Preliminary Plan, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed in writing with the **Planning Board** prior to the expiration of the six (6) month filing deadline. In considering the request for an extension the **Planning Board** must determine (and may only grant an extension if it finds) that the applicant has made due progress in preparation of the Final Plan and submission of the same to other regulatory agencies.

B. The applications for Final Subdivision Approval shall be accompanied by a non- refundable application fee in accordance with the Town of 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 Planning 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. Written approval from all connecting utility districts (sewer and water) that state their capacity to handle the new subdivision.

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 the Code Enforcement Officer or his or her designee for review to determine submission requirements have been met. The Planning 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 Code Enforcement Officer or his or her designee will ask the Clerk to add the applicant to the meeting agenda. The Planning Board shall determine to hold a public hearing on the Final Plan Application following same guidelines as outlined in the Preliminary Plan Submission for public hearings.

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

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

G. Before the Planning Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII as amended.

H. The Planning 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 Planning 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 Planning Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Planning Board finds that any of the standards of the Statute and these regulations have not been met, the Planning 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 Planning 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.

4.7.2: The Final Plan Application shall consist of the following items:

A. Application Form and Checklist

B. Location Map on Plan Location will show the relationship of the proposed subdivision to the adjacent properties and to also show the 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 (100) 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 twenty-four (24) by thirty- six (36) inches in size and shall have a margin of one and a half (1 ½) inches outside of the border line on the left side for binding and a one half (1/2) inch margin outside the border along the remaining sides. Space shall be reserved thereon with at least five (5) lines for endorsement by the **Planning Board**. The applicant should provide at least two (2) 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 the registry of deeds must:

1. Be embossed with the seal of an architect, Professional Engineer or Registered Land Surveyor;

2. Contain the signature and address of the person who prepared the plan;

3. Provide a space for recording the county, date, time, plan book and page or file number and register's attest; and

4. 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 information required for a Preliminary Plan plus the following information:

a. 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.

b. Where the subdivision streets are to remain private roads, the following language 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 the 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 spaces 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 the 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, in accordance with the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995). The Planning 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 patters, and the addition of impervious surfaces such as roofs and driveways is less than five (5) percent of the area of the subdivision.

6. A Final 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 Planning 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 subdivisions will not involve grading which changes drainage patters, and the addition of impervious surfaces such as roofs and driveways is less than five (5) percent of the area of the subdivision.

7. If any portion of the proposed subdivision is in the watershed of Campbells POND, the following shall be submitted or indicated on the plan:

   a. A Phosphorous Impact Analysis and Control Plan conducted using the procedures set forth in *Phosphorous 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.*

   b. A Long-Term Maintenance Plan for all phosphorous control measures.

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

4.8: Final Approval and Filing

A. No plan shall be approved by the Planning Board if 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 the regulations within this ordinance have been met, and upon voting to approve the subdivision, a majority of the voting members of the Planning Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of fact and reasons for any conditions or denial. Three (3) paper copies of the signed plan shall be retained by the Planning Board as part of its permanent records. One (1) copy of the signed plan shall be forwarded to the Select Board 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 Planning 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 Planning Board approves any modifications, except in accordance with The Planning Board shall make findings that the revised plan meets

the standards of Title 30-A, M.R.S.A. Section 4404, and these regulations. If a plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

D. The approval by the Planning 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 acceptance by the municipality of such areas. The Planning Board shall require the plan contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering the 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 Planning Board shall have a notice placed in the Registry of Deeds to that effect. Failure of the Planning Board to record a notice regarding the nullity of the approval shall not operate to continue to permit said approval.

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.

4.9: Revisions to Approved Plans

4.9.1. Procedure

An applicant for a revision to a previously approved plan shall, at least ten (10) days prior to a scheduled meeting of the Planning Board, request to be placed on the Planning Board's agenda. If the revision involves the creation of one (1) 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.

4.9.2. Revision Submissions

The applicant shall submit a copy of the approved plan as well as three (3) copies of the proposed revisions. The application shall also include enough supporting information to allow the Planning 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.

4.9.3. Scope of Review

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

4.10. General Standards

In reviewing applications for a subdivision, the Planning 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.

4.10.1. Conformance With Comprehensive Plan.

All proposed subdivisions shall be in conformity with the Comprehensive Plan and with the provisions of all State and local codes and Ordinances.

4.10.2. Landscape Plan.

The Planning Board may require that the development plans include a landscape plan that will show the location, type and approximate size of plantings and location and dimensions of all fencing and screening, the preservation of any existing trees larger than eighteen (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.

4.10.3. 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 (2) 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 easements, 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.

4.10.4. 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 minimum acreage as outlined under the *Minimum Lot Standards* of this Ordinance. 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 4.10.3 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.

H. Except as provided for in subsection 4.10.8 of this article, the subdividing of the land shall be such as to provide that all lots shall have the minimum horizontal frontage required by this ordinance on a private or public street in the district(s) in which the subdivision is located.

4.10.5. Additional Requirements

A. 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.

B. 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 twenty (20) feet wide between abutting properties that are so endangered.

4.10.6 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 greater than a 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 Planning 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 location of the designed system shall be laid out on the 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 if 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 found to be physically or legally infeasible by a licensed site evaluator. 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 homeowner's 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 owner's 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 owner's 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 owner's association shall acquire all necessary rights of entry and 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 hydrogeological 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 hydrogeological 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 and nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of one thousand (1,000) feet from potential contaminant sources, whichever is the shortest distance.

    f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within two hundred (200) feet outside of the subdivision boundaries.

2. Projections of ground water quality shall assume of drought conditions (60% of annual average precipitation).

3. A subdivision may not increase any groundwater contaminant concentration by more than 50% of the applicable federal Primary Drinking Water Standard, and in no case may it raise any contaminant concentration above 80% of that standard. In addition, no subdivision may increase any groundwater contaminant concentration above the federal Secondary Drinking Water Standards.

4. If ground water contains contaminants are greater than 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 greater than the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient

concentration.

6. Subsurface wastewater 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. This section shall pertain to subdivisions traversed by streams, rivers, a surface water drainage-way, or where the Planning Board feels that surface water runoff to be created by the subdivision should be controlled.

1. 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 Article 3.11.P shall be submitted.

F. Phosphorus Impacts on Great Ponds.

1. Phosphorus Export.
   a. Any subdivision within the watershed of a great pond shall limit its post-development phosphorus export to the standards contained in Table 4.1 below.

Table 4.1	
Phosphorus Export Limits in Great Pond Watersheds	
Great Pond Watershed	**Per Acre Phosphorus Export Limitation**
Campbells **Pond**	0.42 pounds per acre per year

2. Phosphorus Controls for subdivisions as defined in section 4.2.1 of this ordinance shall meet the following standards:

   a. Existing wooded buffers shall be provided whenever 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. Driveways and parking areas must be designated and constructed so that runoff is quickly shed form 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.

   f. 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.

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

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

i. A proposed small subdivision that creates lots capable of being further divided into five or more total lots is subject to the phosphorus control standards for larger subdivisions and subdivisions with new roads, as described in subsection 3 below, unless deed restrictions prohibit any future lot division.

3. Phosphorus Controls for Larger subdivisions and subdivisions with New Roads.

a. This subsection shall apply to all proposed subdivisions other than small subdivisions as defined in section 4.2.1 of this ordinance.

b. 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.

c. Maintenance and Use Restrictions for Phosphorus Control Measures.

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

G. 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.

H. 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 up 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.

I. Wet Ponds.

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.

4.10.7. 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.

4.10.8. 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 the following criteria:

B. Basic Requirements

1. All cluster developments shall meet all requirements for a residential subdivision, except where specifically modified by 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. For lots on internal subdivision roads, lot area and road frontage may be reduced by up to fifty (50) percent of the District requirements, provided that:

   a. No building lot shall have an area of less than what is allowed by this Ordinance or state law.

   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 the 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 lot, or by a land trust with a principal purpose of conservation or preservation of land in 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 waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

11. Unless the developer clearly demonstrates 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 cost of providing a common water supply and distribution system 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 wastewater 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.

13. 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.

14. 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.

15. 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.

