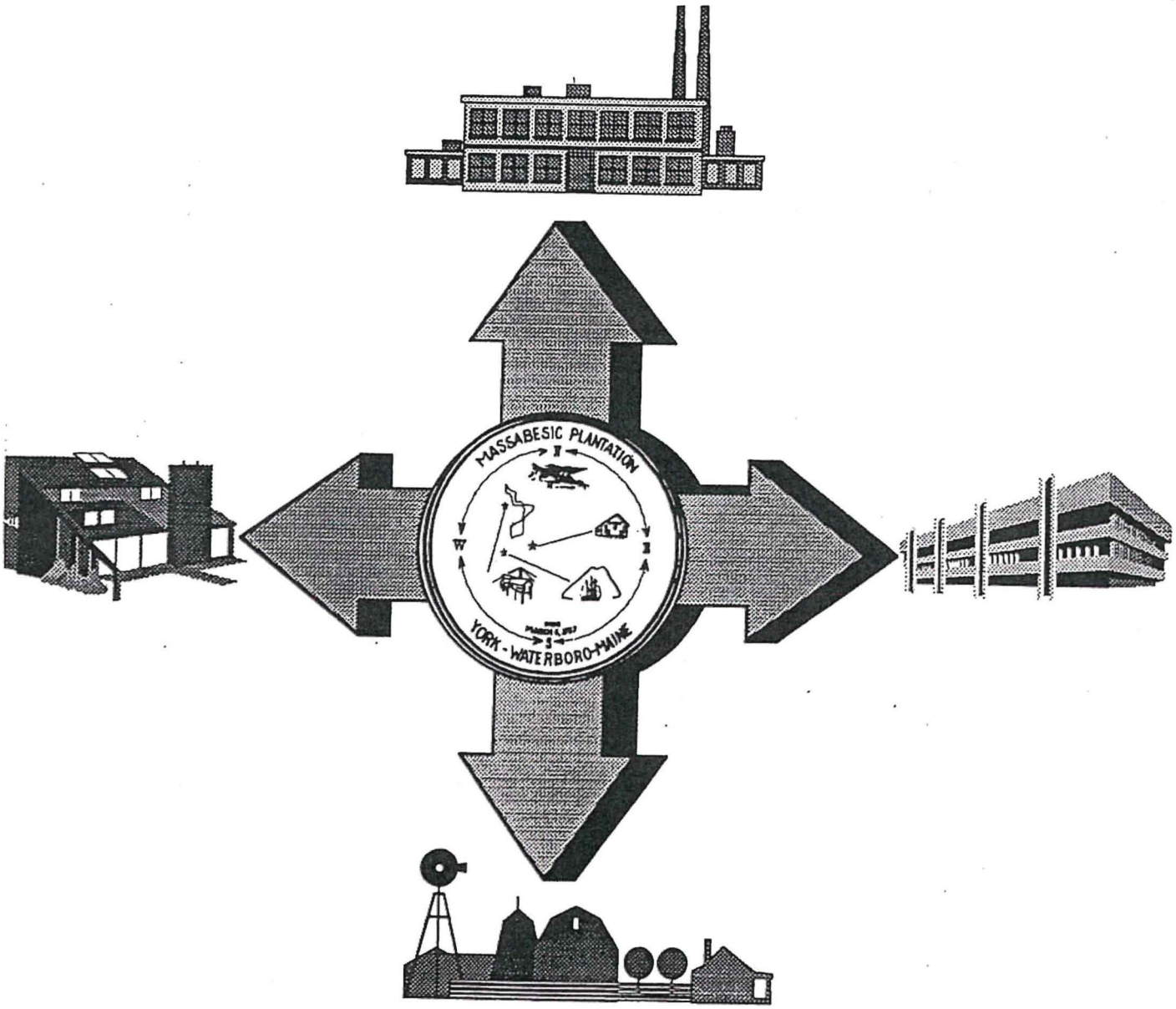
TOWN OF WATERBORO

Price $8.00

ZONING ORDINANCE



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Article 1 Introduction

Section 1.01 Statutory Authority

This ordinance in enacted pursuant to the authority granted in 30-A M.R.S.A. §4352 and the Home Rule powers granted in Article VIII-A of the Maine Constitution implemented by legislation contained in 30-A, M.R.S.A. §4352. Therefore, the citizens of Waterboro do enact and ordain as follows: (Amended 05/16/2016)

Section 1.02 Purpose

The purpose of this ordinance is to promote the health, safety, prosperity, aesthetics, and general welfare of the Town of Waterboro. This ordinance does not pertain to any other codes adopted by the Town. See the Town's list of all codes administered by the Town.

Section 1.03 Intent

It is the intent of this ordinance to regulate and restrict the use of all lands, waters, and structures; regulate and restrict lot coverage, population distribution and density, and the size and locations of all structures so as to: lessen congestion on and promote the safety and efficiency of streets and highways; secure safety from fire, flooding, and other dangers; provide adequate light, air, water supply, sanitation, drainage, and access to roads and waterbodies; avoid undue population concentrations; facilitate the adequate provision at reasonable costs of public facilities and utilities; stabilize and protect existing public and private property and the value inherent therein; insure the appropriate use of land and the conservation of natural resources; preserve and promote the historic character and beauty of the town. It is further intended to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

Section 1.04 Underlying Assumptions and Premises

Existing natural phenomena within the Town of Waterboro, the geographic size of Waterboro, the present and foreseeable population of Waterboro, and the actions of governmental agencies outside of Waterboro give rise to a series of conditions, assumptions, and premises upon which this ordinance is predicated. They include: existing major roads and highways, which are largely funded and maintained by state highway departments, major extensions, resurfacing, or widening; public sewage collection and storm water drainage systems, which do not now exist, but may in the future. Higher density residential and mixed use districts must have proximity to essential public facilities and both public and private services (schools, roads, police and fire protection, utilities, shops); districts which permit only lower density development either lack this necessary proximity or have other physical limitations involving soils, slope, drainage, suitability for subsurface waste water disposal etc.

Section 1.05 Abrogation and Greater Restrictions

It is not the intent of this ordinance to abrogate, repeal, annul, impair or interfere with any existing easements, covenants, deed restrictions or agreements; or with state statutes, rules, regulations, or permits; or with other local ordinances or regulations. However, in all of the above situations where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

Section 1.06 Interpretation

a. Interpretations of words, phrases, or specific provisions of this ordinance leading to the granting or denial of a necessary permit, the approval or disapproval of any proposal, or any other action or refusal to act by the Code Enforcement Officer or the Planning Board may be appealed to the Zoning Board of Appeals within thirty (30) days of the decision by an applicant or aggrieved party, or by any of the elected or appointed municipal officials or employees listed above.

b. In judicial proceedings arising out of this ordinance and its application by the Town of Waterboro, it is the intent of the Town that the provisions of this ordinance be regarded as minimum requirements and that they be liberally construed in favor of the town so that the purposes and intentions (see Sections 1.06 and 1.07) of the ordinance may be achieved.

c. All persons interpreting words, phrases, or provisions of this ordinance shall be bound by the definitions set out in Article12. Those words or terms that are not defined in Article 12 shall be defined by the normal and usual meanings of words and phrases in everyday speech and by the meaning to be drawn from the context in which a particular word, phrase, or provision is set. All interpretations must be in harmony with and seek to achieve the overall purpose and intent of the ordinance.

Section 1.07 Severability

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Section 1.08 Amendment

a. Pursuant to the same authority by which this ordinance is enacted (see section 1.01) the regulations, restrictions, and boundaries established by this ordinance may be changed, supplemented, or repealed. A proposal for such action shall be referred to as a proposed amendment. A proposed amendment under this subsection may be offered by any person who owns land in Waterboro, any resident of the town, the Code Enforcement Officer, the Planning Board, or the Selectmen.

1. All proposed amendments shall be presented initially to the Selectmen who shall forward them to the Planning Board which shall within thirty (30) days hold a public hearing meeting pursuant to the statutory requirements of notification. Once that has been completed, the Planning Board will review the proposal and forward a

recommendation and the Planning Board's reasoning respecting the proposed amendment to the Selectmen. The Selectmen shall within thirty (30) days of initial receipt of a proposed amendment schedule a public hearing thereon giving at least seven (7) days general notice by publication of the date, time and place of such hearing and the complete text of the proposed amendment.

2. At hearings held on a proposed amendment to this Ordinance, all persons present must be given a full opportunity to be heard. The authors of the proposed amendment should explain and present the rationale of their proposal at the outset. The review, recommendation, and comments of the Planning Board, the Town Attorney, and the Selectmen should then be presented. A question and answer period, if necessary, should follow. The comments of any other members of the public should then be received.

3. After a public hearing the Board of Selectmen shall vote on the proposed amendment. The decision to make any amendment to the Zoning Ordinance, including conditional or contract rezoning, shall be wholly within the discretion of the Selectmen who may, at their option, decline, amend or adopt said proposal. Any amendment approved hereunder shall become effective as set forth in the Town Charter.

b. Pursuant to 30-A, M.R.S.A. § 4352(8), conditional or contract zoning is hereby authorized for development where, for reasons such as the unusual nature or unique location of the development proposed, the Board of Selectmen finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned; it should not be used to circumvent enforcement decisions of the Code Enforcement Officer or decisions of the Zoning Board of Appeals. All contract or conditional zoning under this section shall establish rezoned areas which are compatible with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan. A conditional or contract rezoning may be requested by the owner of the property for which the rezoning is sought or by someone who has a legal interest in the property.

All conditions and restrictions imposed shall relate only to the physical development and/or operation of the property and may include, by way of example:

a. Limitations on the number and types of uses permitted.

b. Restrictions on the scale and density of the development.

c. Specifications for the design and layout of the buildings, structures, and other improvements.

d. Schedules for commencement and completion of construction, including anticipated schedules (i.e. beginning and completion dates) for all construction phases.

e. Performance guarantees securing completion and/or maintenance of public and private improvements and guarantees against defects.

f. Preservation and enhancement of open spaces and buffers, and protection of natural areas and historic sites, including establishment of park land and conservation easements.

g. Contributions toward the provisions of municipal services required by the development.

h. Construction or enhancement of certain public capital improvements impacted by the development.

i. Provisions for enforcement and remedies for breach of any condition or restriction.

j. Provisions regulating the assignability of said contract, including fees relating to the same.

A person wishing to propose contract zoning under this Section shall, prior to filing an application, submit a conceptual sketch plan and contract proposal to the Board of Selectmen. The sketch plan review fee is non-refundable.

Any proposal to amend the Official Zoning Map of the Town through the establishment of a conditional or contract rezoning shall be reviewed by the Board of Selectmen and passed on to the Planning Board for a thorough review and public hearing and comment back to the Board of Selectmen with recommendations on the application should proceed. Such contract shall include, at a minimum, the proposed conditions of the rezoning, enforcement provisions and a map of the area for which the rezoning is requested shall be considered.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the conditional or contract rezoning application, the following fees and deposit in such amount(s) and for such purpose(s) as the Board of Selectmen shall establish by way of Planning Board recommendation includes:

(a) Publishing and public notice fee.
(b) Review fee.
(c) Independent consulting and peer review escrow account.
(d) Reimbursement of fees for professional services incurred by the Town for advice and negotiations relating to said conditional or contract rezoning.

The Planning Board shall conduct a public hearing prior to any property being rezoned under this Section. Notice of this hearing shall be posted in the Town Clerk's office at least thirteen (13) days prior to each public hearing and shall be published in a newspaper of general circulation within the Town at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.

Notice shall also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

At the end of the public hearing, the Planning Board shall vote whether to recommend the conditional or contract rezoning application to the Board of Selectmen. The vote of the Planning Board shall be forwarded to the Board of Selectmen for consideration with the application for conditional or contract rezoning.

No conditional or contract rezoning shall exempt the applicant from subsequent Site Plan review and/or Subdivision review by the Planning Board of the proposed development. (Amended 04/21/2007)

Section 1.09 Effective Date

This ordinance shall be in full force and have legal effect in the Town of Waterboro as of March 13, 1977. Amendments shall be in full force and have legal effect in the town as by the Board of Selectmen in accordance with the provisions of the Town Charter.

Section 1.10 Reserved

Article 2 General Provisions

Section 2.01 Jurisdiction

The jurisdiction of this ordinance shall include all lands and water within the corporate limits of the Town of Waterboro as shown on the official zoning map (see Section 3.02 of this ordinance) which is on file in the Town Clerk's office.

Section 2.02 Actions Requiring Compliance

The use of land, water, or structures and the location, erection, movement, reconstruction, extension, enlargement, conversion, or structural alteration of structures or parts thereof shall hereafter be in conformance with the provisions of this ordinance.

Section 2.03 Building, Occupancy and Change of Use Permits Required
(Amended 06/4/1994)

A building permit, designed to insure compliance with state law, this ordinance, other local land use ordinances or regulations, and conditions (if any) attached to an approved project, must be obtained from the Code Enforcement Officer prior to constructing, locating, erecting, moving, reconstructing, extending, enlarging, converting, or structurally altering any permanent or temporary structure or use. A building permit shall be granted or denied by the Code Enforcement Officer as promptly as possible, but no more than 10 working days from the time the application is found complete. A building permit shall expire one (1) year from the date of its issue unless substantial work (actual construction) has commenced. Work commenced must be completed within two (2) years. A building permit shall not be valid for a longer period of time but may be renewed for an additional two (2) years if the nature of the project has been continuous.

Prior to the construction or installation of any building or structure, the property owner or contractor shall provide to the Code Enforcement Office a certification from a land surveyor demonstrating that the placement of the foundation meets the required setbacks. For purposes of this provision, a foundation shall be defined as any base material that provides frost protection for habitable space located above it.

An occupancy/use permit must be obtained from the Code Enforcement Officer prior to actually using or occupying a permanent or temporary structure upon which work contemplated in a building permit has been completed. An occupancy permit shall be granted or denied as promptly as possible after a physical inspection of the structure and project site by the Code Enforcement Officer but no more than 3 days after the final satisfactory inspection has been completed.

The Code Enforcement Officer shall be notified of any change in use of building or premises, and a permit shall be secured for such change. (Amended 06/24/1994)

Permits may also be subject to other codes or ordinances adopted by the Town.

Section 2.04 Duties of Code Enforcement Officer

The Code Enforcement Officer shall receive and process all applications for building and occupancy permits. When and if necessary, the Code Enforcement Officer shall refer the applicant to the Zoning Board of Appeals, the Planning Board or the Selectmen of the Town of Waterboro for such review, approval, and action by these bodies as state statute and this ordinance require. Applications for required permits shall be deemed complete only after required reviews, approvals and actions by the above bodies are completed.

When the provisions of state law, this ordinance, other local land use ordinances and regulations, and conditions (if any) attached to an approved project are met, the Code Enforcement Officer shall issue the required permits within the time deadlines specified (see Section 2.03) When such provisions are not met, he/she shall deny issuance of the required permits. A denial of either a building or occupancy permit must include a statement of reasons for the denial. A building or occupancy permit issued in conflict with the provisions of state law, this ordinance, other local land use ordinance or regulations, or conditions (if any) attached to an approved project is null and void.

Decisions of the Code Enforcement Officer with respect to the granting or denial of a building permit or occupancy permit may be appealed to the Zoning Board of Appeals of the Town of Waterboro within thirty (30) days of the decision by the applicant or by an aggrieved party, as set forth in Section 9.08(Amended 03/8/1986, 04/26/2003)

The Code Enforcement Officer may, on his/her own, and shall upon complaint, investigate to insure that state law, this ordinance, other local land use ordinances or regulations, or conditions (if any) attached to an approved project are not being violated. Upon finding a violation of any statute, ordinance, regulation, or condition outlined above, the Code Enforcement Officer shall notify the violator of such fact and simultaneously issue a code enforcement order to the violator requiring immediate compliance with the particular provisions of law involved. The failure to comply with a code enforcement order will subject the violator to penalties, further orders, and possible legal action as outlined in Sections11.02 and11.03.

The Code Enforcement Officer may seek entrance to any property or structure within the Town of Waterboro to inspect and carry out the provisions of this ordinance. His/her testimony and records shall be available to the Town Attorney to facilitate law enforcement and the prosecution of individuals who violate a code enforcement order.

Section 2.05 Site Restrictions

All lots shall abut upon an existing or proposed road which meets all municipal and other applicable governmental regulations and standards or, if landlocked, shall have a legally recorded access right-of-way, of no less than fifty (50) feet in width, to a public or private road. All lots, with the exception of landlocked lots, shall have a minimum road and/or water frontage of one hundred (100) feet in the Village zone, one hundred (100) feet in the Village/Residential zone except on cul-de-sacs where fifty (50) feet will be required, one hundred fifty (150) feet in the Residential and the Agriculture/Residential and General Purpose zones and two hundred (200) feet in the Forest/Agriculture and Conservation zones. Situations involving or utilizing cul-de-sacs, curvilinear streets, cluster design or planned unit design permitted by the Subdivision Regulations or this Ordinance (see Sections 7.01and 7.02) when the Planning Board determines that these

frontage requirements are not practical, – may allow the Planning Board to approve frontage reductions of up to fifty (50) percent. (Amended 03/11/1989, 3/11/00 and 04/26/2003)

With the exception of multi-unit housing, clustered or planned unit developments, an individual lot shall have only one principal structure and accompanying accessory structures upon it.

Section 2.06 Use Restrictions

In each zoning district, the only uses permitted are those specified as primary uses or conditional uses and relevant accessory uses and structures, the non-commercial keeping of animals, and similar undertakings incidental to a primary or conditional use. In addition, all conditional uses in any zoning district and their accessory uses and structures are subject to Planning Board review and approval (See Article 2 section 2.09).

Temporary uses may be permitted in any zoning district for brief periods of time not to exceed thirty (30) days with the approval of the Code Enforcement Officer. The approval of a temporary use may be appropriately conditioned to avoid harm to adjacent property owners and the public. A temporary use may not be extended for more than two (2) additional thirty (30) day periods and then only if the applicant for such use can show need and that undue hardship will result if the temporary use is not extended.

Section 2.07 Size Reductions or Increases
(Amended 03/12/1988, 03/11/1989, 09/25/1990, 11/12/1996, 03/11/2000, 05/13/2016)

If an existing lot of record does not comply with the minimum lot size requirements of the zone in which it is located the following shall apply to all setbacks:

1. Yard Setbacks
    a. Rear: There shall be behind every building a rear setback having a minimum depth established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot, whichever is less.

    b. Side: There shall be a minimum side yard setback established by the zone in which the property is located between any building and the side property line or the side yard setback shall be ten feet and increased one foot for every five feet or part thereof increase in the street frontage over 50 feet to a maximum side yard setback as found in Section 3.03 for the zone in which the property is located.

    c. Front: There shall be in front of every building a minimum front setback established by the zone in which the property is located as found in Section 3.03 or 25 percent of the average depth of the lot whichever is less.

2. Land Takings-Any land taken by eminent domain or conveyed for a public purpose shall not be deemed in violation of this provision. Any setback, or lot that is reduced below the minimum dimensional requirements as a result of land taken by eminent domain or conveyed for a public purpose shall not be deemed nonconforming. Setbacks for the enlargement of any existing building located on such a lot shall be referenced to the property

line as it was located prior to the eminent domain action or the conveyance for a public purpose.

3. Non-Conforming Residential Structure Expansions – A legal non-conforming residential building may not be enlarged beyond the size permitted by dimensional regulations for buildings in said district except that an existing non-conforming building line parallel to the property line may be extended, but in no case shall the yard setback requirement for said addition be reduced to less than five feet.

4. Non-Conforming Non-Residential Structures – An existing lawfully non-conforming, non-residential building or structure may be extended or enlarged, provided that it satisfies the following criteria:
   a. Any enlargement shall only be used to accommodate the needs of the existing use or different conforming use proposed to occupy the entire structure as outlined by the applicant.

   b. An enlargement which purpose is to provide for additional floor space as a result of the addition of a new business under separate ownership shall not be allowed.

