Town of North Berwick, Maine

Zoning Ordinance

Revised April 2, 2016

A VIEW OF DEBTONE FARM

NOTICE

This is to advise all persons that the Town of North Berwick Maine has adopted the Maine Uniform Building and Energy Code, NEC Electrical Code and the Life Safety Code, NFPA 101. The more stringent of these codes, plus all subsequent revisions of that code, plus the Maine State Plumbing Code and all other state laws and regulations, shall be met.

NORTH BERWICK ZONING ORDINANCE

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Revised by Town Vote:

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May 18, 1996
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April 12, 2003
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ARTICLE 1 - GENERAL

1.1 Short Title

This ordinance shall be known and may be cited as the "Zoning Ordinance of North Berwick, Maine" and will be referred to herein as the "Ordinance."

1.2 Purposes

a. To promote the general welfare of the town;

b. To establish a fair and reasonable set of standards for evaluating each development proposal impartially, and on its own merits;

c. To provide local protection from those particular nuisances which are not governed by State law or regulations;

d. To help preserve the peaceful rural surroundings which make North Berwick an enjoyable place to live;

e. To balance the right of land-owners to use their land with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off, and other nuisances;

f. To encourage new development to be integrated harmoniously into the community;

g. To establish a local appeals system whereby aggrieved parties may appeal decisions to the Town's Zoning Board of Appeals under this ordinance;

h. To protect property values;

i. To reduce the adverse off-site impact of development thereby increasing the cost of municipal facilities, maintenance and improvement; and

j. To accomplish the above objectives with the least possible regulation.

1.3 Basic Requirements

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in North Berwick shall be in conformity with the provisions of the Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land or water area is located.

1.4 NON-CONFORMANCE

1.4.1 Purposes

The intent of the zoning ordinance is to regulate non-conforming lots, uses and structures. When non-conforming uses fall into disuse, the intent of these regulations is not to allow them to be reestablished after a 12 month period of dormancy. These regulations are designed for the betterment of the community and for the improvement of property values. The ordinance intends to be realistic so that:

a. non-conforming vacant lots of record can be reasonably maintained or repaired;

b. non-conforming uses can continue to be changed to other less non-conforming or to conforming uses.

1.4.2 Reserved for Future Use

1.4.3 General

a. **Continuance, Enlargement, Reconstruction**: Any use of land, or any building, structure, or parts thereof, legally existing at the time of the adoption of this Ordinance, or at any time a Zone is changed by amendment hereafter, which does not conform to the requirements of this Ordinance or its amendments, may continue, and may not be extended, reconstructed, enlarged or structurally altered except as specified below.

b. **Transfer of Ownership**: Ownership of lots, structures and uses that remain lawful but become non-conforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the non-conforming structure or lot, subject to the provisions of this Ordinance.

c. **Restoration or Replacement**: This Ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernization that do not involve expansion of the non-conforming use or structure and where damage is less than 20% of the value of the entire structure; and such other changes in a non-conforming use or structure as Federal, State or Local building and safety codes may require.

d. **Major Damage** : Any non-conforming use or structure that is destroyed by any cause other than the willful act of the owner or his agent, or that sustains damage that exceeds 20% of the value of the entire structure by causes other than the willful act of the owner or his agent, may be restored or reconstructed within one (1) year of the date of said damage or destruction, provided that:

(1) any non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Plumbing Code, and is within the existing lines of non- conformity; and

(2) any non-conforming use shall not be expanded in area.

e. Nothing in this section shall prevent the demolition of the remains of any building so damaged or destroyed.

1.4.4 Non-Conforming Uses

a. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

b. A Structure Non-Conforming As To Use: A building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated.

c. Internal Expansion: A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use before the adoption of the Ordinance, or of any amendment making such use non-conforming.

d. Expansions Within Shoreland Zone: Expansions of non- conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structure as permitted in Section 1.4.5 paragraph b(1).

e. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Planning Board.

f. Change of Use Within Shoreland Zones: An existing non- conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 1.4.5 paragraph (h).

g. Factors for the Determination in Change of Use: The determination of appropriateness for changing from one non-conforming use to another non-conforming use shall include consideration of the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or byproducts, fumes, odors, or nuisances likely to result from such changes of use. The performance standards in Article 5 of this Ordinance shall apply to such requests to establish new non-conforming uses.

h. Use of Land: A non-conforming use of land may not be extended into any part of the remainder of a parcel of land.

i. Discontinuance of Non-conforming Land and Structures: A non- conforming use of land that is incidental to or accessory to a non-conforming use of a building shall be discontinued at the same time the non-conforming use of the building is discontinued.

j. Non-conforming Earth Removal Operations: In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required set-back lines.