16. The total area of reserved open space within the development shall be at least equal to the total amount by which and BUILIDNG LOTS are reduced below the minimum lot area required by the Zoning Ordinance. No more than 50% of the reserved open space may consist of land unsuitable for development as defined in Section 4.10.3 of this Ordinance (Land not suitable for development). Every lot in the subdivision shall have access by road or path to the commonly owned open space.

17. 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.

18. Individual lots or dwelling units shall have direct vehicular access only

onto internal roads within the subdivision.

4.10.9. 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.

A. 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.

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

C. The common open space shall be shown on the Final Plan with an appropriate notion on the plan to indicate that:

    1. It shall not be used for future building lots.
    2. It shall be reserved as common open space.

D. 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 planning board prior to Final Plan approval.

E. Covenants for mandatory membership in the homeowners' association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.

F. 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 .

G. 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.

H. 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.

I. 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.

4.11. Performance Guarantees

4.11.1 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;

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

4.11.2 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.

4.11.3. 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 names 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.

4.11.4. 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.

4.11.5 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.

4.11.6 Release of Guarantee.

Prior to the release of the performance guarantee, the PLANNING BOARD shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements.

4.11.7 Default.

If, upon inspection, the Code Enforcement Officer 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 Municipal Officers, the PLANNING BOARD, and the sub-divider or builder. The Municipal Officers shall take any steps necessary to preserve the Town’s rights.

4.11.8 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements for which the PLANNING BOARD requires them.

ARTICLE V. SPECIFIC STANDARDS

Uses listed under this Chapter shall be required to address both the specific standards of the corresponding Use, as well as all standards listed under the 'General Standards' section, unless granted a waiver by the municipal reviewing authority.

5.1. Accessory Dwelling Unit (ADU)

A. The owner of an Accessory Dwelling Unit or regular Dwelling Unit must provide written verification to the municipality that each unit is connected to adequate water and wastewater services prior to certification of occupancy or similar type of approval. Written verification may include the following:

1. If connected to the City of Bath sewer, or a comparable sewer system as defined in this Ordinance, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system.

2. If connected to a private septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to 30-A MRS 4221. Plans for a subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with 10-144 CMR Ch.241, *Subsurface Wastewater Disposal Rules.*

3. If connected to the City of Bath Water District, or a centrally managed water system as defined in this Ordinance, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection, and the volume and supply of water required for the unit.

4. If connected to a private well, proof of access to potable water, including the standards outlined in 01-672 CMR. C.10 Section 10.25(J), *Land Use District and Standards*. Any test of an existing well or proposed well must include that the water supply is potable and acceptable for domestic use.

B. Only one (1) Accessory Dwelling Unit may be constructed on each lot that has an existing single-family or duplex on the lot. The Accessory Dwelling Unit

may be within an existing dwelling unit, attached to an existing dwelling unit, or detached from an existing dwelling unit. Accessory Dwelling Units shall also:

1. Be exempt from additional parking requirements. However, the Accessory Dwelling Unit must have access to the existing single-family or duplex driveway and parking spaces.

2. Be exempt from minimum lot size. Accessory Dwelling Units shall still meet all other dimensional standards under Article III.A (Minimum Lot Standards), such as the setback requirements.

3. Have access to adequate water and wastewater as described under B.14 of this Article.

4. Be permitted on non-conforming lots as long as the Accessory Dwelling Unit does not make the lot and structures more non-conforming.

5. Be required to meet Shoreland Zoning requirements. This includes addressing all minimum lot size and parking requirements if the Accessory Dwelling Unit is within a municipally designated Shoreland Zone.

5.2. Affordable Housing Development

A. Affordable Housing Developments are only permitted in Districts that permit multi-family dwelling units, except for Shoreland Zones, and are Designated Growth Areas that can be cited in the most recent Town of West Bath Comprehensive Plan. Affordable Housing Developments shall also:

1. Provide sufficient water and wastewater services as described under B.14 of this Article.

2. Demonstrate the proposal can comply with the minimum lot size requirements in accordance with Title 12 Chapter 423-A. The dwelling unit density shall be 2.5 times the base density that is otherwise allowed in that location. If fractional results occur when calculating the density bonus, the number of units is rounded down to the nearest whole number. For the purposes of illustration, a typical multi-family housing project of five (5) units would need at least five (5) acres in the Business and Commercial District for approval. If the Affordable Housing Development can satisfy all standards in this Ordinance, a

proposed development of five (5) units would need at least two (2) acres.

3. Provide at least two (2) off-street parking spaces for every three (3) affordable units as determined by this Ordinance. Applicants shall demonstrate and enforce their tenants not parking on a public right-of-way.

4. Execute a restrictive covenant, recorded in the Sagadahoc County Registry of Deeds, enforceable by a party acceptable to the Planning Board, to ensure that at least thirty (30) years after completion of construction:

   a. For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

   b. For owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

5.3 Business and Commercial Development

A. 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:

   1. A functional need can be demonstrated

   2. Any exterior or stair tower access to the uppermost floor does not exceed 45 feet above grade.

   3. 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.

4. Any firefighting plan including access for firefighting vehicles required by the Fire Department is on file with said department.

B. 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.

1. 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:

2. How the owner plans to comply with the DRIVEWAY maximum width requirement and other locational requirements for DRIVEWAYS contained in Article III, Section 3.10 of this Ordinance.

3. 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 III, Section 3.1 of this Ordinance.

C. 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.

D. 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.

E. The above line 5.3.C shall apply to TIMBER HARVESTING as well as clearing of vegetation.

F. 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, whichever is greater.

G. 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.

H. 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 Land Use Ordinance are presumed to exist whether or not any vegetation is present.

5.4. 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.

5.5 Mobile Homes

A.. No 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 Code Enforcement Officer and/or Local Plumbing Inspector and the respective permits issued unless waived by the Code Enforcement Officer due to unusual circumstances.

B. 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. The unit must meet sewage disposal standards under the State of Maine Plumbing Code.

C. 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:

1. A minimum width of feet and a minimum FLOOR AREA of 750 square feet.
2. A roof pitch of 2 or more vertical units for every 12 horizontal units
3. Exterior siding that is residential in appearance.

4. It will be placed upon and anchored to a permanent foundation.
5. Proof of payment of sales tax is presented to the Code Enforcement Officer.
6. Unit was built after June 14, 1976 and is certified by the US Department of Housing and Urban Development.

5.6. Mobile Home Park Standards

A. Individual LOT size:

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

2. 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.

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

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

1. Area required for ROAD rights of way.

2. Area required for buffer strips.

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

C. MOBILE HOMES on LOTS adjacent to a public ROAD shall be set back one hundred (100) feet from the center of the right of way and each LOT shall have one hundred (100) feet of frontage.

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

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

2. Have a right of way at least twenty-three (23) feet in width, twenty (20 feet of which is paved.

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

E. A buffer strip fifty (50) feet wide, including 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 twenty-five (25) feet of the buffer strip shall conform to the standards found in Article III, Section 3.1.

F. Dimensional requirements:

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

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

5.7. Home Occupation Standards

A Home Occupation use may be approved by the Code Enforcement Officer if the applicable municipal and state approvals are obtained and the following standards are met:

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

B. 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.

C. Signage shall be limited to the name of the business on a standard size mailbox and a sign not exceeding three (3) square feet in area for the business entrance.

D. The business shall be conducted by resident(s) of the household and no more than two full-time, or equivalent, persons that are not living on the premises.

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

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

G. Home occupation may not produce any odors, fumes, dust, smoke, vibrations, glare, noise, or electrical interference in excess of that produced by normal residential use. Failure to address a complaint issued by the Code Enforcement Office within thirty (30) days of notice may result in the removal of the Home Occupation permit.

H. Home Occupation shall be conducted wholly within the principal building or within an accessory building on the property. Any storage outside the buildings must be screened to minimize visual impact from public right of ways or abutting properties.

5.8. Setback Reduction Plan – UDP District

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

B. 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.

C. The landscaped buffer must meet the following criteria:

1. The plan must be prepared by a landscape architect registered in the State of Maine.

2. 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).

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

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

   b. The buffer must be maintained.

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

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

5.9. Small Wind Energy Conversion Systems

A. 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.

B. 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.

C. Location

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

D. Submission Requirements

1. 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.

2. Location Map: A location map 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.

3. 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, rights-of-way, turnout locations, electric cabling from the system to the utility, accessory equipment, within one hundred (100) feet 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.