Section 2.08 Applications

To facilitate the expeditious carrying out of any and all of the responsibilities outlined in this ordinance, the Code Enforcement Officer, the Planning Board, and the Zoning Board of Appeals are respectively authorized to prepare and publish such application forms and procedures as necessary. Application forms should elicit as much or all of the information which the officer or board will require from the applicant. If an application form is not completely filled out or if the circumstances of a particular case require it, the officer or board may request such additional information as is necessary to allow full review and evaluation of the pending issue. Applications for Code Enforcement Officer or board action shall not be deemed complete until all information which has been validly requested has been furnished. All completed application forms and supporting materials are public records which shall be kept on file in the Code Enforcement /Planning Office and which may be inspected by any member of the public at reasonable times. (Amended 3/11/2000)

Applications for Code Enforcement Officer or board action may not be made by any party other than the owner of record or the lessee of the land which will be directly affected by the requested action or by an option or contract to purchase such land. The land owner/applicant may through written permission assign a representative to speak on their behalf.

Section 2.09 Site Plan Review

Site Plan Review and Approval by the Planning Board shall be required before issuance of a building permit for any

- new non-residential building or structure

- expansion of a non-residential building or structure with a cumulative lifetime expansion over 2500 square feet
- any Conditional Use
- mobile home park or
- multi-family residences with more than two dwelling units as provided in the Town of Waterboro Site Plan Review Ordinance Adopted June 28, 1988. (Amended 04/26/2003)
- Mobile Vending Food Truck Park

Site Plan Review and Approval shall not be required:

1. To change a use permitted by the zoning ordinance to another permitted use, in an existing structure, provided;
    a. The change does not increase the requirements for off-street parking, as provided by the Zoning Ordinance for the Town of Waterboro; and
    b. No structural changes are proposed for the existing building when they are less than 2500 square feet as a cumulative lifetime expansion and
    c. No changes are proposed for the site on which the existing building is located.
2. For single family dwellings and accessory structure.
3. For multi-family dwellings of no more than two dwelling units and their accessory facilities.
4. Any development reviewed by Planning Board as a residential subdivision. (Amended 04/27/2002)

A. Site plan review shall operate in conjunction with the applicable provisions of this Ordinance, Land Subdivision Regulations (where applicable) and Road Standards of the Town of Waterboro. Compliance with all applicable zoning requirements shall be a prerequisite to obtaining site plan approval.

B. All applications for Site Plan Review shall be filed concurrently with the Town Planner and Code Enforcement Officer. The application shall also include twelve (12) copies of a 24 x 36 plans drawn to a scale of not greater than 1" to 100' showing the following features, both existing and proposed:

    1. Boundaries of the site and abutting streets with widths indicated.

    2. Footprints of all buildings - showing the number of stories, access and use.

    3. Layout and location of off-street parking; loading; and access drives; and vehicular maneuver-areas to conform with the standards set forth in Article 5 of this Ordinance.

    4. Location and size of all signs, gasoline pumps, and other freestanding structures.

    5. Location, direction, and type of outdoor lighting.

    6. Location and type of screening and/or buffers and other landscaping.

    7. Location of all utilities.

8. Topography of a contour interval not greater than two feet showing the effects of drainage from the site upon adjacent property. A greater contour interval may be used if the Planning Board determines that the plan is adequate to evaluate site conditions.

9. The applicant shall, in addition, submit for any project utilizing an on-site septic disposal system if the septic system has a design system flow in excess of 800 gallons/day or if predominantly made up of non-typical septic waste, a hydrogeological impact study prepared by a State of Maine licensed Geologist or a State of Maine licensed Professional Engineer with experience in hydrogeology. This study shall contain, at a minimum, the following components:

    a. A map showing the soil types using the Unified Soil Classification System (USCS).

    b. Groundwater levels and flow rates through the site, and the aquifer type.

    c. An analysis of surface drainage conditions and their relationship to off-site conditions.

    d. Data on existing groundwater quality and quantity for the site. Collection of this data can either be provided by test wells on the proposed site or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site. If public water is to be used, the applicant shall submit a written statement from the Waterboro Water District that it can provide adequate water service to the proposed development

    e. A calculation of average nitrate nitrogen levels on-site after development and a calculation of nitrate nitrogen levels at the down-gradient property line(s). These calculations should be done under simulated conditions of both normal rainfall and drought.

    f. A map showing the recommended sites for the subsurface wastewater disposal system(s) and well(s) on the site.

C. There shall be a Site Plan Advisory Committee consisting of the Town Planner, Code Enforcement Officer, Public Works Director and Fire Chief. This committee shall review the application and evaluate its compliance with the Zoning Ordinance, and shall within seven (7) business days of receipt of a complete application:

   Forward a memo to the Planning Board for its consideration during the Board's review and deliberation on the pending application. This information is only advisory to the Board.

D. The Administrative Assistant shall within five (5) business days after receiving a Site Plan Review packet from the Town Planner and Code Enforcement Officer, identify the next available Planning Board meeting, schedule the application for Planning Board review; and notify the applicant, the Board of Selectmen, the Chief of the Fire Department, the Public Works Director and the Chairs of the Economic Development and Road Review Committees.

E. Owners of abutting property and property located within 500 feet of the subject parcel shall be notified by the applicant at the applicant's expense, by certified mail of the date, time and purpose of that initial meeting. The applicant shall provide a list of all persons to whom notice has been sent, together with their current mailing addresses based upon the Town's assessing records, to the Administrative Assistant prior to the meeting with the Planning Board.

Section 2.10 Site Plan Review Standards

A. In reviewing a site plan application, the Planning Board shall require the applicant to provide written evidence that the following standards have been met unless they are found to be not applicable to a particular project:

1. The proposed development meets the definitions and/or requirements set forth in the Zoning Ordinance;

2. The proposed development will not create fire safety hazards by not providing adequate access to the site, or to the buildings on the site, for emergency vehicles; or adequate fire suppression systems.

3. The proposed exterior lighting will not create hazards to motorists traveling on adjacent public streets; be inadequate for the safety of occupants or users of the site or will damage the value and diminish the usability of adjacent properties;

4. The provisions for buffers and on-site landscaping provides adequate protection to neighboring properties from detrimental features of the development;

5. The proposed development will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause;

6. The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety or will not impose significant burdens on public facilities which could be avoided by reasonable modification of the plan;

7. The bulk, location, height or design of proposed buildings, structures or paved areas, or the proposed uses thereof, will not have a significant detrimental effect on private development on adjacent properties, or on the value of adjacent properties which could be avoided by reasonable modifications of the plan;

8. The design of the site will not result in significant flood hazards or flood damage and is in conformance with applicable flood hazard protection requirements;
9. Adequate provisions have been made for the disposal of wastewater or solid waste or for the prevention of ground or surface water contamination;

10. Adequate provisions have been made to control erosion or sedimentation;

11. Adequate provisions have been made to handle storm water run-off or other drainage problems on the site and any proposed stormwater detention ponds are adequate to serve stormwater on or from the site;

12. The proposed water supply will meet the demands of the proposed use and is adequate for fire protection purposes;

13. Adequate provisions have been made for the transportation, storage and disposal of hazardous substances and materials as defined by state law and the Hazardous Waste Ordinance;

14. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat which could be avoided by reasonable modification of the plan;

15. The project will not increase nitrate nitrogen concentrations in surface or groundwater at the property line of the site in excess of State of Maine Drinking Water Standards. If groundwater contains contaminants in excess of the primary drinking water standards and the project is to be served by on site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated to meet applicable standards.

B. Statement of Findings: All findings by the Planning Board under this section shall be accompanied by written statements that set forth with particularity the precise reasons why the findings were made. The Statement of Findings shall be provided to applicant within ten (10) business days after vote and adjournment.

Section 2.11 Administration

A. Where the Board determines that, due to conditions existent in a proposed development, the provision of certain improvements otherwise required by this ordinance is not necessary to the public interest, or is inappropriate because of inadequacy or lack of prerequisite facilities in proximity to the proposed site, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified, and of this ordinance in general. The Planning Board shall require a public hearing upon initial review of the application and at any point thereafter, with applicant bearing all responsibility for the cost of the hearing notice and the responsibility to notify abutters within 7 days prior to the hearing by certified mail. The applicant shall provide proof of the certified notices to the town. The remaining balance due, if any, shall be paid prior to final plan approval.

B. If the Planning Board requires professional services to evaluate a proposal's or design's compliance with this ordinance, the expense of that review shall be borne by the applicant. The town's planning staff is considered to provide professional services to the community. The town staff shall provide the first five (5) hours of time on any project being reviewed by the Planning Board at no cost to the applicant. The estimated cost of the consultant's review fees shall be paid by the applicant to the Planning Board at the time the design subject to review is submitted. The remaining balance due, if any, shall be paid prior to final plan approval.

C. Applicant shall provide a certified as built plan at the completion of the project to insure the construction was built according to the approved plans.

D. The Planning Board shall require as a condition of approval that the applicant employ a clerk of the works to certify that the project is being built according to the approved plans except where the board finds that extraordinary hardship will result from strict compliance with this requirement and votes to grant a waiver.

E. The Planning Board shall, based on the standards in section 2.10 above, approve; approve with conditions; or deny the application and forward its action in writing to the Code Enforcement Officer, the applicant, and all parties entitled to notice under Section 2.09.E. The decision shall include written findings of fact and conclusions in support of the Board's decision.

F. Appeals involving an action of the Planning Board under this ordinance shall be to Zoning Board of Appeals.

G. Failure to comply with any conditions of the Site Plan Review subsequent to the receipt of a building permit or certificate of occupancy shall be construed to be a violation of this ordinance and may result in a stop work order from the Code Enforcement Officer.

H. Each applicant shall pay a filing fee in the amount determined by the current Site Plan Application Fee Structure at the time the application is submitted and consultant fees as required by Article 2 Section 2.11.B. See current Site Plan Application Fee Structure for any additional site plan fees. The applicant shall also pay costs associated with advertising and mailing. In addition, prior to receiving approval of any application, the applicant shall pay to the Town all of its reasonable costs associated with legal advertisements and other out of pocket expenses applicable to the application. Out of pocket expenses are all expenses or costs for legal advice and technical consultation or advice that the Planning Board deems necessary to process the application. Technical Consultation shall include the use of any town staff that are contracted to work for the town of Waterboro. The town staff shall provide the first five (5) hours of time on any project being reviewed by the Planning Board at no cost to the applicant.

I. Violations of this Ordinance shall be subject to enforcement under the provisions of 30-A, M.R.S.A. Sec 4452.

J. A temporary Certificate of Occupancy may be issued until all improvements shown on site plan are installed or a sufficient Performance Guarantee has been posted for improvements not yet completed (including but not limited to grading, drainage, paving, planting, and landscaping).

K. The approval of the Planning Board shall expire if work on the development is not commenced within two (2) years, or completed within two (2) years of the issuance of the building permit. The Board may by formal action grant an extension of the completion deadline for an additional period not to exceed one (1) one year extension.

L. In all zones where single-family homes are allowed, no more than 2 dwelling units shall be allowed on a parcel unless the minimum lot size per home can be met in the base zone. In the vicinity of the Village, General Purpose, and Agricultural / Residential Zones, from 1066 Main Street, North to the intersection of Route 5 and West on Route 5 to John Smith Way, up to 4 homes may be allowed on vacant land provided the lot can meet the minimum lot size per unit for that zone.

Section 2.12 Reserved

Article 3 Zoning Districts

Section 3.01 General

For the purpose of this ordinance the Town of Waterboro is divided into the following zoning districts; a Village district (V); a Village/Residential district (VR); an Agriculture/Residential district (AR); a Forest/Agriculture district (FA); a Conservation district (C), and a General Purpose (GP) district. In addition to these districts, the Town of Waterboro also has two (2) overlay districts; the Shoreland Overlay Districts divided into five (5) sub-districts: Resource protection, Limited Residential, Limited Commercial, Stream Protection and General Development District; and the Well Head Protection Districts divided into three (3) sub-districts: District #1, District #2 and District #3 described in Section 4.07. (Amended 06/3/1995, 03/11/2000, 06/24/2000, 04/27/2002, 04/26/2003)

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A., § 2442.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, retail marijuana testing facilities, and retail marijuana social clubs, as either a principal use or an accessory use, are expressly prohibited in Waterboro.

No person or organization shall develop or operate a business that engages in retail sales of marijuana or any retail marijuana product, both as defined by 7 M.R.S.A., § 2442.

This prohibition does not include rules or regulations pertaining to the growing or distribution of Medical Marijuana which is defined in Article 12 Definitions of this ordinance.

Section 3.02 Zoning Map

The boundaries of these zones are established by the enactment or later amendment of this Ordinance and are as shown on the Official Zoning Map of the Town of Waterboro, dated February 7, 1977; the Town of Waterboro Wellhead Protection Zone Map; and on the 1970 Town Tax Maps. The Official Zoning Maps are integral parts of this certified copy of the zoning ordinance (maps and text) and shall be available to the public at all times in the Town Clerk's Office. The February 7, 1977 zoning map, and as further amended from time to time, was drafted so that the zoning district boundaries followed property lines as depicted on the 1970 tax maps. It should be interpreted accordingly. (Amended 03/11/1989, 03/11/2000, 04/26/2003

Section 3.03 Summary of Dimensional Regulations Contained in Article 3

ZONING DISTRICT	MINIMUM LOT SIZE	MINIMUM ROAD & SHORELAND FRONTAGE	MINIMUM FRONT YARD SETBACK	MINIMUM SIDE & REAR* SETBACK	MINIMUM SHORELAND SETBACK	MAXIMUM BUILDING HEIGHT
Village	20,000	100'	25'	20'	100'	35'
	40,000	100'	50'	20'	100'	35'
Village & Residential	20,000	100' except on 50' a cul-de-sac	40'	20'	100'	35'
Residential	40,000	150'	50'	35'	100'	35'
Agriculture / Residential	80,000	150'	75'	35'	100'	35'
Forest / Agriculture	5 acres	200'	100'	50'	100'	35'
Conservation	10 acres	200'	100'	50'	100'	35'
General Purpose	40,000	150'	50'	35'	100'	35'
	80,000	150'	50'	35'	100'	35'

(Amended 03/11/2000 and 04/27/2002).

***NOTE:** In any case where structures are in existence at the time of the enactment of this ordinance, additions may be made to within ten (10) feet of the side or rear lot line but in no case should the buildings on one lot be closer than twenty (20) feet to a building on an abutting lot.

Lots divided by district boundaries: When a lot is divided by a land use district boundary, other than the boundary to an overlay zone, the following rules shall apply:

A. On lots two acres or less in area, the lot shall be used as if the entire lot were in the district which comprises the larger portion.

B. On lots larger than two acres, the applicable district regulations shall be followed in the portion of the lot located in that district. (Amended 04/26/2003).

"**Wheelchair ramps** are exempt from the side, rear, and front yard setbacks, but not from the shoreland setback, providing they meet the performance standards in Article 7 and Article 4 as determined by the Planning Board" (Amended 03/09/1991).

One (1) standard size entry deck (4' x 4') and steps are exempt from the sideline and front yard setback in all districts. (Amended 03/11/2000).

Accessory structures 100 square feet or less in size are not required to meet setback requirements. No more than two sheds which do not meet setback requirements may be constructed on any lot.

The following highways are defined as State-Aid roadways:

Route 202 (4), Route 5, Townhouse Road, Old Alfred Road, West Road, Goodwins Mills Rd, Federal Street, Chadbourne Ridge Road(From Route 5 to Intersection of Brick House Road).

Applicability of front yard setback requirements to private rights-of-way:

Easements: If a private right-of-way is an easement, all existing and future structures on the land subject to that easement must be located a sufficient distance from the sideline of the right-of-way to comply with the front yard setback requirements imposed by this Article.

Deeded Rights-of-way: If a private right-of-way is created by deeded ownership of land, all existing and future structures on the parcel of land of which the right-of-way was originally part must be located a sufficient distance from the sideline of the right-of-way to comply with the front yard setback requirements imposed by this Article.

Exemption: Land adjacent to the private right-of-way is exempt from the front yard setback requirements imposed by this Article, provided all of the following requirements are satisfied:

a) The adjacent land is not owned by the owner or the owner of the fee interest in the right-of-way; and
b) At least one lot boundary abuts another public or private right-of-way and front yard setback requirements are satisfied on that lot boundary; and
c) All applicable side and rear setbacks are satisfied for all non-front yard boundaries.

Section 3.04 Village District (V)

The Village District includes land which at present is the most highly developed in the town. The range of development activities is broad and includes commercial, industrial, and residential land uses as well as supporting municipal services. This heterogeneous mix is not unattractive, however, probably due to the relatively low (for urbanized areas) density of development. This ordinance makes no effort to change the existing character of village life, mixed uses continue--indeed they are preserved and fostered. No areas in the town have greater proximity to schools and essential services or are better served by utilities and all-weather roads. At the same time the soil, slope, and topographic characteristics of land in this district are excellent enabling sub-surface wastewater disposal systems to operate efficiently and simultaneously providing adequate fresh water supplies. In these circumstances care is taken to prevent over-development within the Village District.

The minimum lot size in the Village District is 20,000 sq. ft. or 40,000 sq. ft. depending on the land use. No principal or accessory structure may be placed within twenty (20) feet of any side or rear lot line. Such structures must be set back twenty-five (25) feet from the front lot line of a 20,000 sq. ft. lot, fifty (50) feet from the front lot line of a 40,000 sq. ft. lot and one hundred (100) feet from the normal high water mark of any lake, river, or stream, except that docks, and similar facilities may be placed on the shore subject to the provisions in the Shoreland Zoning Ordinance. No principal or accessory structure may exceed thirty-five (35) feet in height. See Section 2.05 for minimum lot width and frontage requirements.

Subsection 3.04.01 Primary Uses and Structures

A. Permitted Lot Size 20,000 sq. ft.

1. Retail shops and service stores (repair shops, barbers, beauticians, cleaners, etc.) with less than one thousand (1000) sq. ft. of store area, except shops or stores requiring a daily water consumption in excess of one thousand (1000) gallons.
2. Restaurants, lounges, cafes with less than one thousand (1000) sq. ft. of customer service area, except those requiring a daily water consumption in excess of one thousand (1000) gallons.
3. Bank, insurance, real estate, stock brokerage, general business offices with less than one thousand (1000) sq. ft. of customer service area.
4. Newspaper, radio, or television offices, studios, facilities.
5. Signs not requiring a permit and signs requiring a permit (See Article 6).

B. Required Lot Size 40,000 sq. ft.

1. Single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft. in the total parcel being developed.
2. Home occupations and professional home offices in accordance with the performance standards of section4.05. (Amended 04/27/2002)
3. Police and fire protection facilities.
4. Outdoor recreation facilities including ball fields, parks, picnic areas, tennis courts, but not golf courses or driving ranges.
5. Churches, public and private schools, and other public buildings or facilities.
6. Professional offices outside of the home (doctor, dentist, lawyer, engineer, accountant, etc.)
7. Retail and service stores (repair shops, barbers, beauticians, cleaners, etc.) with more than one thousand (1000) sq. ft. of store area or that require more than one thousand (1000) gallons of water daily, including all drive-in facilities.
8. Wholesale, warehouse and bulk storage facilities.
9. Clubs, lodges, meeting halls.
10. Funeral homes.
11. Hospitals, nursing homes, sanitariums, etc.
12. Hotels, motels, inns providing overnight year-round, or seasonal accommodations, bar and food service.
13. Gas stations, machinery and vehicle sales, service, washing, repair facilities.
14. Restaurants, lounges, cafes with more than one thousand (1000) sq. ft. of customer service area or that require more than one thousand (1000) gallons of water daily.
15. Indoor recreation facilities including bowling alleys, skating rinks, swimming pools, etc.
16. Bank, insurance, real estate, stock brokerage, general business offices with more than one thousand (1000) sq. ft. of customer service and office area.
17. Antique Shops (Amended 06/24/2000)
18. Contractor Business (Amended 04/26/2003)

Subsection 3.04.02 Conditional Uses and Structures

A. Required Lot Size 40,000 sq. ft.

1. Clustered single through multi-family residences at no greater density than one family unit for each 40,000 sq. ft in the total parcel being developed.
2. Day Care Facility and Home Day Care providers. All facilities shall be required to construct a fence that the Planning Board deems to enclose the outdoor activity area of the facility. The fence shall be a minimum of 4' in height. (Amended 04/27/2002)
3. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, and commercial activities or combinations of the above including bar and food service. Residential PUD's may not exceed one family unit for each 40,000 sq. ft. in the total parcel being developed.
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002)
5. Cemeteries.
6. Processing facilities related to Agriculture or Wild Game.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of work area.
11. Bulk Oil, Gasoline Storage, Bulk Propane Storage including: Propane tank refill station and small propane tank swap cages, Cement Mixing, and General Construction Facilities: Bulk Fuel Oil, Gasoline Storage, Propane tank refill station and small propane tank swap cages, Cement Mixing General Construction Tanks, Trucks, equipment and facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on the parcels not less than five (5) acres in size. (Amended 9/21/2021).
12. Mobile classrooms in conformance with Section 4.02. (Amended 03/11/2000)

Section 3.05 Residential District (R)

The Residential District includes land which is generally well suited for and capable of sustaining higher densities of development than presently exist because of its proximity to schools and other municipal services. It is also well served by public utilities and all-weather roads. The soils, slope and topographic characteristics of land in this district are almost uniformly good enabling subsurface wastewater disposal systems to operate efficiently and simultaneously providing adequate fresh water supplies. The process of transition from relatively low impact farm and forest uses to more intensive residential and commercial land use activities is clearly evident. Much of the recent subdividing activity within the town has taken place on land which is in the Residential District. This trend will almost certainly continue.