4. 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 a 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 dBA, and that noise levels will be in compliance with the development standards in Subsection 7(c) below.

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

6. 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.

7. 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.

8. 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 IV, Section 4.10.7.

9. 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.

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

E. Siting and Dimensional Requirements

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

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

3. 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 operation.

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

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

F. Development Standards

1. 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.

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

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

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

5. 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.

6. 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.

7. 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.

8. 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.

9. 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:
   a. Tower climbing apparatus located no closer than twelve (12) feet from the ground.

   b. A locked anti-climb device installed on the tower.

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

10. 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 (3) to eight (8) feet above the ground.

11. 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.

12. 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.

13. 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.

5.10 Domesticated Chickens

A . 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.

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

1. Enclosures shall be SETBACK seventy-five (75) feet from any abutting property line, WATER BODY, TRIBUTARY or WETLAND.

2. Chickens shall be kept for personal use only.

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

4. 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.

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

C. Penalties

1. 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.

D. Removal of Chickens

1. Any violation of the provisions of this article shall be grounds for an order from the Code Enforcement Officer to remove the chickens and/or the chicken-related STRUCTURES. The Animal Control Officer may also order the removal of the chickens and/or the chicken-related STRUCTURES.

5.11. Solar Energy Systems

A. 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.

B. Location

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

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

C. Approval Required

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

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

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

d 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.

e. If the Small Solar Energy System is a rooftop mounted system, it shall not exceed a maximum height of thirty-five (35) feet above grade.

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

g. 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.

h. 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 organizations.

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 thirty-five (35) feet above grade, unless the system is located in the Urban Development Park District and meets the height exceptions contained in Article V, Section 4 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 eight (8) foot high security fence shall be erected around the entire ground mounted system with a self-locking gate. A method of access, that is deemed acceptable to the West Bath Fire Chief, shall be available to the West Bath Fire Department in the event of an emergency.

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 twelve (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.

xi. Proposed developments of three (3) or more acres must provide a decommissioning plan and financial assurances that has been reviewed by the Maine Department of Environmental Protection Agency. Decommissioning plans and financial assurances must include removal of all equipment up to twenty-four (24) inches below surface level.

5.12. Communication Towers

A. Purpose

The purpose of this section 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.

B. Applicability

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

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

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

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

4. 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.

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

C. 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 Land Use 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.

D. 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 (7) days prior to the public hearing. The abutting landowners within 1,000 feet of the proposed Communications Tower shall be notified of the hearing in accordance with LAND USE ORDINANCE, Article I, Section 5.6. 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).

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.

E. Application for Proposed Communications Tower

In addition to the requirements set forth in Article III, section 3.2, an application for a Communications Tower shall include the following:

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

2. 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.

3. 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.

F. 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 one and a half (1.5) miles of the proposed site is impossible or unfeasible. The application for a new Communication 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.

G. Location

Communications Towers are permitted in the following land use districts:

1. Business & Commercial District.

2. 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.

3. 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.

H. 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."

I. Height limits

A Communications Tower may not exceed a tower height of 150 feet

above finished grade, including antennas or other structures attached to the tower; provided, however, that no height limitation shall apply to a Communications Tower whose owner or principal lessee is a municipality, county, or other quasi-governmental entity, as determined by the Planning Board.

J. Fall Zone, SETBACKS

A Communications Tower shall have a “fall zone” SETBACK from all property boundary lines equal to a distance of one hundred and twenty-five (125) percent 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.

K. 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.

LNo 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.14. 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 pats, and/or existing wind generation facilities, and shall provide proof of all required FCC and FAA approvals for the Communications Tower.

M. No applicability to small wind energy conversion systems

This Section applies only to Communications Towers as defined herein and not to towers related to all wind energy conversion systems regulated under Article V, Section 5.8 of this Land Use Ordinance.

N. 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 Code Enforcement Officer 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 Code Enforcement Officer written notice.

The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer 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 preconstruction condition, including the removal of roads and reestablishment of vegetation.

O. 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. 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 fifteen (15) percent on the first of January every five (5) 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.

5.13. Indoor and Outdoor Places for Eating and Drinking; Live Entertainment

A. Purpose. The purpose of this section is to permit indoor and outdoor places for eating and drinking, as defined in this Ordinance, to provide live entertainment for the benefit of patrons, subject to the requirements of this section.

B. Standards.

1. Indoor live entertainment is permitted at any time in any district.

2. Outdoor live entertainment is permitted only in the Business Commercial District until 11:00 p.m on Fridays and Saturdays. This activity is exempt from noise limitations in this Land Use Ordinance.

5.13.1 Food Trucks

A. Proposed food trucks must contain all equipment needed for the preparation of food within the unit, including trash and recycling receptacles for the kitchen.
B. The operator must provide adequate trash and recycling receptacles within a radius of thirty feet of the food truck location for public use. The receptacles shall be removed each evening or when the food truck is not present.
C. Food trucks, and any associated equipment, must be operating in a manner which minimizes noise, exhaust and odors impacting the public and surrounding public and private properties so as not to create a nuisance. Permits for food trucks may be revoked by the Town of West Bath if operator fails to address complaints outlined by the Code Enforcement Officer within a thirty (30) day period.
D. Food truck must be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services prior to operation. If the food truck is located on a parcel owned by a different individual/organization, the operator of the food truck must provide a signed document verifying the owner’s permission to use the site.

5.14 Agriculture

A. Manure piles must be located at least 75 ft. from all abutting property, unless a waiver is permitted by the Planning Board.

5.15 Campgrounds not in the Shoreland Zone

A. Standards.

1. All campgrounds located outside of the shoreland zone must adhere to standards located in the shoreland zone.
2. Bathrooms must be interior and located greater than 50 ft. from any abutting property line.
3. 35 ft. vegetative buffers must be maintained at all abutting property lines.

5.16 Kennels and animal accommodations

A. In the rural residential district, all kennels and animal accommodations must be placed on a minimum of a 2-acre lot.

5.17 Bed & Breakfasts

A. Bed and Breakfast uses must maintain one parking space per unit of lodging offered. The parking space must adhere to the parking space standards in Article III of this ordinance.

5.18 General Industrial/Manufacturing uses

A. A vegetative buffer is required for all general industrial/manufacturing uses. Buffers must adhere to the standards in article 3.11.a of this Ordinance.

B. Fences may be permitted in lieu of a vegetative buffer if the Planning Board permits.

5.19 Junkyards

A. Junkyards are not permitted in West Bath.

5.20 Daycares

A. Applicants proposing day care establishments must present a certified Maine State license to operate a day care to the Planning Board as soon as reasonably possible.

5.21 Change of Use

A. Proposed use shall only alter the use of the structure from one permitted use to another as outlined in the Land Use Matrix.

B. No Alterations to the footprint of the structure, with the exception of changes that are necessary for accessibility, shall be proposed with this proposed use.

C. If both 5.21 A and 5.21 B are met, the proposed use may be subject to site plan review by the Code Enforcement Officer instead of the Planning Board. The Code Enforcement Officer shall notify the members of the Planning Board and emergency services of the proposed application. At the Code Enforcement Officer's discretion, the proposed use may be sent to the Planning Board for a site plan review if the Code Enforcement Officer believes the proposed use could have an off-site impact.

ARTICLE VI. NON-CONFORMANCE

A. PURPOSE: It is the intent of this Ordinance to promote land use conformities, except that the nonconforming conditions which existed before the effective date of this Ordinance shall generally be allowed to continue, subject to the requirements set forth herein. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming. In a situation of abutting non-conforming properties in common ownership, one or more may become more non-conforming provided the non-conformity of the additional lot(s) is lessened.

B. DEFINITION: Any lawful use, BUILDING, STRUCTURES, premises, land, or parts thereof existing on May 4, 2026 and not in conformance with the provisions of this Ordinance, shall be considered to be non-conforming.

C. NON-CONFORMING USES: Any non-conforming use in existence prior to May 4, 2026 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.

D. NON-CONFORMING LOTS:

1. 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.

2. 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 recorded plan or not.

3. 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.