Subsection 3.05.01 Primary Uses and Structures

1. Single family residences
2. Multi-family housing units

3. Mobile home parks
4. Outdoor recreation facilities including ball fields, parks, picnic areas, beach areas, tennis courts, golf courses, driving ranges, etc.
5. Home occupations
6. Professional offices
7. Municipal Facilities
8. Signs not requiring a permit and signs requiring a permit
9. Antique Shops

Subsection 3.05.02 Conditional Uses and Structures

1. Clustered housing developments.
2. Day Care Facility and Home Day Care providers.
3. PUD's limited to residential.
4. Communications towers and high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002)
5. Cemeteries.
6. Churches.
7. Public and private schools.
8. Buildings or facilities used for public and private gatherings.
9. Storage and selling of local farm, orchard, or forest products on parcels with direct access to a state aid highway.
10. Horticultural activities, including nurseries, greenhouses, and commercial sale of such products on parcels with direct access to a state aid highway.
11. Bed and Breakfasts.
12. The keeping of farm animals at a density as listed in the Definitions section of the ordinance.

Section 3.06 Agriculture and Residential District (AR)

Much of the land in this district is being used and in the foreseeable future will continue to be used as forest and farm land even though it is generally suitable for higher densities of development than presently exist. Land in this district has reasonable proximity to schools and other municipal services and is reasonably well served by utilities and all-weather roads. Though there is some variableness, the soils, slope and topographic characteristics of land in this district are above average and are usually capable of sustaining subsurface wastewater disposal systems and simultaneously providing adequate fresh water supplies.

Subsection 3.06.01 Primary Uses and Structures

1. Single through four family residences
2. Farming, grazing, poultry and livestock raising including farm animals not to exceed a density as listed in the Definitions section of the ordinance.
3. Orchards.
4. Hatchery facilities.
5. Outdoor recreation facilities including park or picnic areas, beach areas, tennis courts, golf courses, driving ranges, etc.
6. Harvesting of wild crops, grasses, etc.

7. Horticultural activities including nurseries, greenhouses, and commercial sale of such products.
8. Storage and selling of local farm, orchard or forest products.
9. Commercial stables.
10. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
11. Municipal facilities.
12. Churches, public and private schools and other public buildings or facilities.
13. Veterinary offices and facilities.
14. Antique shops.
15. Professional office.
16. Clubs, lodges, meeting halls.
17. Funeral homes.
18. Home Occupations.
19. Contractor Business (Amended 04/26/2003)

Subsection 3.06.02 Conditional Uses and Structures

1. Clustered and single through four family residences at no greater density than one family unit for each 80,000 sq. ft. in the total parcel being developed.
2. Day Care Facility and Home Day Care providers.
3. Commercial campgrounds.
4. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Extraction of rock, sand and gravel.
6. Cemeteries.
7. Marinas.
8. Processing facilities related to Agriculture or Wild Game.
9. Wood products processing facilities (sawmills, lumberyards, etc.)
10. Junkyards, dumps, and solid waste disposal areas but not within five hundred (500) feet of any residence, camp, or waterbody, and only if appropriately screened.
11. Nursing homes, etc. on parcels with direct access to a state aid highway. (Amended 04/27/2002)
12. Bed and Breakfasts
13. Machinery, vehicle and farm equipment sales, service, repair facilities with a total building area not to exceed five thousand (5,000) sq. ft. with direct access to a state aid highway. (Amended 04/27/2002).
14. Restaurants, lounges, cafes on parcels with direct access to a state aid highway.
15. Fabricating, manufacturing, light industrial activities and facilities with less than five thousand (5000) sq. ft. of building area on parcels with direct access to a state aid highway. (Amended 04/27/2002).
16. Daycare Facility and Home Day Care providers.
17. Private airplane runway strips. (Amended 06/5/1993 and ratified 04/27/2002).
18. Mobile classrooms in conformance with Section 4.02. (Amended 3/11/00).
19. Medical Marijuana Grow-Only Facility. (Amended 02/22/2011 by Selectmen vote)
20. Solar Array

21. Bulk Oil, Gasoline Storage, Bulk Propane Storage including Propane tank refill station and small propane tank swap cages, Cement Mixing, and General Construction Facilities: Bulk Fuel Oil, Gasoline Storage, Propane tank refill station and small propane tank swap cages, Cement Mixing General Construction Tanks, Trucks, equipment, and facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on parcels not less than five (5) acres in size. (Amended 9/21/21).

Section 3.07 Forest and Agriculture District (FA)

The Forest and Agriculture District includes land which is not presently well suited for high density development because of lack of proximity to schools and other municipal services and the inadequacy of utilities and roads within and connecting these lands to other more developed portions of the town. Much of the land in this district has historically and is today being used for agriculture and timber production purposes. Existing holdings are large, many in excess of one hundred (100) acres. There is little evidence of transition to more intensive land use activities. The soils, slope and topographic characteristics of land in this district are mixed. Some areas will not readily support subsurface wastewater disposal systems. Other areas, if the aforementioned impediments to development were removed, could sustain higher density development than this ordinance now permits.

Subsection 3.07.01 Primary Uses and Structures

1. Single family residences.
2. Farming, grazing, poultry and livestock raising including farm residences.
3. Orchards.
4. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses, driving ranges, etc.
5. Horticultural activities including nurseries, greenhouses, tree farms & commercial sale of such products.
6. Storage and selling of local farm, orchard or forest products.
7. Commercial stables.
8. Churches.
9. Commercial breeding, raising and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.

Subsection 3.07.02 Conditional Uses and Structures

1. Clustered single family residences.
2. Duplex residences and clustered duplex residences at no greater density than one dwelling unit for each 5 acres being developed
3. Day Care Facility and Home Day Care providers.
4. Commercial campgrounds
5. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
6. Mining operations
7. Cemeteries.
8. Municipal facilities
9. Marinas

10. Processing facilities related to orchard and agricultural products, including poultry and livestock.
11. Wood products processing facilities (sawmills, lumberyards, etc.)
12. Veterinary offices and facilities.
13. Solar Array

Section 3.08 Conservation District (C)

The Conservation District includes land which is least suited for and least able to sustain high density development because of its topography, elevation and soil types, or marshy character, its lack of proximity to schools and other municipal services, the present inadequacy of utilities and roads within and connecting these lands to other more developed portions of the town, and its relatively natural unspoiled character, often in proximity to lake and other water bodies or steep rocky slopes.

Subsection 3.08.01 Primary Uses and Structures

1. Single family residences.
2. Forestry.
3. Orchards.
4. Wildlife preserves.
5. Storage of local farm, orchard, or forest products.

Subsection 3.08.02 Conditional Uses and Structures

1. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
2. Commercial campgrounds
3. Selling of local farm, orchard or forest products.
4. Communications towers, high voltage transmission poles, lines, unmanned substations, etc. (Amended 04/27/2002).
5. Cemeteries.
6. Municipal facilities
7. Commercial stables.
8. Farming, grazing, poultry and livestock raising including farm residences.
9. Outdoor recreation facilities including park or picnic areas, snowmobile trails, beach areas, tennis courts, golf courses driving ranges, etc.

Section 3.09 Village/Residential District (VR) (Amended 03/11/2000)

The Village Residential District includes those lots existing within the Town of Waterboro on the date of passage of this section which are subject to dues and fees of the Lake Arrowhead Community and connected to the Lake Arrowhead Public Water System, as more particularly described in Chapter 37 of the 1995 Maine Private and Special Laws.

Section 3.09.01 Primary Uses and Structures (Amended 03/11/2000, 06/24/2000)

1. Single-family residences
2. Home Occupations Manufactured Homes
3. Yard and Garage Sales
4. Office, maintenance, and recreational buildings **(Note: text added because these uses exist today)**

Section 3.10 General Purpose Zone (GP)

The General Purpose (GP) District includes land which at present is generally suited for the development of broad uses including residential, commercial, and industrial. This area is widely served by a public water system and would support commercial development. This area has access to a state road.

Subsection 3.10.01 Primary Uses and Structures

1. Retail shops and service
2. Restaurants, lounges, cafes.
3. Bank, insurance, real estate, stock brokerage, general business offices.
4. Newspaper, radio, or television offices, studios, facilities.
5. Single family homes
6. Multifamily homes
7. Home occupations
8. Municipal facilities.
9. Outdoor recreation facilities including ballfields, parks, picnic areas, tennis courts, golf courses and driving ranges.
10. Churches
11. Public and private schools
12. Public buildings or facilities.
13. Professional offices (doctor, dentist, lawyer, engineer, accountant, etc.).
14. Wholesale, warehouse and bulk storage facilities with (one hundred thousand 100,000 square feet of area or less.
15. Fabricating, manufacturing, light industrial activities and facilities with (one hundred thousand) 100,000 square feet of area or less.
16. Clubs, lodges, meeting halls.
17. Funeral homes.
18. Hospitals, nursing homes, assisted living facilities, etc.
19. Single-family camps.
20. Farming, grazing, poultry and livestock raising including farm residences.
21. Forestry.
22. Orchards.
23. Wildlife preserves
24. Commercial stables.
25. Commercial breeding, raising, and care of dogs, cats, mink, rabbits and other domesticated or fur bearing animals.
26. Veterinary offices and facilities.
27. Antique shops.
28. Contractor Business (Amended 04/26/2003)

Subsection 3.10.02 Conditional Uses and Structures

1. Retail shops and service stores with store area of more than 5,000 square feet.
2. Clustered single through multi-family residences
3. Day Care Facility and Home Day Care providers.
4. Mobile home parks.
5. Planned unit developments (hereafter referred to as PUD's) limited to residential, resort, recreational, or combinations of the above including bar and food service.
6. Communications poles, towers, lines, unmanned substations, etc.
7. Storage and selling of local farm, orchard, or forest products.
8. Horticultural activities including nurseries, greenhouses and commercial sale of such products.
9. Wood products processing facilities (sawmills, lumberyards, etc.).
10. Fabricating, manufacturing, light industrial activities and facilities with more than (one hundred thousand) 100,000 square feet of area.
11. Wholesale, warehouse and bulk storage facilities with more than (one hundred thousand) 100,000 square feet of area.
12. Bulk Oil, Gasoline Storage, Bulk Propane Storage including: Propane tank refill station and small propane tank swap cages, Cement Mixing, and General Construction Facilities: Bulk Fuel Oil, Gasoline Storage, Propane tank refill station and small propane tank swap cages, Cement Mixing General Construction Tanks, Trucks, equipment and facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on parcels not less than five (5) acres in size. (Amended 9/21/2021).
13. Commercial campgrounds.
14. Marinas.
15. PUD's limited to industrial and/or commercial with frontage on a state or federal aid highway. PUD's providing resort and recreational facilities including overnight, year-round, or seasonal accommodations, bar and food service.
16. Machinery vehicle and farm equipment sales, service, repair facilities
17. Mobile classrooms in conformance with Section 4.02. (Amended 03/11/2000)
18. Medical Marijuana Grow-Only Facility. (Amended 2/22/11 by Selectmen vote)

Section 3.11 Reserved

Article 4 Special Use Standards

Section 4.01 Special Requirements for Extraction Operation Approval

An applicant for an extraction operation conditional use permit must obtain and submit a restoration/reclamation plan, erosion/sediment control plan, and Hydrogeological Study for review and approval by the Planning Board before a permit of a new extraction operation can be granted. Extraction operations in existence and actual operation on March 11, 1989 cannot be expanded to encompass more than five (5) acres in area unless Planning Board approval of a suitable restoration/reclamation plan, erosion/sediment control plan and Hydrogeological Study is first obtained.

In preparing the plans for the extraction operation approval, the applicant shall use United States Geological Survey (USGS) datum in establishing existing topography and final topography. Description of the USGS datum, bench marks height as specified by the USGS shall be displayed on the plans.

Owners of abutting property shall be notified by the applicant via certified mail of the date, time and purpose of the appointment a minimum of seven (7) days prior to the appointment for the applicant's extraction operation conditional use permit. Return receipts documenting that notice shall be furnished to the Planning Board.

Applicants who are not required to obtain approval from the State of Maine Department of Environmental Protection under the site location development law must obtain approval of their restoration/reclamation plan, and erosion/sediment control plan, and Hydrogeological study from the York County Soil Conservation Commission and document that approval to the Planning Board. The Planning Board shall not grant approval of an extraction operation unless the applicant documents prior approval by either the Department of Environmental Protection or the York County Soil Conservation Commission.

In addition, the Planning Board reserves the right to:

1. Hold a Public Hearing, pursuant to the provisions of Article 2, Section2.12, to either gather additional information, resolve conflicting information or to inform the public before deciding an application to commence an extraction operation.

2. Hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application for extraction operation is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for an extraction operation. (Amended 03/10/1990).

Section 4.02 Mobile Classroom Regulations

Mobile classrooms will not be allowed in the municipality which do not provide the following within the classroom:

- A restroom facility;
- Drinking water;
- A temperature controlled environment

All classrooms must be equipped with:

- An emergency fire warning system;
- Fire extinguishers;
- Communication system that operates in conjunction with the main building.

Mobile classrooms become a conditional use permit within any zone where a school is permitted. (Amended 03/11/2000).

Section 4.03 Mobile Home Park

Please Note: 30-A, M.R.S.A. Section 4358, Regulation of Manufactured Housing, includes specific definitions for Manufactured Housing. They can be found on a separate page, *Maine Revised Statutes, Title 30-A, Regulation of Manufactured Housing - Definitions Section.*

A. Authority and Purpose

1. Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving a proposed mobile home park in the Residential Zone shall apply the provisions of this section, as well as the requirements of the Waterboro Land Subdivision Regulations and Waterboro Mobile Home Park & Trailer Park Ordinance. Where the provisions of this Section conflict with specific provisions of the Town of Waterboro Land Subdivision Regulations and/or the Town of Waterboro Mobile Home Park & Trailer Park Ordinance, the provisions of this section shall prevail. (Amended 04/26/2003)

2. The purpose of this section shall be to accommodate the creation and expansion of mobile home parks in a manner that will encourage and provide for the:

a. Preservation of open space;
b. Creation of recreation areas;
c. Preservation of environmentally sensitive areas;
d. Preservation of natural features;
e. Promotion of a more efficient use of the land through the use of smaller networks of utilities and streets.

3. Notwithstanding any provision in this ordinance, a person developing or expanding a manufactured housing development has the burden of proving that development will not pollute a public water supply or aquifer or violate any state law relating to land development, subdivision, or use.

B. Performance Standards

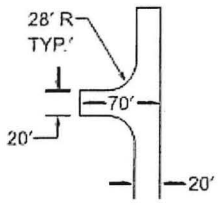
All Standards found in M.R.S.A 30-A, §4358 shall be followed for the development of any Mobile Home Parks.

Section 4.04 Campground Developments
(Amended 09/25/1990; 06/24/2016).

All campgrounds shall comply with state licensing procedures and regulations for campgrounds.

Campgrounds shall be open only from May 1st to October 31st each year. From November 1st until April 1st, all services such as water and electricity shall be turned off or disconnected and no person shall occupy any site in the campground.

Campgrounds must maintain an internal all weather road system with all roads being 20 feet in width, well drained, and lighted at an intensity of not less than two (2) foot candles or 21.5 lumens at the ground level of any pole location. Internal roads should not dead-end. However, if a dead end is proposed the design for the turnaround area shall be a hammer-head design meeting the dimensions as shown in the diagram below. Two parking spaces shall be provided for recreational vehicle sites. One parking space is required for each tenting camp site.



ACCEPTABLE ALTERNATIVE
TO 120' HAMMERHEAD

Campgrounds must provide a buffer strip at least 25 feet wide, planted with trees and shrubs or retained natural vegetation, between the campground and adjacent lots. All camping sites and facilities shall be screened from the view of any abutting residence within 200 feet. Campgrounds which reserve areas for recreational vehicles shall provide at least one thousand two hundred and fifty (1,250) sq. ft. for each camp site except those camping sites within the Shoreland Zone which shall be 5,000 square feet in size. Tenting sites must provide a minimum site size of 1,000 square feet. All camping spaces shall be at least 25 feet in width. In addition, all campgrounds shall provide permanent all weather service structures, meeting all setbacks, suitably divided to provide men's and women's toilet/privy facilities within a 500 foot radius of each camping space to be served. Campgrounds that serve self-contained recreational vehicles with sewer and water connections at each site shall be exempt from the 500-foot radius requirement for service buildings. Laundry facilities or showers may be centrally located in a campground or contained in several service buildings but all toilets must be installed in separate compartments. Bathroom facilities shall be provided at a rate of one per every four un-sewered camping sites.

Campgrounds must provide a safe and reliable water supply for each recreational vehicle and camping space at a rate of no less than fifty (50) gallons per day for each recreational vehicle and campground space. Campgrounds must provide an internal sewage collection system to which all suitable equipped recreational vehicles and any other toilet, washing or shower facilities in the park or campground shall be connected. A wastewater treatment and sewage disposal system (dump station) approved by the State of Maine Department of Environmental Protection and Department of Human Services may also be provided. All wastewater collection and disposal must meet state and town plumbing codes and be installed and maintained by the campground operator.

Campgrounds are required to provide a suitable system for the storage, periodic collection, and ultimate disposal of solid waste and garbage. Containers must be covered, rodent proof, and located on suitable crushed stone or concrete pads. Such facilities must be within five hundred (500) feet of each recreational vehicle or camping space.

Campgrounds are required to provide each recreational vehicle space with electricity of one hundred and ten (110) volts per recreational vehicle. All installations shall meet state and town electrical codes, be capable of functioning in all weather and be maintained by the campground operator. Unless such electrical system is installed underground, sufficient overhead wire clearance, no less than fourteen (14) feet from the ground, shall be maintained at all times.

No rigid enclosed addition may be affixed to any recreational vehicle other than a recreational vehicle accessory enclosure as defined herein.

Section 4.05 Home Occupations
(Amended 09/25/1990 & 03/8/1997).

In addition to the limitations contained in the definition of a home occupation, "home occupations" shall be subject to the following performance standards;

A. The home occupation shall be carried on primarily by a member or members of the family residing in the dwelling unit and shall be allowed to employ 1 non-family member but shall not alter the residential character of the property from its principal use as a residence.

B. The Home Occupation or professional activity shall be carried on wholly within the principal and/or accessory structure. No equipment or materials used in a home occupation may be stored or stacked out of doors.

C. No mechanical, electrical, or other equipment which produces a nuisance, noise, vibrations, smoke, dust odors, magnetic interference or electrical disturbance to the exterior of the building inconsistent with a residential neighborhood may be used.

D. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours. The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood.

E. One sign, no larger than nine (9) square feet including supporting structure, (excluding post) may be erected on the premises. There shall be no illumination of signs after 9:00 p.m.
F. The applicant shall make application to the Code Enforcement officer for review and approval of the application which shall include a floor plan and parking lot layout along with a written description of the proposed business.

Section 4.06 Wheelchair Ramp Which Does Not Meet Town Setback Requirements

1. The ramp shall be built according to IRC and Life Safety Building Codes.

2. It shall not be wider than 6 feet at any point.

3. It shall be constructed of wood or some other material which may be removed when the need for the ramp no longer exists.

4. The applicant shall present to the Code Enforcement Officer written evidence that someone who has resided in the house has become handicapped and needs the ramp.

5. The applicant shall present written evidence that it cannot be constructed within configuration of the property and location of the structure being accessed.