E. 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 in Article II section 2.1 of this Ordinance.

F. RECONSTRUCTION/REPLACEMENT:

Any non-conforming STRUCTURE which is located less than the required road setback, side & rear setback, and/or setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and 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 twelve months of the date of said damage, destruction, or removal, provided that such reconstruction, relocation or replacement is in compliance with all water 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 VI, section 3. 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 SETBACK, it shall not be any larger than the original structure, except as allowed pursuant to Article VI, Section 7 below as determined by the non-conforming footprint of the reconstructed, relocated, or replaced structure at its new location. If the total footprint 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. When it is necessary to remove vegetation to replace or reconstruct a structure, vegetation shall be planted in accordance with Section 8 below.

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

If a permit is not obtained within twelve months 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 extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Article VI, Section 8 below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Article VI, Section 7 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.

G. EXPANSIONS:

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and, if it is in the Shoreland Zone, is in accordance with paragraphs (a) and (b) below.

1. Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase

nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

2. Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 7 (Expansions).

    a. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.

3. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 7(b) (i) above.

    a. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.

    b. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500

square feet or 30% larger than the footprint that existed on January 1,1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 7(C)(ii) and Section 7(b) (i), above.

4. In addition to the limitations in subparagraphs 7a, 7b, and 7c above, for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 7.

Table 6.1: Expansion Requirements

Distance from water/wetland	Maximum structure allowed (whichever is greater) *	Maximum structure height allowed**
< 25 feet	800 Square Feet or 30% larger	15 feet
< 75 feet	1,000 Square feet or 30% larger	20 feet
< 100 feet	1,500 Square feet or 30% larger	20 feet
Additional total limit of all structures combined		

0 to 250 feet	1,5000 or 30% larger	25 feet

*The increases are permitted from the building's footprint as it stood on January 1, 1989

**Unless height of original structure as it stood on January 1, 1989 exceeds listed values

H. GREATEST PRACTICAL EXTENT CRITERIA

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

1. the size of the lot;
2. the slope of the land;
3. the potential for soil erosion;
4. the location of other structures on the property and on adjacent properties;
5. the location of the septic system and other on-site soils suitable for septic systems; and
6. 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 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:
Trees removed to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replacement trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation and ground cover that are removed or destroyed 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 replacement vegetation and/or ground cover must consist of native vegetation and/or ground cover like that which was disturbed, destroyed or removed.

Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation, which may consist of

grasses, shrubs, trees, or a combination thereof

ARTICLE VII - APPEALS

7.1 Composition, Appointments, Qualifications, and Terms

The Town of West Bath shall have a Board of Appeals consisting of five (5) members and one (1) associate member, all of whom shall be appointed by the Select Board. All members of the Board of Appeals shall be residents of the Town of West Bath and registered voters thereof. Members of the Select Board, 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 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.

7.2 Organization and Meetings

A. The Planning Board of Appeals shall annually elect a Chair, Vice Chair, 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 June 30 of each year.

B. The Chair'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 Chair shall be responsible for carrying out the duties of the Chair in his or her 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.

C. The Board of Appeals shall meet monthly, provided there is business for the Board to address. The Chair 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.

D. 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 opened 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.

E. 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 or she is present.

F. 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.

7.3 Conflict of Interest

No member of the **Planning Board** shall vote on or participate in any matter in which he/she has a bias or conflict of interest, including, but not limited to, a direct or indirect financial or personal interest. Any question of whether a particular issue involves a bias or 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.

7.4 Powers and Duties

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

A. 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 M.R.S.A. § 4353 as follows:

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

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

3. 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.

4. 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.

B. Administrative Appeals – The Board shall hear and decide administrative appeals that are referred to it regarding decisions of the **Planning Board**, or the Code Enforcement Officer, with regard to the provisions of this Land Use 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 Code 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 Select Board 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 application/appeals.

7.5 Variances

A. 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.

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

2. *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.

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

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

5. *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.

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

1. Minimum LOT area except for Bulk Hazardous Substance Uses

2. SETBACKS except for distance from normal high water mark or UPLAND EDGE of a WETLAND.

3. LOT frontage, ROAD frontage, shore frontage

4. Percentage of a LOT coverage

5. Temporary disability access

6. 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.

7.6 Application – Application for a variance shall be made to the Code Enforcement Officer on forms provided for that purpose. The application shall be accompanied by the filing fee, which will be determined by the Select Board on an annual basis. The applicant shall also pay all advertising fees required by state or local Ordinances to meet legal notice requirements.

7.7 Procedure – The Code Enforcement Officer 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 in accordance with LAND USE ORDINANCE, ARTICLE III Section 5.6. 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.

7.8 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 the general conditions of the neighborhood.

4. That all other requirements of the Land Use Ordinance have been met or will be met.

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

6. That 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.

7.9 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 ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

7.10. 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 Board. A temporary disability access variance shall expire when the disability disappears or the disabled individual is no longer a resident.

7.11 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.

7.12 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.

7.13 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.

7.14 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 VIII. SHORELAND ZONE

SECTION 1 SHORELAND ZONE OVERLAY DISTRICT (SZO)

1.1 Purpose

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

1.1.1 Permissible Uses

Land uses in the SZO shall be governed by the Table 2.1. All proposed uses must also align with a permitted use allowed in the underlying district.

1.2 SZO District Applicability

1.2.1 All lands within 250 feet, horizontal distance, of the:

- 1.2.1.1 Normal high-water line of any great pond or river;
- 1.2.1.2 Upland edge of a coastal wetland, including all areas affected by tidal action during the highest annual tide, or;
- 1.2.1.3 Upland edge of a freshwater wetland
- 1.2.1.4 Any structure build on, over or abutting a dock, wharf, pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

1.3 The SZO Stream Protection Sub-District (SZO-SP) includes all land areas within 75 feet, horizontal distance, of the edge of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond or river, or upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.

1.4 The SZO Resource Protection Sub-District (SZO-RP) includes the following areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This sub-district shall include the following areas when they occur within the limits of the SZO, exclusive of the SZO-SP.

1.4.1 Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

1.4.2 Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

1.4.3 Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

1.4.4 Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, 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).

1.4.5 Areas within 250 feet, horizontal distance, of the upland edge of freshwater and/or coastal wetlands, which are rated “rare” value for endangered plants as indicated by Maine Natural Areas Program.

1.4.6 Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

1.4.7 SZO District and Sub-District boundaries are delineated on the West Bath Zoning Map.

1.5 Additional Requirements for the SZO District

The requirements in this subsection shall apply to all development within the SZO District and their subcategories.

1.5.1 Setbacks of Structures from Water Bodies and Wetlands

1.5.1.1 All new principal and accessory structures, excluding functionally water-dependent uses, shall be located outside of any SZO Resource Protection Sub-District (SZO-RP) and SZO Stream Protection Sub-District (SZO-SP) unless a variance is granted by the Planning Board.

1.5.1.2 All new principal and accessory structures, outside the SZO-RP, SZO-SP, shall be setback at a minimum horizontal distance of at least:

1.5.1.2.1 75 feet from the edge of the normal high-water line of a stream or tributary stream or upland edge of a coastal or freshwater wetland;

1.5.1.2.2 100 feet from the normal high-water line of great ponds classified GPA and rivers that flow to Great Ponds GPA

1.5.1.2.3 Commercially Functionally Water-Dependent uses shall have no minimum setback if not located in the Resource Protection and Stream Protection Sub-Districts. (Note: Those that require, for their primary purpose, location on submerged lands that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters…Recreational boat storage buildings are not considered to be functionally water-dependent use.)

1.5.1.3 Notwithstanding the requirements of this Subsection 1.5.1 (*Setbacks of Structures from Water Bodies and Wetlands*), stairways or similar structures may be permitted with a Building Permit approved by the Code Enforcement Officer, to provide shoreline access in areas of steep slope or unstable soils, provided that: the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S §480-C, as amended); and that the applicant demonstrates that no reasonable alternative for access exists on the property.

1.5.2 Lot Size and Shore Frontage

Category	Location / Description	Minimum Lot Area (sq ft)	Minimum Shore Frontage (ft)
1. Residential (per dwelling unit)	Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
	Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
2. Governmental, Institutional, Commercial, or Industrial (per principal structure)	Within the Shoreland Zone Adjacent to Tidal Areas	40,000	200
	Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
3. Public & Private Recreational Facilities	Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

1.5.2.1 Unless otherwise required by state law the following dimensional requirements shall apply within the SZO.

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

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

1.5.2.4 The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

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

1.6 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization

1.6.1 No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in this Article a second structure may be allowed and may remain as long as the lot is not further divided.

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

1.6.3 The location shall not interfere with existing developed or natural beach areas.

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

1.6.5 The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

1.6.6 No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

1.6.7 New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*

1.6.8 No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district

1.6.9 Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

1.7 Shoreland Zone Overlay Permit Requirements and Exceptions

Development and other land use activity within the Shoreland Zone Overlay Zone may be permitted in accordance with this Section.

1.7.1 Commercial and Industrial Uses

1.7.1.1 The following commercial and industrial uses are prohibited within the SZO adjacent to great ponds classified GPA, and rivers and streams which flow to such ponds:

1.7.1.1.1 Auto washing facilities;
1.7.1.1.2 Auto or other vehicle service and/or repair operations, including body shops;
1.7.1.1.3 Chemical and bacteriological laboratories;
1.7.1.1.4 Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;
1.7.1.1.5 Commercial painting, wood preserving, and furniture stripping
1.7.1.1.6 Dry cleaning establishments;
1.7.1.1.7 Electronic circuit assembly;
1.7.1.1.8 Laundromats, unless connected to a sanitary sewer;
1.7.1.1.9 Metal plating, finishing, or polishing;
1.7.1.1.10 Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas;
1.7.1.1.11 Photographic processing;
1.7.1.1.12 Printing

1.7.2 Agriculture

1.7.2.1 All spreading of manure must 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).

1.7.2.2 Storage or stockpiling of manure shall be set back a minimum horizontal distance of:

1.7.2.2.1 75 feet of the normal high-water line of a stream or tributary stream;

1.7.2.2.2 150 feet from the normal high-water line of Great Ponds, rivers that flow to Great Ponds, saltwater bodies, or the upland edge of a coastal wetland.

1.7.2.3 All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

1.7.2.4 Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area within the Shoreland Zone are required to file a Conservation Plan with the Code Enforcement Officer or their designee.

Non-conformance with the provisions of said plan is considered a violation of this Ordinance. Assistance in preparing a soil and water conservation plan may be available through the Androscoggin Valley Soil and Water Conservation District Office.

1.7.2.5 Newly established fields that require tilling of soil shall not be permitted within 75 feet, horizontal distance, from the normal high-water line of any river or coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands.

1.7.2.6 Operations in existence on May 16, 2001 and not in conformance with this provision may be maintained.

1.7.2.7 Newly established livestock grazing areas may not be permitted within 75 feet, horizontal distance, of any river or coastal wetlands, nor; within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with these setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Town of West Bath.

1.7.3 **Aquaculture**

Aquaculture land use activities extending over or below the normal high-water line or within the wetland located in the SZO-SP and the SZO-RP District shall require Planning Board approval in accordance with permit standards in Section 1.8 (*Shoreland Zone Administration*).

1.7.4 **Timber Harvesting**

Timber Harvesting in the SZO District is subject to and shall comply with the Maine Forest Service's Statewide Standards for Timber Harvesting Activities in Shoreland Areas (04-058 C.M.R. Ch.21) and the Maine Bureau of Forestry's Forest Regeneration and Clearcutting Standards (01-669 C.M.R. Ch.20) as amended.

1.7.5 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

Hazard trees in the Shoreland Protection Overlay may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

1.7.5.1 Within the Shoreland Zoning Overlay buffer strip as described within Section 1.2 (*SZO District Applicability)*, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than 250 square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

1.7.5.2 Outside of the Shoreland Zoning Overlay buffer strip as described within Section 1.2 (*SZO District Applicability)*, when the removal of hazard trees exceeds 40 percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding 25 percent of the lot area within the Shoreland Zoning Overlay, or 10,000 square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

1.7.5.3 The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

1.7.5.4 The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the Shoreland Protection Overlay.

1.7.5.5 The Code Enforcement Officer may require more than a one–for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

1.7.5.6 Storm-damaged trees in the Shoreland Zoning Overlay may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

1.7.5.6.1 Within the Shoreland Zoning Overlay buffer strip as described within Section 1.2 (*SZO District Applicability)*, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than 250 square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

1.7.5.6.1.1 The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

1.7.5.6.1.2 Stumps from the storm-damaged trees may not be removed;

1.7.5.6.1.3 Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and

1.7.5.7 If after one (1) growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every 80 square feet of lost canopy. Outside of the Shoreland Zoning Overlay buffer strip as described within Section 1.2 (*SZO District Applicability)* if the removal of storm damaged trees exceeds 40 percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25 percent of the lot area within the Shoreland Protection Overlay or 10,000 square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

1.7.6 **Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 1.8.8 (*Clearing or Removal of Vegetation for Activities Other than Timber Harvesting*), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1.7.6.1 The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 1.8.8 (*Clearing or Removal of Vegetation for Activities Other than Timber Harvesting*) shall apply;

1.7.6.2 The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 1.5.1 (*Setbacks of Structures from Water Bodies and Wetlands)* are not applicable;

1.7.6.3 The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

1.7.6.4 The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Section 1.8.2 (*Agriculture)* are complied with;

1.7.6.5 The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site within the SZO that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S. Section 343-E, as amended, and that is located along:

1.7.6.5.1 A coastal wetland; or

1.7.6.5.2 A river that does not flow to a great pond classified as GA. (Class GPA shall be the sole classification of great ponds and lakes less than ten (10) acres in size [30 M.R.S. Section 465-A(1)(B), as amended].

1.7.6.6 The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

1.7.6.6.1 If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least 25 feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

1.7.6.6.2 Removal of vegetation within 25 feet, horizontal distance, from the shoreline occurs via hand tools; and

1.7.6.6.3 If applicable, clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

1.7.6.6.4 The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

1.7.7 **Revegetation Requirements**

1.7.7.1 When revegetation is required in response to violations of the vegetation standards set forth in Section 1.8.8 (*Clearing or Removal of Vegetation for Activities Other than Timber Harvesting*) to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements:

1.7.7.1.1 The property owner must submit a revegetation plan, prepared with and signed by a qualified professional that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

1.7.7.1.2 Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

1.7.7.1.3 If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

1.7.7.1.4 Revegetation activities must meet the following requirements for trees and saplings:

1.7.7.1.4.1 All trees and saplings removed must be replaced with native noninvasive species;

1.7.7.1.4.2 Replacement vegetation must at a minimum consist of saplings;

1.7.7.1.4.3 If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;

1.7.7.1.4.4 No one species shall make up 50 percent or more of the number of trees and saplings planted;

1.7.7.1.4.5 If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and

1.7.7.1.4.6 A survival rate of at least 80 percent of planted trees or saplings is required for a minimum five (5) years period.

1.7.7.1.5 Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:

1.7.7.1.5.1 All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;

1.7.7.1.5.2 Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

1.7.7.1.5.3 If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;

1.7.7.1.5.4 No one (1) species shall make up 50 percent or more of the number of planted woody vegetation plants; and

1.7.7.1.5.5 Survival of planted woody vegetation and vegetation under three (3) feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

1.7.7.1.6 Revegetation activities must meet the following requirements for ground vegetation and ground cover:

1.7.7.1.6.1 All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide or the effective infiltration of stormwater;

1.7.7.1.6.2 Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and

1.7.7.1.6.3 Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this Section for a minimum of five (5) years.

1.7.8 **Clearing or Removal of Vegetation for Activities Other than Timber Harvesting**

1.7.8.1.1 In SZO-RP, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in that sub-district.

1.7.8.1.2 Except in SZO-RP, and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, inland from the normal high-water line of any river, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:

1.7.8.1.2.1 There may 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 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.

1.7.8.1.2.2 Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this requirement a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area as determined by the following rating system and criteria (a) through (e).

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2- <4 inches	1
4- <8 inches	2
8- <12 inches	4
12 inches or greater	8

1.7.8.1.2.2.1 The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

1.7.8.1.2.2.2 Each successive plot must be adjacent to, but may not overlap a previous plot;

1.7.8.1.2.2.3 Any plot not containing the required points may have no vegetation removed except as otherwise allowed by this Code;

1.7.8.1.2.2.4 Any plot containing the required points may have vegetations removed down to the minimum points required or as otherwise allowed by this Code;

1.7.8.1.2.2.5 Where conditions permit, no more than 50 percent of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

1.7.9 **Erosion and Sedimentation Control**

1.7.9.1 Activities requiring Development Review that involve filling, grading, excavation or other similar activities resulting in unstabilized soil conditions shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Review Authority for approval and shall include, where applicable, provisions for

1.7.9.1.1 Mulching and revegetation of disturbed soil;

1.7.9.1.2 Temporary runoff control features such as hay bales, silt fencing, or diversion ditches; and

1.7.9.1.3 Permanent stabilization such as retaining walls or rip rap.

1.7.9.2 To create the least potential for erosion, development shall be designed to fit with the site topography and soils. 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.