6. The applicant shall present a written statement as to when the ramp will be removed. If no date can be given, then the statement shall include a statement of events which shall lead to removal. In no case can the property be transferred to a new owner until the ramp has been removed.

Section 4.07 Wellhead Protection District WHPD
(Amended 06/5/1993, Amended by Selectmen vote 08/23/2011)

Subsection 4.07.01 General

The purpose of this district is to establish a protection district for wells intended to serve potable water on a town or regional scale. The creation of the Wellhead Protection District is intended to protect the quality and quantity of the present and future water resources of the communal potable water systems regulating activities and land use practices within the well recharge area. This protection is vital to preserving the health, safety, and general welfare of the households serviced by potable water systems and the other residents of the Town.

The Wellhead Protection District shall be an overlay zoning district and therefore compliance with all the requirements of the underlying zoning district(s) which the Wellhead Protection District covers shall be maintained.

The Wellhead Protection District shall consist of all land delineated within that zone on the Town of Waterboro Wellhead Protection Zone Map, as Amended.

Subsection 4.07.02 Permitted Uses and Structures

Any permitted uses and structures allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), are subject to the provisions of Article 4, Section 4.07.

Subsection 4.07.03. Establishment of Zones

The Wellhead Protection District consists of two (2) zones that are shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map. The two zones are defined as:

A. Zone 1: Immediate Recharge Area

Zone 1 includes the area immediately recharging the water supply, as shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map.

B. Zone 2: Primary Recharge Area

Zone 2 includes the primary recharge area shown on the official Town of Waterboro Zoning Map or official Wellhead Protection District Map.

C. Land Use Table

Any proposed land use listed below is subject to the requirements of this section and applicable performance standards. This section excludes residential activities except in instances that meet applicable performance standard thresholds or where specific reference is made to residential activity. All other uses not listed in this table are not permitted in both Zones 1 and 2.

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Agricultural chemical spreading or spraying	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Agricultural use of residuals	N	PB	Chemical Spreading/Spraying
Agriculture	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Animal husbandry	N	PB	Chemical Storage Wastewater and Solid Waste
Auto parts/supply	N	PB	Chemical Storage
Auto repair/body shop	N	PB	Chemical Use Chemical Storage
Beauty parlor	N	PB	Chemical Use Wastewater and Solid Waste
Boat builders, refinisher,	N	PB	Chemical Storage

Land Use	Zone 1	Zone 2	Applicable Performance Standards
maintenance			Chemical Use
Bulk Fuel Oil Storage >275 gallons	N	PB	Chemical Storage
Car wash	N	PB	Chemical Use Wastewater and Solid Waste
Commercial vehicular storage or parking; maintenance and refueling of vehicles and equipment[1]	N	PB	Vehicular Use and Storage
Concrete, asphalt, tar, coal company	N	PB	Chemical Storage Chemical Use
Dry cleaner	N	PB	Chemical Storage Chemical Use
Essential operations of the Water District	Y	Y	
Furniture stripper	N	PB	Chemical Storage Chemical use
Golf course	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Graveyard/cemetery	N	PB	Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer application[2]	N	PB	Chemical Storage Chemical Use Chemical Spreading/Spraying
Herbicide/Pesticide/Fertilizer dealer	N	PB	Chemical Storage
Hoop houses and greenhouses	N	PB	Chemical Use Chemical Spreading/Spraying
Junk or salvage yard	N	PB	Wastewater and Solid Waste Chemical Storage
Laundromat	N	PB	Chemical Use Wastewater and Solid Waste
Machine shop	N	PB	Chemical Storage Chemical Use
Medical, dental, veterinarian office	N	PB	Wastewater and Solid Waste
Mining (Sand & Gravel, Rock)	N	PB	Mining
Mortuary/funeral parlor	N	PB	Chemical Storage Chemical Use

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Multi-unit/family housing	N	PB	Wastewater and Solid Waste
Municipal wastewater treatment plant	N	PB	Wastewater and Solid Waste
Nursery or garden shop	N	PB	Chemical Use Chemical Spreading/Spraying
Oil pipeline	N	PB	Chemical Use Chemical Spreading /Spraying
Painters, finishers	N	N	Chemical Use
Parking lot	N	PB	Stormwater Road maintenance
Photo processor	N	PB	Chemical storage Chemical use
Printer	N	PB	Chemical storage Chemical use
Railroad yard or line	N	PB	Chemical storage Chemical use
Recycling or processing center (other than beverages)	N	PB	Chemical storage Chemical use Wastewater and Solid Waste Storm water Fill
Research laboratory	N	PB	Chemical storage Chemical use Wastewater and Solid Waste
Rust proofer	N	PB	Chemical storage Chemical use Wastewater and solid waste
Salt pile or sand and salt pile (uncovered)	N	PB	Chemical storage
Septic system New >1,000 gpd New <1,000 gpd Replacement < 1,000 gpd	 N N CEO[3]	 N CEO[3] CEO[3]	Wastewater and solid waste
Sewer lines	PB	PB	Wastewater Solid waste
Small engine repair shop	N	PB	Chemical use
Storm water impoundment or run-off area	N	PB	Storm water Road maintenance
Utility Transmission Lines	PB	PB	Chemical Spreading/Spraying

Land Use	Zone 1	Zone 2	Applicable Performance Standards
Wastewater treatment plant, discharge	N	PB	Wastewater and solid waste
Notes	[1] – Short-term overnight parking may be allowed in connection with other activities receiving a CEO or PB permit. For example, short-term overnight parking of construction vehicles on new permitted construction projects. [2] – Unless a greater public health concern warrants pesticide application. For example, Brown tail Moth control. [3] – With notification made to the appropriate public water supplier(s): the Waterboro Water District and/or the Lake Arrowhead Association Department of Public Works.		

Land use key
Y= permitted
N= not permitted
PB= permitted subject to Planning Board Review and use of Best Management Practices that pertain to the application
CEO= permitted subject to CEO Review and use of Best Management Practices that pertain to the application

Subsection 4.07.04 Conditional Uses

Any conditional uses allowed within the underlying zoning district(s) (which the individual Wellhead Protection district overlays), and not specifically prohibited in Subsection 4.07.03, shall be conditional uses in this district and subject to Planning Board review pursuant to Article 2 of this Ordinance.

Subsection 4.07.05 Conflict

If the provisions of this Article conflict with other requirements in this zoning ordinance, or with requirements found in other ordinances of the Town of Waterboro, the stricter requirements shall govern.

Subsection 4.07.06 Lot Specifications

A. Minimum Lot Size

Zone	Land Area per Dwelling Unit
1	160,000 sq. ft.
2	80,000 sq. ft.

Areas served by public water have a minimum lot size of 40,000 square feet per dwelling unit.

B. Maximum Lot Coverage

For portions of lots within the Wellhead Protection District, the maximum lot area that can be covered by impervious surfaces including parking areas, shall be as follows:

Zone	Maximum lot Coverage
1	30%
2	50%

Notwithstanding other provisions of the ordinance, lot coverage that exists as of the date of adoption of this ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Protection District. However, the Planning Board shall not authorize expansion of impervious surfaces of existing uses if the total coverage of all lot areas located in the Wellhead Protection District is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

Subsection 4.07.07. Application Requirements

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

A. All Applications

All applications shall follow submission criteria set forth in Section I. D. of the Site Plan Review Ordinance.

B. Independent Review and Advice

1. Professional Services

The Planning Board or CEO may require an attorney or consultant to review and advise on one or more aspects of an application for compliance or non-compliance with this ordinance. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit the Town the full

estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment. The Town shall bill the applicant if the actual cost exceeds the estimated cost. A certificate of occupancy will not be issued until all costs associated with the project have been paid by the applicant.

2. Additional Studies

The Planning Board or CEO may require the applicant to undertake any study they deem reasonable and necessary to determine whether a proposed activity meets the requirements of this ordinance. The costs of such studies shall be borne by the applicant.

C. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Protection District

More than one of the categories listed below may apply to a particular use. Applicants should request assistance from the Town Planner should there be questions as to which categories apply.

1. **Non-agricultural chemical use, storage and handling, (including petroleum products)**
   a. Type and volume of chemical compounds handled and/or stored.
   b. Site plan showing all storage, handling and use areas for raw materials and wastes.
   c. For outside areas, details to contain spills include:
      1. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site.
      2. provisions to collect chemicals should they enter the drainage system.
      3. provisions to segregate underground systems to ensure that there are no cross connections.
      4. provisions to prevent accidental containment breach by collisions.
      5. Statement of emergency measures which can be implemented for surface drainage systems.
   d. For inside areas, details to contain spill including the:
      1. design of dikes around rooms.
      2. the location of floor drains, and floor drains outlets.
      3. the location of separators, holding tanks and/or drain outlets.
      4. the specific location and design of underground storage structures.
      5. the location and design of piping systems for washing are discharged and that wastes are discharged to appropriate sewers or treatment systems.
   e. A spill prevention and control and countermeasure (SPCC) plan detailing:
      1. materials and equipment to be available.
      2. a training plan and schedule.
      3. a list of contacts (EPA/DEP/local fire officials) with phone numbers.
      4. an inspection schedule.
   f. A report by an industrial engineer or other competent professional detailing:
      1. steps which have been taken to reduce the use of hazardous material.
      2. actions which have been taken to control the number of wastes generated.

3. any reports to provide information on the design theory or methodology for the above features.

2. Agricultural chemical use, storage and handling

a. Type and volume of chemical compounds handled and/or stored.
b. Intended use.
c. An Integrated Pest Management Plan.
d. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
e. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
f. Detailed report on type of chemical applied and rate of application.
g. Site plan showing all storage, handling and use areas for raw materials and wastes.
h. For outside storage, details to contain spills include:
   1. drainage and contour information to prevent the flow of runoff from entering.
   2. the storage area which keeps leaks or spills from flowing off site.
   3. provisions to collect chemicals should they enter the drainage system.
   4. provisions to segregate underground systems to ensure that there are no cross connections.
   5. provisions to prevent accidental containment breach by collisions.
   6. Statement of emergency measures which can be implemented for surface drainage systems.
i. For inside storage, details to contain spill including the:
   1. design of dikes around rooms.
   2. the location of floor drains, and floor drains outlets.
   3. the location of separators, holding tanks and/or drain outlets.
   4. the specific location and design of underground storage structures.
   5. the location and design of piping systems for washing are discharged and that wastes are discharged to appropriate sewers or treatment systems.
j. A spill prevention and control and countermeasure (SPCC) plan detailing:
   1. materials and equipment to be available.
   2. a training plan and schedule.
   3. a list of contacts (EPA/DEP/local fire officials) with phone numbers.
   4. an inspection schedule.
k. A report by an industrial engineer or other competent professional detailing:
   1. steps which have been taken to reduce the use of hazardous material.
   2. actions which have been taken to control the amount of waste generated;
   3. any reports to provide information on the design theory or methodology for the above features.

3. Vehicular use and storage

a. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.

4. Mining (Sand, Gravel and Rock)

a. A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and un-reclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control, all applicable

private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.

b. A detailed report by a Maine Certified Geologist with experience in hydrogeology attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.

5. Subsurface injection

a. Subsurface Wastewater Disposal
   1. Soil evaluator's report and septic system design.
   2. For sites/uses producing >800 gallons of sewage, a hydrogeological analysis of nitrate concentrations at the property line.

b. Sewage Disposal
   1. Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.

c. Subsurface Injection
   1. Provisions and designs for all floor drains, grease traps, and holding tanks.

6. Stormwater Management

a. Narrative describing site layout, and on-site and off-site watershed hydrology, including all new and existing buildings and facilities, which may be affected by the site runoff. Provide total amount of impervious area created by the project.

b. Drainage plans showing all topographic features, such as buildings and other facilities, drainage ways, cover types, roads, drainage easements and sub catchment boundaries for pre-construction and post-construction conditions must be shown on the plan. Show all hydrologic flow lines and hydrologic soil groups boundaries on a plan and identify each sub catchment, reach and pond consistent with the runoff model. For post construction conditions, show all new stormwater management structures and changes to the hydrologic condition.

c. Stormwater runoff calculations for measured designed to meet the standards listed in Section 4.07.07(G).

d. Designs, construction details and technical specifications for each stormwater management measure that will be constructed, installed or managed on the site.

7. Utility Corridors

a. Type and volume of chemical compounds applied, handled or stored.

b. Site plan showing all areas of use areas for chemical compounds.

c. A spill prevention and control and countermeasure (SPCC) plan detailing:
   1. materials and equipment to be available.
   2. a training plan and schedule.
   3.a list of contacts (EPA/DEP/local fire officials) with phone numbers.
   4. an inspection schedule.

d. A report by an industrial engineer or other competent professional detailing:
   1. steps which have been taken to reduce the use of hazardous material.
   2. actions which have been taken to control the amount of wastes generated.
   3. any reports to provide information on the design theory or methodology for the above features.

Subsection 4.07.08 Performance Standards

A. General Provisions

All development located within the Wellhead Protection District shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply.

B. Performance Standards for Chemical Use

1. The use of chemicals or residuals shall not cause or contribute to the cumulative, calculated or actual levels of any contaminants in the groundwater at the Water District's property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water act, as Amended.

2. Only fertilizers containing predominantly slow release nitrogen and manure are allowed. Fertilizers shall be applied at an agronomic rate based on annual soil test results. Permit applications must be on an annual basis. Permit applications shall include application materials and rates.

3. Only land application of pesticides with low leachability by Maine licensed applicators is allowed. Provisions shall be made for control of surface run-off and erosion in areas where pesticides are being applied. Permit applications shall be submitted on an annual basis and shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application. In addition, a comprehensive Integrated Pesticide Management Plan certified by a groundwater hydrologist should conclude the activity will have no unreasonable adverse effects on groundwater. Annual reports detailing the type and amount of substance reports as well as date and specific location of application shall be submitted to the CEO annually.

C. Performance Standards for Chemical Storage

1. New installation of underground storage tanks are prohibited within the Wellhead Protection District.

2. All chemicals must be stored under cover and on an impervious surface, without floor drains.

3. Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.

4. Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.

5. Any above-ground piping must be designed to prevent line breakage due to collision.

6. All containers and piping must be constructed of corrosion resistant materials.

7. All containers must be clearly labeled with the chemical name and date of purchase.

8. A Spill Prevention, Control and Countermeasures Plan (SPCC) must be submitted to the CEO, Fire Department and the Water District.

D. Performance Standards Chemical Spreading/Spraying

1. Pesticide and herbicide application should be the option of last resort. Any activity requiring the use of herbicides or pesticides must develop an Integrated Pest Management Plan that details the conditions under which agricultural chemicals are to be used. All pesticides shall be applied in accordance with label directions and the regulations of the Maine Board of Pesticides Control.

2. Herbicides and pesticides must be applied only by certified applicators, who must be informed regarding the delineated area of wellhead protection.

3. Evidence of a completed and approved State Certified Nutrient Management Plan must be provided for all agricultural activities within the WHPD.

4. Fertilizer applications are to be tailored to the specific needs of the crop, as determined by soil suitability analyses. Use of slow-release fertilizers is preferred.

5. Irrigation schedules shall be coordinated with pesticide and nutrient application to minimize the possibility of leaching. Pesticides and nutrients shall not be applied to frozen ground, or applied immediately before storm events.

6. Notice of intent to apply agricultural chemicals shall be given to the CEO and public water supplier prior to application.

7. Only Class "A" composted residuals may be used within WHPD. These residuals must have an approved Program License from the Maine Department of Environmental Protection, and must be used in strict accordance with all license provisions. Any non-composted residual or a residual not meeting the Class "A" pathogen reduction standard should not be spread within the WHPD.

8. Manures must be composted to Class "A" standards.

9. Residuals and manures shall not be applied over very shallow soils (less than 1 foot) or exposed bedrock.

10. Residuals and manure shall not be applied on frozen ground, or immediately before storm events.

E. Performance Standards for Non-Residential Vehicular Use and Storage

1. When draining oils or fluids from vehicles, precautionary measures such as portable drip pans, must be taken to ensure that no spills occur.
2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have permanently installed secondary containment equal to 110% of the liquid volume stored, be covered by a permanent roof and be on a surface with no floor drains.
3. No vehicle washing may occur.
4 Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35 gallons and a tight fitting lid, and at least two absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.
5. Refueling must occur on a concrete pad or other impermeable surface.

F. Performance Standards for Vehicular Parking and/or Storage

Any vehicle (both on- and off-road) with externally mounted fuel tanks in excess of 45 gallons must be parked on an impervious surface with no floor drains.

G. Performance Standards for Mining (Sand, Gravel and Rock)

1. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 500 feet; (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet.

2. Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table.

3. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.

4. Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans.

5. All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.

6. The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.

7. At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.

8. Unused gravel pits within the Wellhead Protection District shall be reclaimed according to plans submitted to the Municipality.

9. Gravel mining activities in a Wellhead Protection District must have emergency spill response plans.

10. Storage of fuels is prohibited within WHPD.

11. Rock crushers are prohibited within WHPD.

12. There shall be no overnight storage of vehicles within the WHPD unless parked over a secondary containment area.

H. Performance Standards for Wastewater and Solid Waste

1. Municipal wastewater disposal facilities, chemical waste disposal sites of any kind, spreading of biosolids and incinerator ash except Class "A" residuals as described in Subsection 4.07.08 of this Ordinance, solid waste landfills, log storage yards and lumber yards, and other direct discharges shall be prohibited in WHPD.

2. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 800 gallons of sewage, a hydrogeological analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.

3. Sewer pipes shall be gasketed when buried within Zone 1 of the WHPD.

I. Performance Standards for Stormwater Management

1. Stormwater management system must include treatment measures that will mitigate for the increased frequency and duration of channel erosive flows due to runoff from smaller storms, provide for effective treatment of pollutants in stormwater and mitigate potential temperature impacts. This shall be achieved by using one or more of the methods listed in this section to control runoff from no less than 95% of the impervious area and no less than 80% of the developed area associated with a project that is impervious or landscaped. The Planning Board may, on a case-by-case basis, consider alternate treatment measures to those described in this section. An alternate treatment measure must provide at least as much pollutant removal as the measures

described in this section and, unless otherwise approved by the Planning Board, as much channel protection and temperature control.

a. *Wet pond with detention above the permanent pool.* A stormwater management system using detention to control runoff must detain, above a wet pond's permanent pool, a runoff volume equal to 1.0-inch times the sub catchment's impervious area plus 0.4-inch times the sub catchment's landscaped area. The detained runoff must be discharged solely through an under drained vegetated gravel filter having a single outlet having a diameter no greater than eight inches. A wet pond must have a storage volume below the permanent pool elevation at least equal to 1.5 inches times the sub catchment's impervious area plus 0.6-inch times the sub catchment's non-impervious developed area, a mean depth of at least three feet, and a length to width ratio of 2:1 or greater.

b. *Filter.* A detention structure using filters to control runoff must detain a runoff volume equal to 1.0 inch times the sub catchment's impervious area plus 0.4 inch times the sub catchment's developed area that is landscaped and discharged solely through an underlined vegetated soil filter having a single outlet with a diameter no greater than eight inches, or through a proprietary filter system approved by the Planning Board.

c. *Infiltration.* A stormwater management system using infiltration to control runoff must retain a runoff volume equal to 1.0-inch times the sub catchment's impervious area plus 0.4 inch times the sub catchment's developed area that is landscaped and infiltrate this volume into the ground. Pre-treatment of stormwater must occur prior to discharge to the infiltration area. The infiltration area must minimize discharge of soluble pollutants to groundwater, and must be maintained to assure that its capacity for infiltration and pollutant removal is unimpaired.

d. *Buffers.* A stormwater management system using buffers to control runoff must meet the design criteria listed in the Maine Department of Environmental Protection Stormwater Rules, 06-96 CMR 500, as Amended.

J. Performance Standards for Road Maintenance

1. Cover all sand, salt or sand/salt piles with a roofed structure capable of preventing both contact with water and leaching of salt into groundwater. Tarps are not an acceptable means to cover a sand, salt or sand/salt pile.