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

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

1.7.9.4.1 Where mulch is used, it shall be applied at a rate of at least one (1) bale per 500 square feet and shall be maintained until a catch of vegetation is established.

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

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

1.7.9.5 Natural and artificial drainage ways and drainage outlets shall be protected from erosion caused by water flow. Drainage ways shall be designed and constructed to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or rip-rap.

1.7.9.6 When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must inspect the site each week earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

1.7.10 **Mineral Exploration and Extraction**

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

1.7.10.2 Structures and Other Activities Extending Over or Below a Water Body or Within a Wetland or Shoreline Stabilization Area

The following requirements apply to piers, docks, wharves, bridges, and other structures and activities extending over or below the normal high-water line of a water body, or within a wetland or shoreline stabilization area. (Note: New permanent structures, and expansions thereof, projecting into or over water bodies require a permit from the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S., § 480-C, as amended. Permits may also be required from the U.S. Army Corps of Engineers if located in navigable waters.)

1.7.10.3 No more than one (1) pier, dock, wharf, or similar structure extending over or located below the normal high-water line of a water body, or within a wetland or shoreline stabilization area is permitted on a single lot; except on single lots having a lot width at least twice the required lot width of the base zoning district and at least twice the minimum shore frontage as specified in Table 2.2, Minimum Lot Standards. A second structure may be permitted and may remain as long as the lot is not further divided.

1.7.10.3.1 The minimum distance from any portion of a dock including its float, shall not be less than twenty-five (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.

1.7.10.3.2 Reduction of the minimum setback between docks is available through variance, provided that the applicant can demonstrate that:

1.7.10.3.2.1 No alternative design is practical;

1.7.10.3.2.2 The inability to meet the requirement is due to the location characteristics and/or design of the abutter's existing dock; and

1.7.10.3.2.3 All other standards in the Shoreland Overlay Zone are met.

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

1.7.10.5 The location shall not interfere with existing developed or natural beach areas.

1.7.10.6 The structure or activity shall be located so as to minimize adverse effects on fisheries as determined by the Code Enforcement Officer or designee.

1.7.10.7 The structure shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf shall not be wider than six (6) feet for noncommercial uses.

1.7.10.8 No new structure shall be built on, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland or shoreline stabilization area unless the structure requires direct access to the water body or wetland or shoreline stabilization area as an operational necessity.

1.7.10.9 New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Code Enforcement Officer that a temporary pier or dock is not feasible, and a permit has been obtained from the Maine Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S., §480-C, as amended.

1.7.10.10 Except Commercially Functionally Water Dependent Uses outside the Resource Protection and Stream Protection Sub-Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland may not exceed 20 feet in height above the pier, wharf, dock or other structure.

1.7.10.11 No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any sub-district.

1.7.10.12 Vegetation may be removed in excess of the standards in Section 1.8.8 (*Clearing or Removal of Vegetation for Activities Other than Timber Harvesting)* of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Code Enforcement Officer.

1.7.10.13 When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

1.7.10.14 Revegetation must occur in accordance with Section 1.7.6 (*Revegetation Requirements)*.

1.7.11 **Roads and Driveways**

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

1.7.11.1 Unless the Code Enforcement Officer or their designee determines that no reasonable alternative exists, roads and driveways shall be set back a minimum horizontal distance of:

1.7.11.1.1 75 feet from the edge of a stream or tributary stream;

1.7.11.1.2 75 feet from the upland edge of a coastal or freshwater wetland;

1.7.11.1.3 100 feet from the normal high-water line of a Great Pond classified GPA.

1.7.11.2 On determining that no reasonable alternative exists to compliance with a minimum road/driveway setback requirement in the Section 1.7.11.1 above, the Code Enforcement Officer or their designee may reduce the minimum setback to no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, 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.

1.7.11.3 On slopes of greater than 20 percent, the minimum road/driveway setbacks required in Section 1.7.11.1 above shall be increased by ten (10) feet for each five (5) percent increase in slope above 20 percent.

1.7.11.4 The minimum road/driveway setbacks required in subsection a above do not apply to approaches to water crossings to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Subsection a above except for that portion of the road or driveway necessary for direct access to the structure.

1.7.11.5 Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

1.7.11.6 New roads and driveways are prohibited in the areas described in Section 1.7 (*Prohibited Locations of New Structures*), except that the Code Enforcement Officer or their designee may grant a permit to construct a road or driveway to provide access to permitted uses within those areas on finding that no reasonable alternative route or location is available outside of those areas in which case the road and/or driveway shall be set back as far as practicable from the water body, tributary stream or upland edge of a wetland.

1.7.11.7 Road and driveway grades shall be no greater than ten (10) percent except for driveway segments of less than 200 feet.

1.7.11.8 Road and driveway banks shall be no steeper than a slope of 2:1 horizontal to vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 1.7.8 (*Erosion and Sedimentation Control*).

1.7.11.9 To prevent road and driveway surface drainage from directly entering a water body, tributary stream or wetland, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip along a stream, tributary stream, river, tidal waters, or wetlands:

1.7.11.9.1 The minimum horizontal width of an unscarified buffer strip along the normal high water line of a stream or tributary stream shall be 25 feet.

1.7.11.9.2 The minimum width of an unscarified buffer strip along the normal high water line of a river or tidal waters, or upland edge of a coastal or freshwater wetland, shall equal 50 feet plus two (2) times the average slope between the outflow point of the ditch or culvert and the river, tidal waters, or wetlands.

1.7.11.10 Surface drainage 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.

1.7.11.11 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:

1.7.11.11.1 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	Spacing
0-2%	250 feet
3-5%	200 – 135 feet
6-10%	100 – 80 feet
11-15%	80 – 60 feet
16-20%	60 – 45 feet
21%+	40 feet

1.7.11.11.2 Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

1.7.11.11.3 On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a 30 degree angle downslope from a line perpendicular to the centerline of the road or driveway.

1.7.11.11.4 Ditch relief 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.

1.7.11.12 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.

1.7.12 **Campgrounds**

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

1.7.12.1 The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum horizontal distance of:

1.7.12.1.1 75 feet from the edge of a stream or tributary stream;

1.7.12.1.2 75 feet from the upland edge of a coastal or freshwater wetland;

1.7.12.2 Campgrounds shall contain a minimum of 5,000 square feet of land for each camp site. Land containing roads and driveways, lands supporting wetland vegetation, and land below the normal high water line of a water body shall not be included in calculating land per camp site.

1.7.12.3 All campgrounds are subject to Site Plan Review and approval by the Maine Department of Health and Human Services.

1.7.13 **Individual Private Campsites**

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

1.7.13.1 One (1) campsite may be placed on 30,000 square feet of lot area within the SZO, or shall be placed on a lot existing on the effective date of this Ordinance, whichever is less, may be permitted.

1.7.13.2 Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back a minimum horizontal distance of:

1.7.13.2.1 75 feet from the normal high-water line edge of a stream or tributary stream;

1.7.13.2.2 75 feet from the normal high-water line upland edge of a coastal or freshwater wetland;

1.7.13.3 When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

1.7.13.4 Only one (1) recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation and no structure(s) except canopies shall be attached to the recreation vehicle.

1.7.13.5 The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter shall be limited to an area of 1,000 square feet.

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

1.7.13.7 No recreational vehicles, tent, or similar shelter shall be placed on-site for more than 120 days per year.

1.7.14 **Sanitary Standards**

As well as meeting all requirements of the State of Maine Subsurface Wastewater Disposal Rules, all on-site septic systems located within the SZO District shall meet the following additional standards:

1.7.14.1 All parts of all types of subsurface wastewater disposal systems shall be set back a minimum horizontal distance of:

1.7.14.1.1 75 feet from the edge of a stream or tributary stream;

1.7.14.1.2 75 feet from the upland edge of a coastal or freshwater wetland;

1.7.14.2 No clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall occur within a minimum horizontal distance of:

1.7.14.2.1 75 feet from the edge of a stream or tributary stream;

1.7.14.2.2 75 feet from the upland edge of a coastal or freshwater wetland;

1.7.14.3 A holding tank is not allowed for a first-time residential use.

1.7.14.4 The Local Plumbing Inspector may consider and grant a request to reduce this setback for a replacement subsurface wastewater disposal system if a report prepared by a soils scientist or site evaluator registered in the State of Maine is submitted and accepted, and the report states that:

1.7.14.4.1 The existing system is failing;

1.7.14.4.2 No suitable location exists outside the setback; and

1.7.14.4.3 The proposed location meets the required setbacks to the greatest extent practicable.

1.7.14.5 Setbacks for new subsurface wastewater disposal facilities cannot be reduced by Variance.

1.7.15 **Overboard Discharge Systems**

Overboard discharge from a sewage disposal system, in which sewage (chlorinated or otherwise) flows into a protected resource, is prohibited. Systems licensed prior to June 6, 1994, may continue as long as they are in compliance with all appropriate State laws and do not involve expansion of the existing system.

1.7.16 **Water Quality**

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

1.7.16.1 A person or activity may not locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

1.7.16.2 All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials must meet the standards of the MEDEP and the State Fire Marshall's Office.

1.7.17 **Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

1.7.18 **Historic and Archeological Resources**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

1.7.19 **Parking Areas**

1.7.19.1 Parking areas shall meet the minimum water body and wetland setback requirements for principal and accessory structures in Section 1.6.1 (*Setbacks of Structures from Water Bodies and Wetlands*).

On finding that no reasonable alternative to compliance with a required minimum setback exists, the Code Enforcement Officer or their designee may reduce the minimum setback for parking areas serving a public or private boat launching facility to no less than 50 feet from the normal high water line of a stream, tributary stream, river, or tidal waters, and the upland edge of a coastal or freshwater wetland.

1.7.19.2 Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland, and where feasible, to retain all runoff on-site.

1.7.19.3 Unless provided below, parking areas shall conform to the design standards in Article III, section 3.9 of this Ordinance. In addition, parking spaces for vehicles with boat trailers shall be at least 40 feet in length.

1.7.19.3.1 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.

1.7.19.3.2 Internal travel aisles: Approximately twenty (20) feet wide.

1.7.20 **Stormwater Runoff**

1.7.20.1 All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

1.7.20.2 Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

1.7.20.3 Direct discharge of stormwater into any water body shall be avoided.

1.7.21 **Essential Services**

1.7.21.1 Where feasible, the installation of essential services shall be limited to existing public rights-of-way and existing service corridors.

1.7.21.2 The installation of essential services, other than roadside distribution lines, is not allowed in a Resource Protection (SZO-RP) or a Stream Protection (SZO-SP) Sub-District, except to provide services to a permitted use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including, but not limited to, visual impacts.

1.7.21.3 Damaged or destroyed utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a Shoreland Zone Permit.

1.7.22 **Minor Utilities**

1.7.22.1 Where feasible, the installation of minor utilities shall be limited to existing public ways and existing service corridors.

1.7.22.2 The installation of minor utilities other than road-side distribution lines is not allowed in the SZO District except to provide services to a permitted use within the District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

1.7.22.3 Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a Shoreland Zone Permit.

1.7.23 **Signs**

1.7.23.1 The following provisions shall govern the use of signs in the SZO:

1.7.23.1.1 Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

1.7.23.1.2 Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

1.7.23.1.3 Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

1.7.23.1.4 Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

1.7.23.1.5 Signs relating to public safety shall be allowed without restriction

1.7.23.1.6 No sign shall extend higher than twenty (20) feet above the ground

1.7.23.1.7 Signs may be illuminated only by shielded, non-flashing lights.

1.7.24 **Public Utility Service**

No utility of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currently of all local permits required under this Section, or any previous Section, has been issued by the Code Enforcement Officer, or other written arrangements have been made between the municipal officials and the utility.

1.8 Shoreland Zone Administration

1.8.1 Permit Required

All development or other land use activity within the Shoreland Zone Overlay District shall require a Shoreland Zoning Permit from the applicable Review Authority in accordance with Development Review thresholds as stated in Table 2.2, Land Use Matrix and the following review criteria, unless the Table indicates a permit is not required. This permit shall be in addition to any other permit or plan approvals which may be required by this Ordinance. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. In accordance with 38 M.R.S §439-A(10) Shoreland Zoning Overlay permit applicants must provide preconstruction photographs with their application and, no later than 20 days after completion of the development, postconstruction photographs of the Shoreline vegetation and development site.

1.8.2 A permit is not required for the replacement of an existing road culvert as long as:

1.8.2.1 The replacement culvert is not more than 25% longer than the culvert being replaced;

1.8.2.2 The replacement culver is not longer than 75 feet; and

1.8.2.3 Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the waterstone.

1.8.3 A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

1.8.4 Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

1.8.5 Permit Review Criteria

After the submission of a complete application to the Planning Board or Code Enforcement Officer, the Review Authority shall take action on an application based on the following review criteria:

1.8.5.1 The development or other land use activity will maintain safe and healthful conditions;

1.8.5.2 The development or other land use activity will not result in water pollution, erosion, or sedimentation to surface waters;

1.8.5.3 Will adequately provide for the disposal of all wastewater;

1.8.5.4 Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

1.8.5.5 Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;

1.8.5.6 Will protect archaeological and historic resources as designated in the Comprehensive Plan;

1.8.5.7 Will not adversely affect existing commercial fishing or maritime activities in the SZO;

1.8.5.8 Will avoid problems associated with floodplain development and use; and

1.8.5.9 Is in conformance with the provisions of this Ordinance.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the Town of West Bath.

1.8.6 Application Fees

All applications shall be accompanied by an application fee paid to the Town of West Bath.

1.8.7 Procedure

Projects requiring approval from the Code Enforcement Officer or Planning Board shall be subject to the following provisions:

1.8.7.1 Every applicant for approval shall submit a written application, including a scaled site plan, on a form provided by the Code Enforcement Officer

1.8.7.2 All applications shall be signed by the owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

1.8.7.3 All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.

1.8.7.4 If the property is not served by the City of Bath sewer system, the applicant shall submit a valid septic system permit or a completed application for a septic system permit, including the site evaluation approved by the plumbing inspector, whenever the nature of the proposed structure would require the installation of a subsurface disposal system.

1.8.7.5 If applicable when an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

1.8.7.6 Within thirty-five days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is complete or, if the application is incomplete, that additional material is needed to make the application complete. The application shall either be approved, approved with conditions, or denied in writing within thirty-five days of receiving a completed application, or within thirty-five days of the public hearing, if one is held.

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

1.8.7.8 All applicants receiving approval for projects located in the Shoreland Zone Overlay District must provide the Code Enforcement Officer with pre-construction photographs and, no later than twenty days after completion of the development, post-construction photographs of the shoreline vegetation and development site.

1.8.8 If a permit is either denied or approved with conditions, the reasons and conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate this Ordinance or any regulation or any State law in which the municipality is responsible for enforcing.

1.8.9 Permits granted under this section may be subject to reasonable conditions to ensure conformity with the purpose and provisions of this Ordinance.

1.8.10 Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

1.9 Special Exceptions for Development within the Resource Protection.
In addition to the criteria specified in Section 1.8.5 (*Permit Review Criteria)* above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection Sub-District provided that the applicant demonstrates that all of the following condition are met:

1.9.1 There is no location on the property, other than a location within the Resource Protection Sub-District, where the structure can be built.

1.9.2 The lot on which the structure is proposed is undeveloped and was established and recorded in the Sagadahoc County Registry of Deeds.

1.9.3 All proposed buildings, sewage disposal systems and other improvements are:

1.9.3.1 Located on natural ground slopes of less than 20%; and

1.9.3.2 Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at lest one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with the City of Bath's floodplain ordinance.
If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year floodplain.

1.9.4 The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

1.9.5 All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

ARTICLE IX - ENFORCEMENT AND PENALTIES

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

B. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Land Use Ordinance. If any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify in writing the person or entity 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 Code 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 Code Enforcement Officer shall give written notice of such violation to the owner and to the occupant of such premises. The Code Enforcement Officer 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 Code Enforcement Officer are hereby authorized and directed to institute 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 consistent with the provisions of 30-A M.R.S. § 4452 as amended. Each day such violation is continued a separate offense is considered.