2. Prohibit snow dumps and/ or snow storage in all wellhead protection areas.

K. Performance Standards for Fill

1. Use only inert material (loam, sand, gravel, clay, rocks, bricks or concrete).

2. Use only clean fill (no non-natural odors, no staining, and not originating at a known spill site).

3. Implement erosion and sedimentation control measures.

Subsection 4.07.09. Control of Existing Threats

A. Inspection
The CEO shall follow the guidelines outlined in Article 2 of this ordinance.

B. Monitoring
Whenever the CEO finds that a use existing as of the date of adoption of this amendment (June 11, 2011), is located within a Wellhead Protection District designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the CEO shall inform the appropriate Water District official. The CEO may request the municipal officers to authorize legal measures in conjunction with the appropriate Water District to require the installation of monitoring wells and testing. In cases where testing indicates that the use is found to cause or contribute to reduction of eighty percent 80% or more of the State Primary Drinking Water Standards at the Water District property line, the property owner shall reimburse the town or Water District for all expenses incurred for installations, testing and monitoring.

C. Enforcement
If any contamination is found or reported within the Wellhead Protection District, the CEO shall notify the Water District or Public Works Director along with any and all appropriate State or Federal agency. The CEO will enforce this section in accordance with Article 2 Section 2.05 of this ordinance.

Section 4.08 Adult Businesses
(Amended 06/5/1993).

1. The Planning Board may impose reasonable time, place, and manner restrictions on the operation of so-called "Adult Businesses".

2. Planning Board review under this Ordinance shall be limited to the impacts and effects of the proposed use as determined by applying the site plan review standards. The Planning Board shall not deny approval for the proposed use on the basis of the content of the materials sold, rented, exhibited or displayed and shall not restrict or limit the content of such materials. Notwithstanding anything contrary in the Waterboro Zoning Ordinance, Planning Board decisions under this Ordinance shall be appealed to the Waterboro Board of Appeals.

3. No materials or devices displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the Adult Business is located.

4. No Adult Business shall be located in any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structures or objects, to the nearest point on the boundary of any property which is:

    a. occupied by a residence, school, park, playground, church or public building.
    b. located in a residential zone.
    c. occupied by another adult business.

Section 4.09 Special Requirements for Apartment Conversions

Apartment Conversions shall be subject to all applicable requirements of Article 2 Expansion of the structure for conversion purposes shall be allowed only if the following criteria are met: 1) the existing square footage of the house, accessory structure, and expansion will not cover in excess of 50% of the entire lot, and 2) the minimum lot size requirement is met. In reviewing the Apartment Conversion, the Applicant must meet the following density requirements of each zoning district:

Density Requirements:

	1 Unit	**2 Units**	**3 Units**
Village	40,000 sq. ft.	60,000 sq. ft.	80,000 sq. ft.
Residential	40,000 sq. ft.	60,000 sq. ft.	80,000 sq. ft.
Agricultural & Residential	80,000 sq. ft.	120,000 sq. ft.	160,000 sq. ft.
Forest & Agricultural	5 Acres	7.5 Acres	10 Acres

Section 4.10 Special Requirements for Office/Office Complex

The following performance standards shall be used by the Planning Board in reviewing Office/Office Complexes.

Setbacks:

All applicable setbacks as outlined in each zoning district or Article 2, Section 2.08 must be met.

Building Height:

No structure shall be built or expanded to exceed the 35 ft. height restriction.

Density Requirements:

For the purpose of Office/Office Complex the following densities shall be defined as the "base lot" in each described zoning district:

Village	20,000 sq. ft.
Residential	40,000 sq. ft.
Agriculture/Residential	80,000 sq. ft.

For the purposes of an Office/Office Complex, one or more professional offices will be allowed on a base lot provided that all performance standards outlined in this section are met to the Planning Board's satisfaction.

Hydrogeological Study:

An applicant must provide proof through a Hydrogeological Study that the proposed Office/Office Complex meets the nitrate nitrogen concentration standards of no more than 5 mg/l of nitrate nitrogen at the property line of the proposed Office/Office Complex.

If a proposed project cannot meet these standards the applicant is provided two remedies:

a. Reduce the project scope to meet the nitrate nitrogen concentration standards; or
b. Increase the area of the base lot in 10,000 square foot increments until all hydrogeological impacts are within Town of Waterboro guidelines and approved by the Planning Board.

If sufficient proof is provided by the applicant that the project will not produce more than 5mg/l of nitrate nitrogen, the Planning Board may waive the requirement for a hydrogeological study.

The Planning Board reserves the right to hire outside professionals to evaluate a proposal or design's compliance with this Ordinance, with the expense of the review borne by the applicant. The estimated cost of the consultant's fees shall be paid by the applicant to the Planning Board at the time the conditional use application is viewed. The remaining balance due, if any, shall be paid prior to the issuance of a conditional use permit for the office complex.

Maximum Lot Coverage:

The Applicant's proposed project shall not cover the lot by more than 50%. For the purpose of this section, lot coverage shall be defined as the combination of all improvements contained on the lot including:

a. Building (principal & accessory) footprint; and
b. Parking lot area; and
c. Septic System area.

Landscape Buffer:

The Planning Board may condition the project by allowing for a landscape buffer strip 15 feet in width along the roadway.

The landscaped buffer strip shall be used and maintained only as a suitable planting area for lawns with trees, shrubs or other landscape materials. The septic system and well construction within this area shall be allowed if placed and constructed in conformance with all state regulations.

Section 4.11 Modifications for Special Structures

Provisions of this ordinance are permitted in circumstances which involve nonconformance (see Article 8), planned unit development (see Section 7.01), cluster development (see Section 7.02), otherwise unusable substandard lots (see Sections 2.08 and 8.05), and where the requirements for the issuance of a variance are met (see Section 9.04). (Amended 06/24/2016).

In addition, height modifications which should usually not exceed a fifty (50) percent increase from the otherwise applicable height limitations imposed by this ordinance or 52.5 feet may be allowed by the Planning Board in the construction of either permitted or accessory structures which are by their nature unique or special structures and required to obtain other approvals from the Planning Board at the time the height differential request is made. Requests pursuant to this section of the ordinance to exceed the height limitations in a particular district need not meet the more difficult requirements for the issuances of a variance but must demonstrate that the proposed height is necessary, reasonable, and will not result in harm to adjacent property owners or the public. Whenever possible, the approval of a request to exceed the height limitations in a particular district should be compensated for by increasing the setback requirements from all lot lines by that distance which maintains the original height to setback relationship. As a general rule, the powers conferred by this section should not be used frequently.

Unique or special structures which are covered by this section include but are not limited to:

- architectural projections; spires, belfries, cupolas, domes, flues, chimneys, flagpoles, etc.
- public and private utility facilities; water tanks and towers, gas or oil storage tanks, telephone and electric transmission lines and towers, radio or television relay towers, antennas, or aerials, civil defense, police or fire warning systems, etc.
- agriculture structures; barns, silos, windmills, well drilling facilities, etc.
- miscellaneous structures and facilities; rest, picnic or playground facilities, monuments, pollution control equipment, observation towers, experimental or scientific equipment, etc.
- essential public or semi-public buildings; municipal buildings, schools, hospitals, churches, etc.

Nothing in this section shall be interpreted as allowing a special structure to be located in any district other than one where it is a permitted primary or accessory structure.

Section 4.12 Commercial Design Standards

Purpose. To protect, enhance and perpetuate the town's historic, cultural and architectural heritage and to enhance the town's attraction to residents and visitors and to serve as a support and stimulus to business and industry, construction of a new building or structure or addition to an existing structure shall be of such design, form, proportion, mass, configuration, building material, texture and location on a lot as to conform with the following guidelines as deemed practicable by the Planning Board. In areas of the town where structures have little or no historic value (e.g.,

franchise architecture), new construction or renovations shall enhance the area rather than replicate existing structures.

1. Applicability.

These design standards apply to all new commercial buildings, structures in the Town of Waterboro with properties that have frontage or access on Route(s) 202 & 5 and which require Site Plan approval.

2. Standards

1. Proposed buildings, improvements and additions shall not be stylized to the point that the building or improvements are more an advertisement than an architectural form.
2. Long or continuous facades do not provide visual interest. Facades shall be articulated every 50 feet using varied designs, rooflines, materials and heights. The front facade shall be designed to look like more than one building entrance when the façade is proposed to be greater than 50 feet in width
3. The relationship of the width of the building to the height of the front elevation shall be visually compatible with buildings, structures and open spaces where it is visually related. A proposed new building or structure shall break up uninteresting box-like forms into smaller, varied masses comparable to a variety of form and massing which are often elements essential to the character of the streetscape. Avoid single, monolithic forms that are not relieved by variations in massing
4. The roof shape of a building shall be visually compatible with that of buildings to which it is visually related. When no clear pattern exists, a roof pitch of 5/12 or steeper shall be used, or the building should be designed so as to appear to have a pitched roof. The design of the roofline or parapet wall shall screen any air conditioning or other utilities placed on the roof on 3 sides most visible to the public.
5. Where mechanical equipment such as HVAC are located at ground level, appropriate vegetative screening shall be used to hide the equipment while spaced to allow for routine maintenance.
6. For trash receptacles located on the property, where possible, natural vegetative screening and or stockade fencing shall be used to screen the containers from public view.

Section 4.13 Mobile Vending

The purpose of mobile vending regulations is to ensure that mobile vendors provide a safe healthy environment for both vendors and the public at large. It is important to ensure that mobile vendors do not become permanent businesses which would have a competitive advantage on a full time brick and mortar businesses. Mobile vendors shall comply with the State of Maine rules relating to eating and shall comply with the following regulations:

1. Mobile vendors shall be allowed to leave equipment, vehicle or trailer on site or displayed, or left in public view in the location of business during nonbusiness hours provided the site & location have been approved by the Code Enforcement Officer. Parking on residential lots is not allowed.

2. Permits are required from the Code Enforcement Office and are valid for a period not to exceed sixty days. Copy of State of Maine food license required. The applicant shall provide a plan showing the proposed location of the trailer/truck, parking for patrons any seating areas if proposed.

3. Items and equipment associated with mobile vending operations shall not hinder vehicle traffic, pedestrian traffic and shall not hinder access to or from the property.

4. The operator/owner shall have written permission from the property owner to locate the vehicle or trailer on said property.

5. The operator/owner shall have available off-street parking for patrons.

6. The operator/owner is responsible for allowing no paper, food or other wastes to accumulate on site. Clean and sanitary trash receptacles are required. No trash shall be left on site overnight.

7. The operator/owner is responsible for; safe source of electric power, potable water, clean and sanitary equipment, clean and safe storage for food.

8. All equipment used for the preparation of food shall be located in the vehicle or trailer.

9. One sign identifying the vehicle or trailer is allowed.

10. Exterior seating is allowed when sufficient off-street parking is provided.

11. A violation will result in suspension of the permit and possible fines for the property owner and/or the permit holder.

12. Hours of operation are limited to; 8 am to 10 pm Sunday through Thursday and 8 am through 11 pm Friday and Saturday. Localized lighting affixed to the vehicle or trailer for the purpose of food preparation and menu illumination is allowed.

13. One mobile vendor is allowed on any single lot at any given time.

14. Mobile vendors shall be a minimum of twenty (20) feet from abutting property.

15. If an applicant would like to have more than one vendor on any one property or wants to establish a Food Truck Park then Site Plan approval under Section 2, 2.09 shall be required to establish such a use.

Section 4.14 Alternate Energy Sources (AES) (4.14 – 4.14.04 Amended 10-5-2021).

The intent of this ordinance is to establish standards for any Alternate Energy Source to utilize while seeking to establish such facilities in Waterboro. These standards apply to Solar facilities proposed in the Town of Waterboro.

Section 4.14.01 Exempt AES

The following are exempt from this Article provided they meet all other requirements of this Ordinance:

a. Roof-mounted on any Single Family legally permitted residential accessory structure and ground mounted in the back yard of the property and with a height of no more than 15 feet.
b. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).
c. Repair or replacement of array components that do not enlarge the area of the existing AES.

Section 4.14.02 Site Plan Review

All non-exempt AES must be approved by the Waterboro Planning Board through the Town of Waterboro Site Plan Review and Conditional Use process. The following requirements are additional to all other requirements of the zoning ordinance to be included in the Site Plan and Conditional Use.

a. A Site Plan stamped and certified by a Maine registered engineer and Maine Licensed Surveyor.
b. A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) whose minimum requirements meet the standards in Section 3, below. Such plan must be filed in the York County Registry of Deeds prior to the first operation of the array.
c. Revegetate any cleared areas with appropriate plantings that are native to the region according to the approved Site Plan unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting or other development subject to site plan review by the planning board.
d. Provide a cost estimate(s) for the Construction of the Array as well as for the Decommissioning of the facility in order to establish a bond Letter of credit or other form of surety for the town to hold during the construction process and for the life of the facility toward the decommissioning aspect of the project.

Section 4.14.03 Abandonment & Decommissioning

a. All said removal and decommissioning shall occur within Twelve (12) months of the facility ceasing to operate.
b. Abandonment will occur because of any of the following conditions unless the lessee or owner of the facility or of the parcel notifies the Code Enforcement Officer of the intent to maintain and reinstate the operation of the facility within 30 days of the following events:

    1. The land lease ends; or

    2. The system does not function for Twelve (12) months; or

    3. The system is damaged and will not be repaired or replaced.

    4. The developer shall provide a meter tied into the system and CMP pole at the street to show that the system is live.

A notice of the intent to maintain and reinstate the operation of the facility shall be updated every six months with a statement of the progress made towards that goal, delivered to the code enforcement officer.
If the facility has not returned to operational condition within Six (6) months from the date of the first notice of the intent to maintain and reinstate the operation of the facility the Code Enforcement Officer shall find the facility has been abandoned unless there is documentable evidence of significant progress and in the Code Enforcement Officer's opinion the decommissioning is likely to be completed in a timely manner.

c. Upon determination of abandonment based on the foregoing, the Code Enforcement Officer shall notify the party (or parties) responsible by certified mail or by hand delivery with signed receipt that they must remove the facility and restore the site to its condition prior to development within Twelve (12) months of notice by the Code Enforcement Officer. A copy of the notice shall be forwarded by the Code Enforcement Officer to the Board of Selectmen.

1. In the event the lessee or owner of the facility fails to remove the array and its components as outlined above, the landowner shall remove the facility within 90 days of notice by the Code Enforcement Officer.

2. In the event the landowner fails to remove the facility as stated above, the Town of Waterboro shall have the facility removed at the expense of the landowner.

3. Any unpaid costs associated with the removal after one year of removal shall be enforced as a tax lien placed on the real estate of the array site.

Section 4.14.04 General Standards for All AES

a. AES legally constructed prior to the effective date of this Article shall not be required to meet the requirements of this Article, unless they are proposing an expansion.

b. Unless otherwise specified through a written contract or agreement, a copy of which is on file with the Waterboro Code Enforcement Officer, the property owner of record will be presumed to be the responsible party for owning and maintaining the array.

c. An AES shall not be constructed until the conditional use application has been approved by the planning board and a building permit has been issued by the Code Enforcement Officer and all time for appeal by others has expired during which no appeal has been filed.

d. All AES shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference to the code enforcement officer beyond the site, the system owner shall promptly eliminate the disruptive interference or cease operation of the system.

e. All on-site electrical wires or piping associated with the system shall be installed underground to public-utility company transmission poles, towers and/or lines. This standard may be waived by the planning board if the project terrain is determined to be unsuitable for underground installation if certified by a Licensed Maine Electrical Engineer.

f. The array site shall not display any permanent or temporary signs, writing, symbols, logos or any graphic representation of any kind advertising the project or it's developer except appropriate manufacturers or installer's identification, warning signs, or other legally required signs.

g. Array placement must be designed to minimize or negate any solar glare onto nearby properties, active aircraft landing and takeoff zones or roadways.

h. If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or into the night sky. Motion sensor control is required.

i. Any point of potential contact of people or animals with generated electric current must be secured.

j. The boundaries of any array that border any road or any abutting lot shall consist of a vegetated buffer the width of the required setback along that border in addition to any fence that shall be erected, active vegetation should be used to satisfy these planting requirements where possible. No vegetation or fence shall interfere with a required clear sight triangle at a driveway or road intersection. Berms with vegetation are encouraged as a component of any buffer.

k. If electric storage batteries are included as part of any array system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the State of Maine laws and regulations relating to solid, special, or hazardous waste disposal.

l. All projects shall have perimeter fencing which secures the site from unwanted intruders. The fencing shall be placed a minimum of 8" off the ground to allow for the safe passage of animals. The fencing shall be gated at the access point and have a Knox box located for emergency access.

m. Access to the site and throughout the site shall be a minimum of 20' of travel way in width.

n. Identified environmental features such as and not limited to wetlands or critical habitat on the site shall maintain a 100' buffer between any impacts and the resource. If State or Federal regulations require additional buffers then the most restrictive regulations shall apply.

o. Visual Impact analysis shall be provided for any project which will include:

1. Plan profile of sight lines from various locations around the facility.

2. Renderings of the facility from several locations around the neighboring region.

Section 4.15 Accessory Dwelling Unit

Accessory Dwelling Units are a permitted use in the residential districts, subject to the review of the Code Enforcement Officer and adherence to the following standards:

1. The owners of the principal structure must reside on the property either in the principal structure, or the Accessory Dwelling Unit.
2. The Accessory Dwelling Unit shall not be greater than 800 square feet of living area. The minimum ADU size shall be 410 square feet.
3. The Accessory Dwelling Unit may be located either in the principal dwelling unit, attached to the existing Dwelling Unit or as a separate structure. The Accessory Dwelling Unit may share the septic system with the principal dwelling unit or provide a separate septic system that meets the requirements of the State Subsurface Wastewater rules Title 30-A Section 3428. On site well may be shared with the principal dwelling unit or provide a separate well for the accessory dwelling unit where public water is not available. Said new septic system must only be used to service the proposed accessory dwelling unity and not for the purpose of serving any other independent dwelling. Subject to the terms above, the septic system on the property in question shall be functioning properly at the time of application for the permit approval by the Code Enforcement Officer. In addition, the applicant must submit a new HHE200 form as documentation that suitable soil exists on the property to be sued for the septic system, repair, or replacement in the event of failure of the original system. If a combined system is proposed the main system must demonstrate that it is functioning properly prior to permitting the expansion for the ADU.
4. The parking requirements of the Waterboro Land Use Ordinance shall not be considered when adding an accessory dwelling unit.
5. Proper ingress and egress shall be provided to the accessory unit.
6. An accessory dwelling unit which complies with the requirements of this subsection shall not be considered an additional dwelling unit when calculating lot area per family under the dimensional requirements of the ordinance.
7. Only one accessory dwelling unit shall be permitted on a lot.
8. The Town shall require an applicant to place a deed restriction on the main parcel and inter into a consent agreement assuring the lot will not be split in the future separating the dwelling unit and the ADU. Ownership of the ADU shall also remain in the same ownership as the principal structure.
9. ADU's shall not be used as a short-term rental unit and must have a lease agreement for no less than 6 consecutive months with the same party.

Section 4.16 Affordable Housing Developments & Density Allowances

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 developer 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. **Density requirements.** A Waterboro shall allow an affordable housing development where multifamily dwellings are allowed to have a dwelling unit density of at least 2 1/2 times the base density that is otherwise allowed in in the Village, General Purpose and Agriculture/Residential zones from 1066 Main street north to the intersection of Route 5 and west on Route 5 to John Smith Way and may not require more than 2 off-street parking spaces for every 3 units. The development must be served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system provided 51% of the units will be de3signated as affordable housing as defined in 4.16 A & B above. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423- A, as applicable.

D. Water and wastewater. The owner of the affordable housing development shall provide written verification to the municipality that each unit of the housing development is connected to adequate water and wastewater services before the municipality may certify the development for occupancy. Written verification under this subsection must include:

1. If a housing unit is connected to a public, special district or other comparable sewer system, 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 a housing unit is connected to a public, special district or other centrally managed water system, 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

E. Subdivision requirements. This section may not be construed to exempt a subdivider from the requirements for division of a tract, parcel of land or residential living unit.

Article 5 Traffic, Parking, Road Access

Section 5.01 Traffic Visibility and Screening

No fences, structures, trees, shrubbery, material, vehicles or any other construction shall be placed or maintained even temporarily in any manner which impairs the visibility of the driver of any vehicle which in traveling on any roadway in the town, public or private, approaches within fifty (50) feet of the initial point of intersection with another public or private roadway.

With the exceptions noted in the preceding paragraph, all outside parking and loading areas serving more than twenty (20) vehicles shall be screened from view by suitable landscaping materials--evergreen shrubs or trees, fencing, walls, berms, or any combination thereof. Such vegetative screening shall be at least four (4) feet high at the time of planting or fencing should be at least six (6) feet high.

All parking and loading areas including areas used for maneuvering and interior circulation, shall be set back at least twenty-five (25) feet from the roadway on which they front; and will maintain at least a ten (10) foot greenbelt on the side and rear property lines. (Amended 04/27/2002).

Section 5.02 Loading Area Requirements

On every lot on which commercial, industrial or institutional activities are proposed, extended or enlarged, a loading area with access to a public or private roadway shall be provided to avoid the loading, unloading or maneuvering of vehicles within the right-of-way of any public or private roadway. A loading area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All loading areas must have sufficient overhead clearance to accommodate tractor-trailer size vehicles.

The minimum loading area requirement for commercial activities is one five hundred (500) sq. ft. space for each two thousand five hundred (2500) sq. ft. or part thereof of commercial floor area. The minimum loading area requirement for industrial or institutional activities is one five hundred (500) sq. ft. space for each five thousand (5000) sq. ft. or part thereof of industrial or institutional floor area.

Activities which contemplate the loading, unloading, storage, or repair of buses, trucks, cars, or other vehicles must provide sufficient outside loading and storage space to accommodate the maximum number of vehicles which the facility is capable of handling at any one time.

Section 5.03 Parking Area Requirements

In all districts and in connection with every permanent or temporary use of land or structures permitted, extended or enlarged after the effective date of this ordinance, an adequate parking area with access to a public or private roadway in accordance with the provisions of this ordinance shall

be provided on the same lot as the principal use or structure which gives rise to the need for parking space. In no case shall any part of the road right-of-way be used in providing such parking area.

Except in the case of single and two-family dwellings, a single parking space, exclusive of the space needed within a parking area for driveway, turnaround and traffic circulation purposes shall be at least two hundred (200) sq. ft. A parking area must be of sufficient size and shape to permit vehicle turn around to preclude the need for any vehicle to back out on to any roadway. All parking areas must be graded and surfaced with compacted gravel or paving, so as to be properly drained and dust free. Parking areas serving more than ten (10) vehicles must have the individual spaces and aisles marked.

Parking spaces shall be provided according to the following schedule:

1.	Single family residences	2 spaces
2.	Two family residences	4 spaces
3.	Multi-family residences in excess of two-family units	11/2 spaces per unit (minimum 5 spaces)
4.	Hotels, motels, guest houses, dormitories, boarding houses	1 space for each guest room plus 1 space for every 3 employees
5.	Theater, churches, halls, funeral homes	1 space for every 4 seating spaces
6.	Hospitals, rest & nursing homes, sanitarium	1 space for each 3 beds plus 1 space for every 3 employees
7.	Medical, dental, veterinary or other health care offices or clinics	4 spaces for each professional person plus 1 space for every 3 employees

8.	Restaurants, bars, lounges, diners, cafes	1 space for every 3 seats plus 1 space for every 3 employees
9.	Pre-school, Nursery and primary schools	1 space for every 20 students plus 1 space for every 3 employees
10.	Secondary and post-secondary schools	1 space for every 4 students plus 1 space for every 3 employees
11.	Retail shops and service store, (cleaners, barbers, repair shops)	1 space for every 200 sq. ft. of store area plus1space for every 3 employees
12.	Wholesale, warehouse, manufacture, or processing facilities	5 spaces for visitors plus 1 space for every 3 employees
13.	Financial institutions, business, government, or professional offices	1 space for every 200 sq. ft. of non-storage floor area plus 1 space for every 3 employees

14.	Fraternal organizations, clubs and lodges	1 space for every 100 sq. ft. of non-storage floor area
15.	Garages and filling stations	1 space for every 100 sq. ft. of non-storage work areas plus 1 space for every 3 employees
16.	Fair grounds, amusement parks, ballparks, or recreational facilities	1 space for every 4 seats or 1 space for every 500 sq. ft. of playing area or non-storage area open to the public, whichever requires the greater number of parking spaces
17.	Drive-in facilities	10 spaces for each teller, serving window or counter plus 1 space for every 3 employees
18.	Marinas	1 space for each boat dock or mooring space plus 1 space for every 3 employees

19.	Agriculture or forestry activities (including farmstands)	3 spaces plus 1 space for each piece of vehicle equipment used in the operation and 1 space for every 3 employees

Uses, activities, or facilities which arguably fit within more than one of the above categories will be considered in that category requiring the least number of parking spaces. Uses, activities or facilities which combine several of the above undertakings must provide an average of the total of the number of spaces which each undertaking on its own would require. Uses, activities, or facilities not specifically listed shall be placed in that category above which the Planning Board determines is most similar in character to the proposed undertaking.

Section 5.04 Roadway Access

No driveway shall be within fifty feet of any intersection of public or private roads. A loading or parking area shall not have more than two (2) access driveways to an abutting roadway. Property owners with driveways serving drive-in commercial enterprises or serving loading or parking areas designed for more than fifty (50) vehicles shall provide appropriate entrance and exit signs, stop signs at all points of egress from the loading or parking area, and may, if the Planning Board determines that the volume of traffic requires it, be required to provide a driveway divider, an adequate frontage road, an approach lane, or a turning lane to insure safe traffic flow on, onto, and off of abutting public or private roadways.

Section 5.05 Reserved

Article 6 Signs

Section 6.01 General Requirements

All signs which are located, erected, moved, reconstructed, extended, enlarged or structurally altered after the effective date of this ordinance must be in compliance with the provisions of this ordinance though some signs are exempted from otherwise applicable permit requirements and accompanying regulations. (see Section 6.02). Signs placed in or on the windows of residences, stores, or other buildings are not regulated by this ordinance except that such signs may not be animated, and they may not utilize flashing lighting.

No sign, (whether regulated or unregulated by this ordinance) may resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. No sign may be positioned so as to prevent or block the free ingress to or egress from any door, window, or fire escape or in a manner which confuses, impedes, or impairs traffic movement or visibility. No sign, except publicly owned signs, may be placed upon, extend into, or over the right-of-way of any public or private road.

The owner of the land upon which a sign is located is responsible for its safe construction, installation, and maintenance. Unsafe damaged or deteriorated signs, signs in danger of falling, or signs not in compliance with the provisions of this ordinance are in violation of this ordinance. The Code Enforcement Officer shall order compliance with this ordinance which may include the repair, or removal of such signs. If compliance with his/her order is not achieved within the time period specified in the order, the Town in addition to the remedies provided in Sections 11.02 and 11.03 may repair or remove the violating sign and assess the costs to the landowner.

Signs lawfully existing on the effective date of this ordinance may be continued though not in conformance with the provisions of this ordinance. However, such signs are nonconforming structures and as such subject to the provisions of Article 9.

For purposes of this ordinance signs having two (2) back-to-back display faces shall count as only one (1) sign and only one (1) face shall be used in determining its size.

Section 6.02 Signs Not Requiring a Permit

Signs which do not require a permit may not exceed twenty (20) sq. ft. in size nor, including their supporting structure, may they exceed fifteen (15) feet in height. They are permitted in all of the zoning districts created by this ordinance. There may not be more than a total of two (2) of any such signs on any one lot or parcel of land. Except for official traffic control signs, they must directly relate to activities or beliefs of, or information about the land itself or the owner or lessee of the land upon which the signs are situated. Again excepting official traffic control signs, they must

comply with the general requirements for all signs contained in Section 6.01. Signs not requiring a permit include:

1. Signs containing the house number, house name, street address, or name of the occupants of a house.

2. Real estate signs advertising the sale or lease of the property.

3. Business signs indicating the profession, home occupation, or commercial activity of the landowner or lessee.

4. Bulletin board or informational signs of public, charitable, or religious institutions.

5. Memorial signs or tablets, including historical markers.

6. Official traffic control signs.

7. Temporary signs indicating a sale, activity, or event being undertaken by the landowner or lessee.

8. Political signs.

9. On-site informational signs giving persons coming to the property necessary and useful information as to the location of parking areas, restrooms, pick-up and delivery areas, etc.

10. Warning signs or signs prohibiting trespass or other activities. Such signs may also exceed the above limit to two (2) per lot or parcel of land.

All of the above signs may be lighted indirectly or internally but only by non-flashing white light. They may not be placed on the roof of any building nor may they be painted or affixed directly onto a wall or the side of any structure. They may not be painted or affixed directly onto rocks or other natural objects except that they may be attached or fastened to such objects in a manner that will not injure them.

Section 6.03 Signs Requiring a Permit

All signs except those specifically exempted by the provisions of Sections 6.01 and 6.02 require a permit including those signs enumerated in Section 6.02 which are either larger in size than or exceed the number permitted by that section. A sign permit for purposes of this ordinance shall be deemed a type or subcategory of building permit--as such it will be issued by the Code Enforcement Officer subject to and in accordance with all of the provisions outlined in Sections 2.03 and 2.05. In addition the following regulations apply to signs requiring a permit:

1. All of the general requirements for signs contained in Section 6.01.

2. No sign requiring a permit may be located in either the (FA) or (C) district.

3. No sign may exceed three hundred (300) sq. ft. in size nor may a sign including its supporting structure exceed twenty-five (25) feet in height.

4. Animated signs and signs involving neon, white, colored, or flashing lighting must be positioned in a manner which avoids confusion with, intrusion upon, or harm to persons or activities situated on adjacent land.

5. An individual lot or parcel of land may not under the combined provisions of Sections 6.02 and 6.03 contain more than 4 signs, with the exception as to number noted in 6.02 (10), or a total of three hundred forty (340) sq. ft. of sign space.

6. Notwithstanding any other provisions of this ordinance, in (V) (R) and (AR) districts signs which exceed one hundred (100) sq. ft. in size and which are located along or so as to be viewed from any public or private roadway must be at least five hundred (500) feet apart as measured along the roadway.

7. No sign requiring a permit may be positioned along or so as to be viewed from any waterway as a business attraction to boaters.

8. All signs requiring a permit pursuant to provisions of this ordinance must evidence compliance with all state sign and billboard control statutes or regulations and must have received any required state permits.

Section 6.04 Reserved

Article 7 Planned Unit Development and Cluster Development

Section 7.01 Planned Unit Development

Subsection 7.01.01 General

Planned unit developments involving residential, commercial, or industrial activities or combinations of the above activities are permitted by this ordinance. All PUD's are Subdivisions and require Site Plan review --as such they are subject to all of the requirements and approval procedures of Article 2 except that the time provisions of Section 2.09 are extended to sixty (60) days. The type and location of a PUD is established by Sections 3.04-3.08 of this ordinance. A PUD may not be undertaken on any parcel of land smaller than ten (10) acres in size and it must be owned or under the control of a single developer or entity. A PUD may not increase the overall density of development permitted in the particular district in which it is located and at a minimum it must comply with the substantive provisions of Articles 4, 5 and 6. However, all layout and dimensional, area requirements imposed by Article 3 or the town's regulations may not be altered.

Subsection 7.01.02 Purpose and Intent of PUD's - PUDs are intended:

- to promote flexibility in design and to allow the combination and coordination of land uses, architectural styles, and building types in a harmonious and integrated fashion.
- to preserve to the greatest extent possible the existing landscape features and natural amenity of an area.
- to promote the efficient use of land, a reduction in the size of road and utility systems and thus of development costs.
- to provide more usable land, suitably located recreation facilities and other public and common facilities that would otherwise be provided under conventional development procedures.
- to promote experimentation and diversity in development processes.

Subsection 7.01.03 Control of Common Space, Open Area, and Common Facilities

Common space, common facilities and open areas whether owned by the public through dedication and acceptance or retained in private ownership (or both) are essential and major elements of a PUD which are related to affect the long-term value of the individual units in the development. The Planning Board in reviewing a PUD may not accept proposed dedications of common space or open area but shall refer such proposals for public ownership along with its recommendations to the Selectmen. Though formal acceptance of land proposed to be dedicated may be deferred until all project approvals have been obtained, the Board of Selectmen, within thirty (30) days of such a referral, must indicate by a binding vote its intent to accept land proposed to be dedicated or its refusal to accept such land.

Common space and open areas and any common facilities located on such which are retained in private ownership must be held in a manner that legally binds the developer or an owner's association to continuously and permanently have responsibility for operating, maintaining, conserving, improving, and generally caring for these common spaces, open areas, and facilities. A legally enforceable technique for financing these responsibilities must also be created and imposed

on the developer and/or subsequent owners or lessees of property within a PUD. The rights and duties of all parties (including the Town of Waterboro) to enforce any and all agreements touching upon these matters shall be established by covenants which if a PUD is approved shall be recorded prior to the sale of lease of any property within a PUD.

A separate covenant enforceable by both the Town of Waterboro and subsequent owners or lessees of property within a PUD, which permanently precludes the subsequent development of any and all land which is denoted in a proposed PUD as common space or open area, shall also be recorded prior to the sale or lease of any property within a PUD except that common facilities designed to be located on such lands and contemplated in the original PUD proposal shall be permitted.

Subsection 7.01.04 Review and Approval

The Planning Board in the context of reviewing PUD proposals and in the interests of efficiency shall simultaneously conduct the subdivision review required by 30-A, M.R.S.A. §§4401-4408, locally adopted subdivision regulations and site plan review.

The Planning Board shall approve a proposed PUD if it finds that all of the requirements for a Subdivision and Site Plan Review are met, if all of the substantive requirements set forth in this section are met, if the outlined purposes for which PUD's are created are substantially met, and if the provisions for dealing with common space, common facilities, and open areas are completely adequate, protecting both present and future interests of the town and subsequent owners or lessees of property within a PUD.

The Planning Board is specifically encouraged to utilize the bonding provisions authorized in Section 11.04 of this ordinance to ensure compliance with plans, specifications, and conditions upon which a PUD approval was sought and obtained.

Section 7.02 Cluster Development

The clustering of residential housing units is permitted by this ordinance. Clustered housing developments are a conditional use in all zoning districts as such they are subject to all of the requirements and approval procedures of Article 2 Section 2.10 and Subdivision review except that the time provisions are extended to sixty (60) days. The clustering of housing units may be undertaken on any size parcel of land which is owned or under the control of a single developer or entity. The overall density of housing permitted in a particular district and at a minimum cluster developments must comply with the substantive provisions of Articles 5 6, and 7 and the height limitations imposed in each district. However, all layout and dimensional requirements imposed by this ordinance or the town's subdivision regulations may not be altered unless the design meets the overall density requirements of the zone in which the development is located.

Cluster developments are usually more limited in scale and scope than PUD's (see Subsection 7.01.02) All of the provisions for the control of common space, open space, and common facilities in PUD's outlined in Subsection 7.01.03 shall apply to common space, open areas, and common facilities created by clustering development. For purposes of this section, wherever the phrase PUD appears in Subsection 7.01.03 the phrase "cluster development" shall be used instead. Finally, the review and approval procedures and standards designed for PUD's and set forth in Subsection

7.01.04 shall also apply to cluster developments. For purposes of this section, wherever the phrase PUD appears in Subsection 7.01.04 the phrase "cluster development" shall be used instead.

Section 7.03 Reserved

Article 8 Nonconformance

Section 8.01 Existing Nonconforming Uses and Structures

This ordinance reflects the best judgment of the Town of Waterboro with respect to land use and is designed to both guide and bind all development activities, uses of land, and the construction, enlargement or renovation of all structures. However, those uses and structures, including accessory uses and structures, which do not conform to the provisions of this ordinance but which are in actual existence at the time of enactment of this ordinance, may be continued. But because nonconformance is inconsistent with the intent and objective, the creation or expansion of nonconforming activities is not encouraged.

A nonconforming use or activity which extends to only a portion of land in common ownership shall not be extended to the whole parcel if the redesign or realignment of lots is possible and will enable the activity to be undertaken in a conforming manner consistent with the provisions of this ordinance.

An existing nonconforming use or structure may not be physically moved to an alternative location where it will still be nonconforming. Relocations must be undertaken in a manner that conform to the provisions of this ordinance. An existing nonconforming use or structure at a particular site may not give way to an alternative activity which will also be nonconforming. Changes in the use of land or structures must be in conformance with the provisions of this ordinance.

Section 8.02 Existing Uses and Structures Which Conform With This Ordinance

Uses of land or structures, which on the date of enactment of this ordinance are in compliance with the provisions of this ordinance, may not subsequently be converted to uses which are not permitted by the provisions of this ordinance subject only to the provisions in Section 2.07 dealing with uses similar in character to permitted uses. Uses of land or structures, which on the date of enactment of this ordinance conform with the provisions of this ordinance, may not be subsequently expanded in a manner which gives rise to nonconformance unless such nonconformity is minor and meets all of the requirements for Section 2.08 and Article 8. (Amended 06/24/2016).

Section 8.03 Replacement and Maintenance

A nonconforming use or structure which is damaged by fire, explosion, flood, or other natural disaster or act of God may be rebuilt or repaired provided the restoration is completed within one (1) year and does not entail an expansion of the nonconforming use or structure.

Nothing in this ordinance precludes the normal upkeep and maintenance of nonconforming uses and structures such as repairs, renovations, or modernizations which do not involve expansion of the nonconforming use or structure; and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

Section 8.04 Abolishment and Transfer

A nonconforming use of land or structure permitted pursuant to the provisions of Section 8.01 may not be resumed if such use is abandoned or discontinues in actual fact for a period of twelve (12) months. In either circumstance the renewed use of such land or structure must be in conformance with the provisions of this ordinance. When and if a nonconforming use of land or structures is converted by the landowner or lessee to a permitted or conforming use of the land or structures, the former nonconforming activities may not thereafter be resumed.

The owner of property which is nonconforming by virtue of the enactment and provisions of this ordinance may nonetheless sell, lease, or otherwise grant the property including the nonconforming use rights created in Section 8.01 to any person subject only to the conveying laws of the State of Maine and, of course the limitations on nonconformance imposed by this ordinance.

Section 8.05 Existing Nonconforming Lots and Pending Applications for Building Permits

Two or more contiguous lots of record in common ownership at the time or since adoption or amendment of this ordinance shall be combined and treated as a single lot or parcel of land. If the dimensional or area requirements of the district in which the combined parcel is situated are not met, development shall be in conformance with the provisions of this ordinance. (Amended 04/26/2003).

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for required building permits, or an application for required state permits and approvals. Such rights arise only when actual construction has begun. Such construction must be legal at the time it is commenced and must be in possession of and in compliance with all validly issued permits, both state and local.

Section 8.06 Nuisance

State law provides in 30-A, M.R.S.A. §4302 that "Any property or use existing in violation of any municipal land use ordinance or regulation is a nuisance." (Amended 05/13/2016). Nonconforming uses and activities which violate the provisions of this ordinance particularly Article 8, may pose unique problems and threaten both public and private interests. Accordingly, the Town of Waterboro in addition to the enforcement mechanisms available to it pursuant to Sections11.02 and11.03 of this ordinance may utilize any statutory provisions facilitating the abatement of nuisances or in the alternative the town may acquire such nuisances for purposes of demolition by either purchase or condemnation.

Section 8.07 Reserved

Article 9 Zoning Board of Appeals

Section 9.01 Establishment

Pursuant to the provisions of 30-A, M.R.S.A. §§2691 and 4353, a Zoning Board of Appeals is established for the Town of Waterboro to receive, hear, and decide appeals from interpretations of this ordinance and decisions of the code enforcement officer (see Sections 1.06 and 2.05), the Planning Board (see Sections 1.06 and 10.04), and all requests for variances within the limitations established by 30-A, M.R.S.A. §4353(4). (Amended 05/13/2016; 06/24/2016

Section 9.02 Membership and Organization

The Board shall consist of (5) five members appointed by the Board of Selectmen of the Town of Waterboro to serve staggered five (5) year terms. Neither a Selectmen nor his/her spouse may be a member of the Board. A member of the Board may be dismissed for cause by the Board of Selectmen before the expiration of his/her term. The Board shall elect annually a chairman and a secretary from its membership. Any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, not including the member who is being challenged. (see 30-A, M.R.S.A. §2691). (Amended 05/13/2016).