F. If any conflict exists between this Ordinance and any other Ordinances, the stricter Ordinance will prevail.

ARTICLE X: 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 DWELLING UNIT (ADU): A self-contained dwelling unit located within, attached or detached from a single-family dwelling unit or duplex located on the same parcel. An Accessory Dwelling Unit shall:

A. Be a minimum of 190 square feet
B. Be no larger than 1,000 square feet or 50% of the principal structure footprint, whichever is less.

ADDITION: Any construction which increases the area or the height of any portion of the building or structure

AFFORDABLE HOUSING DEVELOPMENT:

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat 888, Section 8, as amended can afford a majority of the units that the development designates as affordable without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.

C. For purposes of this definition, "majority" means more than half of proposed and existing units of the same lot.
D. For purposes of this definition, "housing costs" include, but are not limited to:

1. For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and

2. For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees.

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; a group of five (5) 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.

AREA MEDIAN INCOME: The midpoint of a region's (Sagadahoc County) income distribution calculated on an annual basis by the US Department of Housing & Urban Development

ARTERIAL: A roadway which serves long distance through-traffic and also allows access to abutting land.

ATTACHED: Connected by a shared wall to the principal structure or having physically connected finished spaces.

BASE DENSITY: The maximum number of units allowed on a lot not used for affordable housing based on dimensional requirements in a local land use or zoning ordinance. This does not include local density bonuses, transferable development rights, or other similar means that could increase the density of lots not used for affordable housing.

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.

BUFFER AREA: A part of a property or an entire property, which is not built upon and is specifically designed to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

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.

CAMPGROUND: In addition to the generally accepted definitions, camping areas, glamping (a form of camping involving accommodation and facilities more luxurious than traditional camping) areas, recreational vehicle parks, picnic and lunch grounds or other premises where tents, recreational vehicles, rental cabins, and cottages are permitted on five (5) or more sites for commercial or non-commercial purposes. Campground includes but is not limited to, sites intended for recreational purposes rather than temporary residency.

CENTRALLY MANAGED WATER SYSTEM: A water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days a year as regulated by 10-144 C.M.R. Ch.231, *Rules Relating to Drinking Water*. This water system may be privately owned.

CERTIFICATE OF OCCUPANCY: The municipal approval for occupancy granted pursuant to 25 M.R.S. §2357-A or the *Maine Uniform Building and Energy Code* (MUBEC) adopted pursuant to Title 10 Chapter 1103. Certificate of Occupancy may also be referred to as issuance of certificate of occupancy or other terms with a similar intent.

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 one hundred (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.

COMPARABLE SEWER SYSTEM: Any subsurface wastewater disposal system that discharges over 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch.241, *Subsurface Wastewater Disposal Rules*.

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: A document consistent with 30-A M.R.S §4326(1)-(4), including the strategies for an implementation program that are consistent with the goals and guidelines established pursuant to Title 30-A Chapter 187

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.

DENSITY REQUIREMENTS: Maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

DESIGNATED GROWTH AREA: An area that is designated in Union's Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of those types of development, and into which most development projected over ten (10) years is directed. Designated Growth Areas may also be referred to as priority development zones or other terms with a similar intent.

DIMENSIONAL REQUIREMENTS: Requirements which govern the size and placement of structures including, but not limited to, the following requirements: building height, lot area, minimum frontage, and lot depth.

DRIVEWAY:A traveled way that provides vehicular access to a single lot, located wholly or partially on that lot or within an easement granting access to the 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 dwelling units.

DUPLEX: Two (2) dwelling units within a single structure.

DWELLING UNIT: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) 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, or any designated part of his or her property.

ENGINEER: Municipal Engineer or consulting engineer licensed by the State of Maine.

EXISTING DWELLING UNIT: A residential unit in existence on a lot at the time of submission of a permit application to build additional units on that lot. If a municipality does not have a permitting process, the dwelling unit on a lot must be in existence at the time construction begins for additional units on a lot.

FINAL PLAN: The final drawings on which the applicant's subdivision plan 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 (6') feet. 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:

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

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

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

GREAT POND CLASSIFICATION 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 the 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.

HOUSING: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, time-share units, and apartments. For purposes of this rule, this does not include dormitories, boarding housing, or other similar types of housing units. This also does not include transient housing or short-term rentals.

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 two (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.

JUNKYARD: A yard, field or other area used as a place of storage, for: discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture; discarded, scrap and junked lumber; old or scrap copper, brass, ropes, rags, batteries, motor vehicle parts, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or non-ferrous material; garbage dumps, waste dumps, and private sanitary landfills; automobile graveyards.

LAND USE ORDINANCE: The local ordinance of general application adopted by the Union legislative body which controls, directs, or delineates allowed uses of land and standards for those uses.

LOT: A single parcel of developed or undeveloped land.

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, Campbells 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.

MULTIFAMILY DWELLING: A structure containing three (3) or more dwelling units. West Bath does not permit a multi-family dwelling structure that exceeds eight (8) dwelling units.

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 4.10.3.

NORMAL HIGH WATER MARK OF COASTAL WATERS: The 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 predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant lavender, silverweed, salt marsh bulrush, seaside plantain, 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: The 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: The line on the shores of banks on non-tidal waters which is apparent because of the contiguous different character of the solid 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 Planning 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 surrounded by land held by a single owner, and except those privately owned ponds which are held primarily as waterfowl and fish breeding areas for hunting and fishing.

POTABLE: Safe for drinking as defined by the US Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS). Resolve 2021 Chater 82, *Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.*

PRELIMINARY SUBDVISION 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 structure in which the main or primary use of the structure is conducted. For purposes of this rule, principal structure does not include commercial buildings.

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 land.

RESTRICTIVE COVENANT: A provision in a deed, or other covenant conveying real property, restricting the use of the land.

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.

Private ROADS. Privately built and maintained right-of-way providing access to two (2) or more properties.

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.

SETBACK REQUIREMENTS: The minimum horizontal distance from a lot line, shoreline, or road to the nearest part of a structure, or other regulated object or area as defined in local ordinance.

SHARED DRIVEWAY: A traveled way providing access to two (2) abutting lots from a private or public road -- the shared portion of which is located at the boundary between the 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.

SINGLE-FAMILY DWELLING UNIT: A structure containing one (1) dwelling unit

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 Article III, section 3.13 of this Land Use 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 topographical 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 design as rights-of-way.

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.

Minor STREETS. Local STREETS which are used primarily for access to abutting residential, commercial or industrial properties.

STRUCTURE: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons as defined in 38 M.R.S. §436-A(12).

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 (3) or more lots within any five (5) year period, which period begins on or after September 23, 1972, 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 five (5) or more DWELLING UNITS within a five (5) year period, the construction or placement of five (5) or more dwelling units on a single tract or

parcel of land and the division of any existing structure or structures previously used for commercial or industrial use into five (5) or more dwelling units within a five (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 three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished, is considered to create a third (3rd) lot, unless:

1. Both dividings are accomplished by a sub-divider who has retained one (1) 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 five (5) years immediately preceding the second (2nd) division; or

2. The division of the tract or parcel is otherwise exempt from 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.

1. A division accomplished by devise does not create a lot or lots for the purpose 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.

. 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.

. 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.

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 five (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.

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.

6. A division accomplished by the transfer of any interest in land to the owners of abutting land that does not create a separate lot shall not be considered to 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 shall be deemed to create a a lot or lots for the purpose of this subsection.

D. 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 subdvision.

E. 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.

F. 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.

G. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs C.1. to C.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.

H. The division of a structure into three (3) or more units, whether they are commercial, industrial or dwelling units, or any combination thereof, within a five (5) year period shall constitute a subdvision.

TEMPORARY 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.

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 or 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. Only account for the volume of an enclosed foundation, basement or lowest floor that has a minimum floor to ceiling height of 6' feet. The volume of said floor area shall be calculated by multiplying only the floor area which has a minimum 6' feet height by its height, or average height if the heights vary.

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 crossings.

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.

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.

ZONING ORDINANCE: A type of ordinance that divides a municipality into districts and that prescribes and reasonably applies different regulations in each district.