Section 9.03 Procedure

The chairman shall call meetings of the Board to deal with Board business and pending appeals or requests for variances as necessary. The chairman shall also call meetings of the Board when requested to do so by a majority of the Board of Selectmen. A quorum of the Board necessary to conduct an official meeting shall consist of at least three (3) members. Official action may be taken by a majority of those members present and voting on any issue but no motion receiving fewer than two (2) votes shall be deemed passed. The chairman shall preside at all meetings of the Board and be the official spokesman of the Board. The Code Enforcement Officer shall be present at all meetings and hearings of the Board to provide such information and technical assistance as the Board may require.

The secretary shall maintain a permanent record of all Board meetings and all correspondence of the Board. The secretary shall be responsible for maintaining those records which are required as part of the proceedings which are brought before the Board. All records to be maintained or prepared by the secretary are deemed public, shall be filed in the Municipal Clerk's Office and may be inspected at reasonable times.

The Board may provide by rule, which shall be recorded by the secretary for any matter relating to the conduct of any hearing, provided that any rule may be waived by the chairman upon good cause shown.

The Board shall conduct a de novo review of the matter under appeal and may receive any oral and/or documentary evidence pertaining to a matter before it; but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his/her case or defense by oral and/or documentary evidence, to submit rebuttal

evidence and to conduct such cross-examination as may be required for a full and true disclosure of facts.

The Appellant or their Agent shall be present at their hearings pertaining to their Administrative Appeal or Variance Request. Failing to be present can be a reason for denial of Administrative Appeal or Variance Request. (Amended 03/12/1988).

The transcript of testimony, if any, and exhibits, together with all papers and requests filed in any appeal or variance proceeding shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore. The absence, abstention, or vote of each Board member shall be appended to the record of all appeal proceedings and variance requests. (See 30-A, M.R.S.A. §2691). (Amended 05/13/2016).

Section 9.04 Duties

The Board shall receive, hear, and decide all requests for variances (see Section 2.03). A variance shall be granted or denied within sixty (60) days of receipt of a completed request. A variance may be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant's property would cause undue hardship as defined by state law, 30-A M.R.S.A., §4353 (Amended 05/13/2016)

9.04.01 Variances for Undue Hardship. Except as provided in Section 9.04.2, a variance shall be granted by the Board only where strict application of this ordinance, or local subdivision regulations to the applicant's property would cause undue hardship as defined by state law 30-A, M.R.S.A. §4353 (4) (Amended 05/13/2016) pursuant to the following:

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

9.04.02 Variances from Dimensional Requirements. The Board may grant a variance from the dimensional requirements imposed by this ordinance when strict application of the ordinance to the applicant and the applicant'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 to the general condition of the neighborhood; and
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; and
3. The practical difficulty is not the result of action taken by the applicant or a prior owner; and
4. No other feasible alternative to a variance is available to the applicant; and
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 the shoreland area as described in 38 M.R.S.A. §435.

As used in this subsection 9.04.2, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection 9.04.2, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the applicant to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the applicant.

9.04.03 Additional Variance Standards.

1. Before a variance may be issued, the Board must determine, in addition to its finding of undue hardship or practical difficulty, that the granting of a variance would not negatively impact the best interest of the community. (Amended 03/10/1990).
2. Undue hardship shall not be construed to include: self-imposed hardships; an inability to realize as great an economic gain as would be possible if the variance were granted; or a hardship that is not unique to the applicant's land.
3. A variance, if granted, should necessitate only a slight departure from the stated requirements of an ordinance, usually not exceeding a fifteen (15) percent increase or decrease from the stated requirements.
4. A variance, if granted, must not subvert the intent of the Town's Comprehensive Plan, this ordinance or local subdivision regulations as manifested in the language of the Plan or the particular provisions from which the variance is sought.
5. A variance, if granted, must not have a harmful effect on the use of nearby land and structures insofar as that land is being used in conformity with state and local land use ordinances and regulations. The Board in granting a variance may attach appropriate conditions which will avoid harm to adjacent property owners and the public.

Section 9.05 Hearing and Parties

All Board meetings at which appeals or requests for variances are heard, considered and decided are public hearing (see Section 9.03). Notice of a public hearing shall be given at least seven (7) days prior to the hearing date by general advertisement to the public. At least ten (10) days prior to the date set for the Zoning Board of Appeals hearing on an appeal or a variance application, the Zoning Board of Appeals shall cause written notice, by certified mail, of that hearing to (a) all property owners of record whose land abuts the property and the property directly across private way, State, or Town Roads for which the variance is requested; (b) the person making the appeal; (c) the Planning Board; (d) the Code Enforcement Officer and (e) any other parties of record to the proceedings. The owners of property shall be considered to be those shown on the property tax lists of the Town. Failure of any abutting property owner to receive notice shall not necessitate another hearing or invalidate the action of the Board. The mailed and published notices shall include the following information: (1) The name of the applicant; (2) A brief description of the property involved; (3) A brief statement of the nature and extent of the variance requested; (5) The time and place of the Board's hearing on the variance. (Amended 03/12/1988).

All of the general meeting and voting rules outlined in Sections 10.02 and 10.03 shall apply to Zoning Board of Appeals meetings (public hearings) conducted pursuant to this section of the ordinance.

Section 9.06 Findings

The denial of an appeal or of a variance request must include the reasons therefor--the failure to meet the requirements of this ordinance or state statutory requirements (see 30-A, M.R.S.A. §4353 (Amended 05/13/2016)) or such other reasons as the Board may set forth in its statement of findings and conclusions (see Section 10.03). The sustaining of an appeal or the granting of a variance must also include a statement of findings and conclusions which must specifically indicate all of the requirements of this ordinance as well as state statutory requirements have been met. When conditions are attached to the granting of a variance the need for and the underlying rationale of the attached conditions must be set forth.

Section 9.07 Decisions

A copy of Board decisions on all appeals and variance requests shall be mailed or hand delivered to the appellant, the applicant, the Planning Board, the Code Enforcement Officer, and the Board of Selectmen within seven (7) days. A copy which will provide notice to the public shall also be placed on file and available for inspection in the Town Clerk's office.

A variance which has been granted shall expire six (6) months from the granting date unless substantial work (actual construction) in reliance upon it has commenced. Work commenced must normally be completed within two (2) years. A variance shall not be valid for a longer period of time but may be reissued for an additional two (2) year period if the nature of the project requires additional time and if work on the project has been continuous.

Section 9.08 Judicial Review

A request and hearing for reconsideration may be made to the Zoning Board of Appeals by an aggrieved party in accordance with 30-A, M.R.S.A. §2691. Such request must be made in writing and filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. The Board may conduct additional hearings and receive additional evidence and testimony on the reconsideration.

An appeal may be taken, within forty five (45) days after a Zoning Board of Appeals decision is rendered, by an aggrieved party to Superior Court from any final order, relief or denial in accordance with 30-A, M.R.S.A. §2691 and with Maine Rules of Civil Procedure, Rule 80B, except that an appeal from a reconsideration shall be made within fifteen (15) days after the decision on reconsideration, or as otherwise established by 30-A, M.R.S.A. § 2691. (Amended 04/27/2002; 05/13/2016).

Section 9.09 Reserved

Article 10 Planning Board

Section 10.01 General

In addition to the duties conferred to the Planning Board by the Town of Waterboro acting pursuant to 30-A, M.R.S.A. §4351 or the Home Rule Powers (see Section 1.01), the provisions of this ordinance impose responsibilities on the Board which are essential to the effective implementation and carrying out of the intent and purpose of the ordinance. These include:

1. Reviewing and deciding with the Board of Selectmen whether to permit or not allow uses presently not permitted by this ordinance but which are similar in character to uses which are permitted. See Section 2.07.
2. Reviewing and deciding whether to permit or not allow a temporary use and if allowed the extent, scope, and conditions (if any) of the temporary use. See Section 2.07.
3. Reviewing and ultimately approving or disapproving applications to permit a conditional use.
4. Reviewing and ultimately approving or disapproving proposed departures from the height requirements of this ordinance necessitated by the unique or special characteristics of the structure. See Section 4.11.
5. Reviewing and ultimately approving or disapproving applications to undertake a planned unit development or cluster development. See Sections 7.02 and 7.01;
6. Reviewing and forwarding a recommendation to the Board of Selectmen as to whether common space and open area which a developer contemplates dedicating to the town as part of a PUD or cluster development proposal should be accepted. See Subsection 7.02.03 and Section 7.03.
7. Conducting a PUD or cluster development and subdivision review. See Subsection 7.02 and Section 7.01.
8. Reviewing and ultimately deciding whether particular developers will be required to post performance bonds to insure compliance with the provisions of this ordinance and the plans, specifications, or conditions upon which required approvals and permits were sought and obtained. See Section 11.04
9. Reviewing and ultimately approving or disapproving applications for site plan review. See the Town of Waterboro Site Plan Review Ordinance. (Amended 04/27/2002).
10. Reviewing and ultimately approving or disapproving applications for subdivision review as set forth in the Town of Waterboro Land Subdivision Regulations and 30-A, M.R.S.A. §§ 4401-4408.

Finally the Planning Board shall be required no less frequently than every three (3) years to review this ordinance in light of new data and changing conditions within and outside of the town and to propose those amendments or refinements pursuant to the provisions of Section 1.08 which will enable this ordinance to continue to be an effective device for carrying out the Town's Comprehensive Plan and the stated intent and purpose of the ordinance (see Sec. 1.02 & 1.03).

Section10.02 Hearings

The Planning Board may hold a hearing, in addition to those specifically required by provisions of this ordinance and State statute, to facilitate carrying out any of its responsibilities as outlined in Section 10.01. The Board shall follow the procedures set forth in Section 10.01.

Section 10.03 Findings and Decisions

All decisions of the Planning Board must be predicated on testimony received by the Board at hearings, planning data which it has gathered and which is available to the public, other facts, data, or information which are a matter of public record and information obtained from the applicant. When taking any final action the Board must issue a statement of its findings and conclusions which sets forth the reasons for and the rationale underlying the particular Board action. Board actions which are generally favorable to an applicant must specifically indicate that all of the requirements of state statute and this ordinance have been met. Board actions which are unfavorable to an applicant must specifically indicate how and in what way the applicant failed to comply with the requirements of state statute or this ordinance. When conditions are attached to any Board approval the factors establishing the need for and justifying the condition as framed must be indicated. A copy of all final board actions (decisions) shall be mailed, e-mailed or made available in the town hall to the party who requested the Board actions, the Code Enforcement Officer, and the Board of Selectmen within ten (10) working days. A copy which will provide notice to the public shall also be placed on file and be available for inspection in the Town Clerk's office.

Section 10.04 Review

Before judicial review may be sought pursuant to the provisions of Section 1.06, any decision, final action or failure to act of the Planning Board, must be appealed within thirty (30) days to the Zoning Board of Appeals of the Town of Waterboro by the applicant or an aggrieved party. The Zoning Board of Appeals may affirm the Planning Board, remand the issue with instructions which it had taken, or the Zoning Board of Appeals may modify Planning Board actions for reasons which must be set forth. (Amended 04/26/2003).

Section 10.05 Reserved

Article 11 Violations, Enforcement

Section 11.01 Violations, Fines

Persons who have not adhered to the provisions of State law, this ordinance, other local land use ordinances or regulations, or the plans, specifications, or conditions upon which required permits and approvals were sought and obtained are in violation of this ordinance. Violations shall be noted initially by the Code Enforcement Officer's issuance of a code enforcement order (see Section 2.05). Such orders are to be complied with immediately.

A violation which consists of the commencement of development activity or the use of land, water, or structures without applying for or before obtaining all of the permits and approvals which this ordinance requires will also subject the violator to the payment of fees double in amount to those established in the fee portion of the town's regulations. Violators who have not applied for required permits and approvals must do so.

Section 11.02 Board of Selectmen Orders, Enforcement

The Board of Selectmen, acting upon the recommendation of the Code Enforcement Officer, Planning Board, or the Zoning Board of Appeals, may protect the public interest and the reasonable expectations of private landowners by ordering violators to cease and/ to remove any violating activity, use or structure and; if necessary, it may order the restoration of conditions in existence prior to the violation.

If fees or double fees are not paid or if a Code Enforcement Order, or an order of the Board of Selectmen is not complied with, the town may bring whatever legal, equitable, or injunctive action is necessary to compel the payment of established fees and to seek the imposition of appropriate fines as well as compliance with its orders, as well as all remedies provided for by 30-A, M.R.S.A. § 4452. The costs of such proceedings shall also be imposed on the violator.

Section 11.03 Performance Guarantee: Value, Requirements and Conditions

a. A subdivider or applicant for site plan or other review requiring Planning Board approval shall file with the Planning Board at the time of approval of the final plan, a draft performance guarantee in the amount of one hundred and twenty-five percent (125%) of the estimated value of the required subdivision or site plan improvements. No work shall be undertaken, and no building permits shall be issued, until the final performance guarantee is provided to the Town.
b. The performance guarantee shall be tendered in the form of a faithful performance bond, a letter of credit or a certified check running to the Town and issued by a bank or surety company acceptable to the Town of Waterboro.
c. The conditions and amount of such a performance guarantee shall be determined by the Planning Board, with the recommendation of the Town Planner, Public Works Director and consulting engineer as needed.
d. The amount shall be equal to 125% of the total cost of furnishing, installing, connecting and completing all of the street grading, storm drainage, site improvements and public water infrastructure (as required). Additionally, if a cistern(s) is installed a mutually-agreed upon

maintenance bond or other acceptable financial guarantee will be mandated as a condition of final approval.

e. Performance guarantees shall be in effect for the duration of the secured project and until such time as the subject improvements have been proven complete and effective, as determined by the Planning Board.
f. The maximum time period for the performance guarantee will be for a period of three (3) years beginning on the date of final approval by the Board. The Planning Board may approve a performance guarantee of a shorter duration upon evidence provided by the applicant that the shorter guarantee is appropriate.
g. When the Planning Board has approved a performance guarantee in the form of a certified check, the Town Treasurer shall deposit the same in a segregated account.
h. The proceeds of the performance guarantee shall be used to finish the improvements indicated on the approved plan if the subdivider fails to complete those improvements within the specified time frame.
i. A performance guarantee may be reduced after review and approval by the Planning Board, subject to the following:

    1. A reduction may be allowed by the Planning Board, provided that substantial improvements have been completed and inspected.
    2. The reduction in performance bonding shall be requested in writing by the applicant. Such a request shall be accompanied by a listing of subdivision/infrastructure improvements still to be completed and quoted estimates of the cost(s) for their completion.
    3. The Town consulting engineer shall provide an opinion of the remaining work and estimated costs to determine the amount of the reduction. (Amended 01/17/2012)

Section 11.04 Release of obligation required by performance guarantee.

a. Before the release of a performance guarantee, the developer shall request, in writing, that the Planning Board release the performance bond. This request shall include evidence that all the required improvements have been completed. The evidence shall include "as built" plans of the project.
b. The Planning Board shall request certification from the peer review engineer that all required or proposed improvements have been satisfactorily completed and the "as built" plans are submitted. (Amended 01/17/2012)

Section 11.05 Extension of performance guarantee period.

a. The Planning Board may grant an extension of up to 12 months to the performance guarantee when the developer can demonstrate to the satisfaction of the Planning Board good cause for such extension. Any extension shall require a new cost analysis for remaining site improvements and may require that the amount of the guarantee be increased if the Planning Board determines that the cost of the improvements has increased beyond the amount of the existing guarantee. (Amended 01/17/2012)

Section 11.06 Record Management and Performance Guarantee Facilitation.

a. The Town shall maintain a record management system relating to subdivisions and site plan review projects that have performance guarantees. A logging system of project/owners names, location, start and expiration dates of performance/surety bonds and amounts of bonds shall be maintained. Quarterly reports on the status of pending bonds shall be sent to the Town Administrator, Planning Board, Code Enforcement Officer, Board of Selectmen, and Town Treasurer. In the case of cistern maintenance guarantees, the Fire Chief shall receive copies of all communications concerning the maintenance guarantee. (Amended 01/17/2012)

Section 11.07 Reserved

ARTICLE 12 Definitions

Section 12.01 General

- The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual or any legal entity.
- The word "shall" is mandatory, and the word "may" is permissive.
- The word "lot" includes the words "plot" and "parcel".

Section 12.02 Words and Terms Defined

Abutter: The owner of any property within 500 feet of the property line.

Accessory Dwelling Unit: A separate dwelling unit that has been added on, or created within, a single-family house or a separate standalone structure for the purpose of providing living accommodations accessory to the primary residence.

Accessory use or structure: A use or structure necessary, customary, incidental, and subordinate to a permitted use or structure and located on the same lot or parcel as the permitted use or structure, accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Adult Business: Any business, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities. Thirty percent of the active display area is considered significant or substantial.

Adult day care center: a program of care and activities licenses by the State of Maine, carried out on a regular basis in a private dwelling or other facility, for a fee, for any part of the day, for three or more adults, nineteen years of age or older, who are not blood relatives. Type 1 facility accommodates five or fewer clients. Type 2 facility accommodates more than five clients.

Affordable Housing: Decent, safe, and sanitary dwelling units that can be afforded by households in the following two categories:

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 developer 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.

Agent: anyone having written authorization signed by the property owner to act on behalf of that property owner.

Aggrieved Person: An owner of land whose property is directly affected by the granting or denial of a permit or variance: a person whose land abuts land for which a permit or variance has been granted; or any person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agricultural related business use: a business that provides goods and /or services, a substantial portion of the market for which is agricultural or other natural resources businesses including uses such as farm equipment dealers, feed and grain stores and similar uses.

Agriculture: the production, keeping or maintenance for sale or lease, of plants, including, but not limited to: forages and sod crops, grains and seed crops, fruits and vegetables, and ornamental products, and unless expressly prohibited, the keeping of livestock, including dairy animals and dairy products, poultry and poultry products, cattle and cattle products or horses. Agriculture does not include forest management and timber harvesting activities or medical marijuana.

Alteration: Any change, addition, demolition, extension, or renovation of a structure. In the case of land it involves the clearing, filling, grading, replanting, and/or recontouring of the natural landscape.

Altered Structure: a change in either the intensity of use, such as the addition of bathrooms, kitchens, bedrooms, or other habitable spaces, or a conversion from seasonal to year round use.

Alternative tower structure: a non-tower mounting structure such as a clock tower, bell steeple, light pole, water tower, or other structure upon which an antenna may be mounted, and which camouflages or conceals the presence of the antenna.

Animal husbandry: the growing and/or raising of livestock and/or poultry for commercial purposes.

Antenna: any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Apartment conversions: The conversion of an existing dwelling and/or accessory building to the dwelling into a total of no more than three units per lot for lots existing prior to the adoption of this subsection (6/4/94). For the purposes of the section, the conversion of a structure shall mean the division of the existing structure into individual dwelling units.

Appeal: In the context of this ordinance, it is a procedure whereby an aggrieved person may have the benefit of having the actions of the Code Enforcement Officer or Planning Board, reviewed to determine their validity by the Zoning Board of Appeals. Actions of the latter body may then be reviewed by the Superior Court.

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. (Amended 6/4/94)

Aquifer: A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation. (Amended 8/23/11 by Selectmen vote)

Automobile dealer: an establishment engaged primarily in the retail sale of automobiles and/or trucks and may include repair, service and the sale of parts, but does not include body repair or body painting.

Automobile graveyard: a yard, field, or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles. This also includes an area used for automobile dismantling, salvage and recycling operations as further defined in 30-A, M.R.S.A. § 3752.

Average depth of lot: If an existing lot of record does not comply with the minimum lot size requirements of the zone which it is located, average depth of lot shall be determined by the requirements in Section 2.08.

Bar: a business, not meeting the definition of restaurant, where alcoholic drinks are sold for consumption on the premises; including meeting halls of nonprofit organizations if they are licensed to serve alcoholic beverages.

Bed-and-Breakfast: any residential structure in which rooms are offered and rented to the public for periods of time typically less than thirty (30) days, but not more than thirty (30) days, and in which one meal per day is available only to the people renting the rooms. The building must also be occupied by the resident manager or property owner.

Best management practices: Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine Departments of Agriculture, Environmental Protection, Forestry, Transportation and Development pursuant to 38 M.R.S.A., § 420-C. (Amended 8/23/11 by Selectmen vote)

Boarding kennels: any place, building, tract of land, abode wherein or whereon privately owned dogs or other pets, or both, are kept for their owners in return for a fee. Included shall be the temporary keeping of animals for grooming purposes in return for a fee.

Building: Any structure having a roof, partial roof, or canopy supported by poles, columns, or walls used or intended to be used for the shelter or enclosure of persons, animals, or things regardless of the material of which it is constructed.

Building height: the vertical distance between the highest point of the roof and the average grade of the ground adjoining the building.

Building Permit An official document or certificate issued by the Code Enforcement Office that authorizes performance of a specified activity. Any owner or authorized agent who intends to

construct, enlarge, alter, repair, move, demolish or change the use of a building or structure shall first make application to the Building Official and obtain the required permit(s).

Bulk Oil, Gasoline Storage, Cement Mixing, & General Construction Facilities: Bulk Fuel Oil, Gasoline Storage, Cement Mixing General Construction Tanks, Trucks, equipment and facilities. Notwithstanding any provision of this ordinance to the contrary, all of the above uses must be on parcels not less than five (5) acres in size. (Amended 6/5/93)

Business services: a commercial activity which renders an actual service such as cleaning, repairing or consulting and which involves no retail sales upon the premises.

Camp: A structure equipped and used for seasonal and/or recreational living quarters and being complete with adequate sanitary facilities conforming to the State Plumbing Code.

Camping, wilderness/primitive: camping in a forest with no developed facilities and leaving the site with little or no evidence of human visitation. Lands designated for primitive camping are usually in areas with difficult access. No facilities are provided. Primitive camping is a remote camping experience in a forested setting, with evidence of human activity ranging from recreational trails to past logging activity, to remnants of the land's past use.

Campground: A public or private enterprise which for a fee provides overnight camping facilities in cottages or shelters or space for tents or recreational vehicles. It also provides restroom, washroom and shower facilities; and usually provide recreational areas and activities. camping supplies; outdoor campfire and cooking facilities; etc.

Change of use: A switch to a different kind, type, or class of activity in the use of land or structures (for example, a retail store changing to a wholesale outlet--agricultural land put to use for residential structures) as opposed to a mere change in the size or intensity of given use or a change within a given type or class of activity (for example, a small store becoming a large store--a dairy farm which is now used for general farming or crop production).

Clearcutting: The felling of all trees in a continuous area at one time.

Clearing: The removal of naturally occurring objects, materials, trees or other vegetation.

Cluster development: A development controlled by a single developer on any size parcel of land which contemplates an imaginative more compact grouping of residential housing units. Cluster developments are usually undertaken in a manner that treats the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land including the creation of common open space, a reduction in the size of road and utility systems, and the retention of the natural characteristics of the land. Cluster development may not be used, however, to increase the overall density of development

Code Enforcement Officer: A person acting on the direction of the Town Administrator and pursuant to the provisions of this ordinance charged with issuing building and occupancy permits and enforcing the provisions of this ordinance and State law by the issuance of code enforcement orders to any person violating the ordinance. The term Code Enforcement Officer shall include Building Inspector, Building Official, Plumbing Inspector and Health officer.

Commercial animal husbandry: The keeping of more than 5 animals for re-sale of products.

Commercial breeding: Breeding, raising, and care of dogs, cats, mink, rabbits, and other domesticated or fur bearing animals for commercial purposes. (Amended 6/5/93)

Commercial use: The use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusively of rental or residential buildings and/or dwelling units. (Amended 5/13/04)

Common space: An area within a planned unit development or cluster development intended for the use and enjoyment of subsequent owners of property within the development. It is created by the grouping of structures in one portion of the total area to be retained in its natural state or developed for wood lot, gardening, or outdoor recreational uses.

Conditional use: A permitted use, but one which by its nature in a particular zoning district requires case by case determination by the Planning Board under Site plan Review to assure compliance with the provisions of this ordinance and avoidance of harm to public or private interests.

Conforming use or structure: A use or structure which is in existence at the time a zoning ordinance is enacted or which is built or undertaken after enactment, which complies in all respects with the provisions of the enacted zoning ordinance.

Contractor business: A business that provides building construction or similar services on a contract basis at a client's site and in which all material or equipment storage at the place of business is contained within a building or other screened area.
Cul-de-sac: A type of non-through street; one that does not connect with other segments of a public and/or private road network but ends in a connected circle.

Day care facility: A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 3 or more children under 13 years of age. The term "Day Care Facility" does not include any facility operated as a nursery school, a home day care provider, a summer camp established solely for recreational and educational purposes, or a formal public or private school. (Amended 4/27/02)

De novo hearing: It affords an appellant the opportunity to offer additional evidence during the appeal even if it is information that was not presented to the Planning Board. This becomes essential in cases where the administrative record of the local proceedings is sparse.

Developed area: "Disturbed area" (see definition below) excluding areas that are returned to a condition with the same drainage patterns and vegetative cover type that existed prior to the disturbance. An area is not considered developed if planting to restore the previous cover type and restoration of any altered drainage patterns occur within one calendar year of the disturbance. (Amended 8/23/11 by Selectmen vote)

Developer: Any person, including a governmental body undertaking to use or develop any land or water area.

Development: The carrying out of any building or mineral extractive activity or the making of any material change in the use or appearance of any structure or land and the subdividing of land, including: The reconstruction, alteration of the size, or any other material change in the external appearance of a structure or land; a change in the intensity of use of land such as an increase in the number of dwellings units, offices, or businesses in a structure or on land; alteration of a shore, bank, or the bottom of any waterbody; commencement of drilling, mining, or excavation of materials; demolition of a structure; clearing of land in the context of site preparation; deposit of refuse or fill material on a parcel of land.

Disturbed area: All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for or construction of a project. Disturbed area does not include routine maintenance, but does include re-development and new impervious area. (Amended 8/23/11 by Selectmen vote)

Drive-in facility: A store, eating establishment, or business institution which by design and physical arrangement primarily serves its patrons in parked automobiles or through an order/pickup window.

Dwelling: One or more rooms arranged for complete, independent housekeeping purposes with space for eating, living, and sleeping; facilities for cooking; and provisions for sanitation. (2009 NFPA 101/3.3.61)

Family: One or more persons occupying a dwelling and living as a single housekeeping unit. Such unit shall not exceed five persons not related by blood, adoption, or marriage.

Farming: A tract of land used for growing or cultivation of produce or crops, the propagation or raising of livestock or poultry, tree farms similar to Christmas trees. Farming does not include timber harvesting, growing and/or processing and/or selling marijuana.

Farm, animal: A parcel of land that contains at least the following land area used for the keeping of horses, mules, cows, goats, sheep, hogs and similar sized animals for the domestic use of the residents of the parcel, provided that adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger.

(1) Cattle: one bovine animal unit per acre of cleared hay-pasture.
(2) Horse: 2 animal units per acre of cleared hay-pasture land.
(3) Sheep: three animal units per acre of cleared hay-pasture land.
(4) Swine: two animal units per acre of cleared land.
(5) Animal farms not mentioned here will be determined by the municipal officer charged with enforcement and shall conform to the lot size for similar sized animals.

Farmers market: The outdoor display and sale of locally grown farm products which may involve one or more vendors displaying and selling products.

Farm stand: The seasonal, incidental sale of fresh fruits, vegetable, nursery plants and farm products which were produced on the premises or other land in the same control as the farm stand.

Footprint: The entire area of ground covered by the structure(s) on a premises, including cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

Foundation: Any base material that provides frost protection for habitable space.

Foundation Certification: Any base for a habitable structure requires a licensed surveyor to locate and produce a document verifying setbacks and location on said lot.

Flea market: A shop or open market customarily involving table or space rented to vendors selling antiques, used and new household goods, curios, and the like. For the purpose of this ordinance, any Yard/Garage Sales conducted for more than 3 days during a week's time period shall be defined as a Flea Market. "Flea Markets" as distinguished from Yard & Garage Sales, must require a Conditional Use Permit in all districts. (Amended 6/5/93)

Frontage: That portion of a lot or parcel of land abutting a public or private right-of-way or a waterbody.

Front yard setback: The minimum horizontal distance from the edge of a public or private right-of-way to the nearest part of a structure. (Amended 6/4/94)

Gas station, service station: Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in motor vehicles.

Great pond: Any inland body of water which in a natural state has a surface area in excess of ten acres.

Greenbelt: For the purpose of these regulations, a "greenbelt" is defined as a strip of land vegetated with grass or other plant life maintained as open green space. Removal of dead trees, mowing of grass and pruning of other vegetation, to the extent appropriate for routine maintenance, are the only cutting permitted within a greenbelt area. The only construction permitted within a greenbelt is that necessarily related to the exercise or use of a utility easement and/or that necessarily related to a driveway. If another means of access to the property other than through the greenbelt is available, construction related to utility easements shall be the only permissible construction within the greenbelt boundaries. (Amended 4/27/02)

Hammerhead turn-out: A gravel area built entirely outside of the right of way a minimum of 75' sq. for the purpose of vehicular maneuvering. The area of the right of way adjacent to the hammerhead turn must consist of a 75' x 50' gravel area. The right of way must extend 75' beyond the hammerhead turn with a graveled area of 75' x 35'. The right- of- way with a hammerhead turn shall be built in compliance with the sketch to be provided by the Code Enforcement Office. (Amended 3/11/00)

Hazardous material: Any gaseous, liquid or solid materials or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection. (Amended 8/23/11 by Selectmen vote)

Hazardous waste: A waste substance or material, in any physical state, designated hazardous by the Maine Board of Environmental Protection pursuant to Title 38, M.R.S.A. Chapter 13. It does not include waste resulting from normal household activities.
Home day care provider: A person who receives some type of payment to provide childcare in his or her own home on a regular basis, for 3 to 12 children under 13 years old, who are not the provider's own children. (Amended 4/27/02)

Home occupation: A home occupation must conform to the standards set forth in Section 4.05 of this ordinance. (Amended 3/8/97) An occupation or profession, carried on for monetary gain, which is carried on in a dwelling unit or structure accessory to a dwelling unit, is clearly incidental and secondary to the use of the dwelling unit for residential purposes, does not employ more than three persons who are not related, by blood or marriage to the business owner, or who does not reside on the premises. Home occupation shall not include motor vehicle related sales and service operations. No more than twenty five percent of the floor space in any residential building may be given over to a home occupation or office.

Horticultural activities: Activities including but not limited to Nurseries, Greenhouses, and Commercial Sale of such products. (Amended 6/5/93)

Impervious area: The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce permeability. (Amended 8/23/11 by Selectmen vote)

Indoor recreation: Recreational Facilities including Bowling Alleys, Skating Rinks, Swimming Pools, etc. (Amended 6/5/93)

Industrial The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals. (Amended 5/13/04)

Intensive uses: Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle racetracks or ranges. (Amended 8/23/11 by Selectmen vote)

Junkyards: A lot or parcel of land and/or a structure or a part of either, used for the purchase, collection, storage, recycling, or sale of wastewater, rags, scrap metal, or other discarded goods, materials, machinery, or vehicles. Said areas must not be located within five hundred (500) ft. of any residence, camp, or water body and must be appropriately screened. (Amended 6/5/93)

Kennels: Any place, building, tract of land, abode, enclosure, or vehicle which, for compensation, provides food and shelter for dogs for purposes not primarily related to medical care, or engages in the breeding of more than two female dogs for the sale of their offspring.

Loading area: An obstructed area no part of which is located in or on any public or private right-of-way and the principal use of which is for the standing, loading, unloading, and maneuvering of vehicles.

Lot: A tract of land having frontage on a public or private right-of-way occupied or intended to be occupied by permitted use or structure and accessory uses and structures together with such open spaces, yards, parking areas, etc. as are required and recorded in the York County Registry of Deeds.

Marina: A facility on or adjacent to the water which is available for mooring or berthing of five or more vessels and with provisions for the following: boat storage, boat launching, mooring, and the sale of fuel, supplies and services for watercraft and their equipment and accessories.

Marsh: A periodically wet or continually flooded land area with the surface not deeply submerged, covered predominantly with sedges, cattails, rushes or other hydrophilic plants.

Manufactured housing unit: Structures, transportable in one or two sections, which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning, and electrical systems contained therein. (Amended 9/25/90)

Medical marijuana grow only facility: A facility that engages only in the growing and processing medical marijuana in accordance with State law, but does not dispense marijuana. Processing of medical marijuana may include, but is not limited to, the preparation of tinctures, ointments, and food products containing medical marijuana. Medical Marijuana Grow-Only facilities shall require a conditional use application as set forth in Article 2 and must be located on Route 5 or Route 202 in the General Purpose and Agriculture and Residential (AR) Zones. (Amended 2/22/11 by Selectmen vote)

Mining or mineral extraction: The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site. (Amended 8/23/11 by Selectmen vote)

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units. (Amended 9/25/90)

Mobile home: see Title 30-A, M.R.S.A.§ 4358.

Mobile Vendor: a motorized vehicle or pull behind trailer used for selling prepared foods, farm vegetables, flowers or other similar grown products, crafts.

Mobile Vending Food Truck Park: when 2 or more mobile vendors want to co-exist on the same parcel for a time period of no less than 1 day and no more than 180 days in any calendar year.

Modular home: see Title 30-A, M.R.S.A. §4358.

M.U.B.E.C. Maine Uniform Building and Energy Code.

Multi-family dwelling unit: A dwelling designed for occupancy by two or more families.

Legal nonconforming structure or use : A legal structure or use including accessory uses or structures already in existence or begun before the date of enactment of a zoning ordinance or amendment, which structure or use does not comply with the existing provisions of the zoning ordinance or amendment.

Nuisance: Any property or use existing in violation of any zoning ordinance that creates unreasonable interference with the right, common to the general public or unreasonable interference with a particular person's use and enjoyment of his or her land. Collection of trash, garbage, plastics, metals, un-registered boats and/or un-registered recreational vehicles, fences that are constructed with material that is not of typical or standard design or that are not maintained in good repair or appearance.

Nutrient Management Plan (NMP): A plan developed in accordance with 7MRS Chapter 747, which identifies all sources of plant nutrients generated or utilized on a farm and specifies appropriate application rates, setbacks from sensitive features and application methods, as defined by the Maine Department of Agriculture, Conservation, and Forestry.

Occupancy permit: A certificate to be secured from the Code Enforcement Officer prior to commencing actual use of a land area or structure evidencing that permitted activities specified in a building permit have been completed in accordance with the provisions of this ordinance.

Office/office complex: A building (new or existing) wherein services are performed involving predominantly administrative professional or clerical operations. Complex may consist of one or more professional offices. Examples of professional office include but are not limited to Banks, Insurance Brokers, Real Estate Brokers, Lawyers, Accountants, Doctors, and Dentists. (Amended 6/4/94)

Parking area: An unobstructed area consisting of one or more 200 sq. ft. parking spaces no part of which is located in or on any public or private right-of-way and the principal use of which is the temporary storing and maneuvering of vehicles.

Pesticide, herbicide, petroleum bulk storage: Storage of herbicides and/or pesticides and/or petroleum intended for sale or distribution.

"PUD", Planned Unit Development: In the context of this ordinance a development controlled by a single developer on a tract ten (10) acres or larger in size.

Primary uses and structures: Permitted uses and structures which in each zoning districts are recognized as most highly compatible with existing development, the capacity of the land area to support further development, and the objectives of the comprehensive plan and this ordinance. **(Note: some primary uses may also require site plan and/or subdivision review).**

Principal Structure: Any building or structure in which the main use of the premises takes place.

Professional Office: A structure or space which houses the business office of a person or persons who supply a professional service other than a business service, financial service, or personal service, as defined in this ordinance.

Processing Facilities Related to Agriculture or Wild Game: Any structure, machine, device or system, or combination thereof, designed and operated for the purpose of making food, animal feed, feed supplement, or furs from animal carcasses or parts, as defined by the Maine Department of Agriculture, Conservation, and Forestry (DACF) and meeting standards as established by DACF.

Public facility: A building owned, operated or funded in whole or in part by the Town of Waterboro which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations. (Amended 6/5/93)

Public utility: Utility or Communications poles, towers, lines, and unmanned substations, etc. (Amended 6/5/93)

Recreational vehicle or camper: A vehicle, or an attachment to a vehicle designed to be towed and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer and motor home, RV. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be legally registered with the State Division of Motor Vehicles.

Resource extraction: Extraction of rock, sand and gravel.

Restaurant, Lounge & Cafes: A place, the primary use of which is to prepare and serve food and beverages to the public for compensation, in a form ready for consumption within the premises.

Restaurants, Lounges & Cafes I: Restaurants, Lounges, Cafes with less than one thousand (1,000) sq. ft. of customer service area.

Restaurants, Lounges & Cafes II: Restaurants, Lounges, Cafes with more than one thousand (1,000) sq. ft. of customer service area.

Retail shop: A store or shop engaged in the sale of commodities or goods or a service to individual customers for personal use. Marijuana sales and/or distribution and/or production and/or use is not included in this definition.

Retail & Service Stores I: All types of Retail Shops and Stores with less than one thousand (1,000) sq. ft. of Store area.

Retail & Service Stores II: All types of retail and service stores (Repair Shops Barbers, Beauticians, Cleaners, etc.) with more than one thousand (1,000) sq. ft. of Store area.

Road or roadway: A public or private right-of-way intended to be used for the passage of persons and vehicles.

Seasonal Use: A use which is undertaken and naturally associated with a given time of the year as opposed to a use capable of being and usually undertaken on a year-round basis.

Setback: The minimum horizontal distance from a lot line, or the side of a right-of-way easement or deeded right-of-way (see Section 3.03) to the nearest point of a structure. (Amended 3/11/00)

Signs: Any words, letters, figures, numerals, phrases, sentences, emblems, designs, names, trade names or marks, affixed to, painted, or carved directly or indirectly upon a building, structure, or other material for purposes of informing or attracting the attention of the public.

Solar Array: A solar panel, or photo-voltaic module, is an assembly of photo-voltaic cells mounted in a framework for installation. Solar panels use sunlight as a source of energy and generate direct current electricity. A collection of PV modules is called a PV Panel, and a system of Panels is an Array.

Solid waste: Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse. (Amended 8/23/11 by Selectmen vote)

Special or unique structure: A structure (such as an electric transmission line tower) or part of a structure (such as a church spire) which is allowed to exceed the otherwise applicable height limitations of this ordinance in situations where the added height is necessary, reasonable, and will not harm the public. Increased structure height should be offset by requiring additional setback from all lot lines.

Structure: A man- made construction or assemblage of materials having a temporary or permanent location on ground or water such as, but not limited to, buildings, towers, masts, poles, booms, signs, sheds, carports, tents, equipment and machinery (including mobile homes and recreational vehicles when stationery). Tents intended for sleeping should not be considered a structure and therefore do not have to meet setback requirements. (Amended 6/16/98)

Substantial work: (actual construction) The point at which the planning and site preparation phase of a project gives way to actual construction.

Temporary use or structure: A use or structure not permitted by this ordinance but allowed to be undertaken for brief periods of time.

Timber harvesting: The cutting, trimming, stacking and removal of trees from their growing site including the operation of cutting and skidding equipment.

Utilities: Include gas, electricity and water supply systems; radio, television, telephone and other communications systems; bus, truck and fuel distribution systems; solid and wastewater disposal systems. Such systems include but not limited to lines, cables, poles, towers, pipes, drains, sewers, treatment plants, hydrants, signals, antennas, distribution facilities, substations, offices, buildings, vehicles, etc.

Utility Corridor: Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy.

Variance: A departure from the literal or strict application of the dimensional requirements of this ordinance which may be granted in circumstances where undue hardship would otherwise result, but only if the requirements of 30-A, M.R.S.A.§4353.

Wellhead: The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well. (Amended 8/23/11 by Selectmen vote)

Wellhead Protection District: A zone, consisting of 2 districts, delineated according to Article 3 Section 3.01 and 3.02 of this ordinance. (Amended 8/23/11 by Selectmen vote)

Wild Game: animals not domesticated, but found in the wild in their natural habitat, and harvested for food, furs, recreation, or trophies.

Yard and Garage Sale: The occasional selling, offering for sale, trading, swapping, or otherwise bartering used or second-hand household goods from any residential premises. There shall be no limit as to the number of Yard and Garage Sales a person has during the year. Yard and Garage sales can be conducted on a residential premise for no more than 3 days during a week time period. At no time shall the proposed Yard and Garage Sale inhibit the flow of traffic. Persons holding a sale must provide sufficient parking so that all vehicles attracted to the sale are not parked within the right-of-way. (Amended 6/5/93)

Section 12.03 Reserved