1.4.5 **Non-Conforming Structures**: (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

a. Enlargements Controlled: A non-conforming structure shall not be added to or enlarged unless:

(1) Such addition or enlargement conforms to all the regulations now in effect for the zone in which it is located;

(2) Such addition or enlargement does not increase the non- conformity of the structure; or

(3) A variance is obtained from the Board of Appeals.

(4) The addition of an open patio with no structures elevated above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a non-conforming structure. But the addition of a deck does constitute the expansion of a non-conforming structure and therefore the deck shall meet all the dimensional requirements of the Ordinance.

(5) The placing of a foundation below a lawfully existing non-conforming structure shall not constitute the expansion of the structure, so long as additional bedrooms are not located in the basement and the first floor space of the structure is not increased.

(6) Construction or expansion of a foundation under an existing dwelling that expands habitable space shall be considered an expansion and shall be subject to the State of Maine subsurface waste water rules requiring new soils documentation, if within 250 feet of the shoreline.

b. Enlargement Controlled in the Shoreland Zones:

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

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

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

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

iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 1.4.5(b)(1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 1.4.5(g) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

(2) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in Section 1.4.5(b)(1)(a)(iii) and Section 1.4.5(b)(1)(a)(iv) above, may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

(a) The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland.

(b) A well-distributed stand of trees and other natural vegetation as defined in Section 5.2.17(n)(2)(b), extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property.

If a well-distributed stand of trees and other vegetation meeting the requirements of Section 5.2.17(n)(2)(b) is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or its designee, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet, horizontal distance, of the shoreline or tributary stream.

(c)Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.

(d)A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.

(i)Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.

(ii)Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland, Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

(3) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50 foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

(4) Filing and reporting requirements. Written plans required pursuant to Section 1.4.5(b)(1)(d) must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.

c. Revival of Conforming Use: Conforming use of the structure may be revived at any time.

d. Lack of Required Parking of Loading Space: A building or structure that is non-conforming as to the requirements for off- street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure.

e. Manufactured Housing: Manufactured homes that fail to meet the standards set forth in Section 5.2.12(c), which were lawfully established before the effective date of this Ordinance, shall be considered lawfully non-conforming and may be continued; may be maintained, repaired, improved and expanded; and may be moved to a different location on the same lot or parcel of land, provided that it meets all the setback requirements of this Ordinance after being moved, but may not be moved to another lot or parcel in the Town. Non-conforming manufactured housing may not be replaced by other non-conforming manufactured housing except that manufactured housing which is non-conforming because it is less than the minimum width required by the district in which it is located or because it fails to meet the standards in Section 5.2.12(c) may be replaced by manufactured housing that is at least 14 feet wide and that meets the standards in section 5.2.12(c).

f. Relocation Within Shoreland Zones: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine sub-surface waste water disposal rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

(1) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish this relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

g. Reconstruction or Replacement Within the Shoreland Zones: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 1.4.5 paragraph b(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1.4.5 paragraph b(1)above.

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

(2) In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 1.4.5 (f) above, the physical condition and type of foundation present, if any.

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

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

i. Change of Use of Historic Mill Buildings in the General Development Sub-District. Any 19th century mill building, designated as "historic" under a North Berwick Historic District Ordinance that is located in any part closer than 25 feet to the high water line within the Shoreland - General Development Sub- District shall be treated by the Planning Board with respect to any changes in non-conforming uses as follows:

(1) If all the waste water from the building is collected and treated by the municipal waste water system, changes in non-conforming uses may be permitted as outlined in subsection (2) below:

(2) Because in its former use as a manufacturing mill there were a large number of people working within the mill, conversion of the mill building to either retail, office, residential uses, or a mix of the said uses, shall be deemed by the Planning Board as not expanding the non-conforming use of the mill building. Except, any new residential use of the mill building after the effective date of this sub- section shall only be permitted if each dwelling-unit contains at least 400 square feet of floor space.

(3) Sub-section 1.4.5 (i) shall prevail over any conflicting requirements of Article 1.4.

1.4.6 <u>Non-Conforming Lots</u>

a. **Vacant Lots**: A non-conforming vacant lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of yard or other requirements not involving area or width shall be obtained only by action of the Zoning Board of Appeals.

b. **Built Lots**: A non-conforming lot that was built upon before the enactment or subsequent amendment of this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this Ordinance a variance must be obtained from the Zoning Board of Appeals.

c. **Contiguous Built Lots**: If two or more contiguous lots or parcels are in single or joint ownership of record before 10 March 1984, and parts of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size and the Maine Subsurface Waste Water Disposal Rules are complied with.

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

d. **Contiguous Lots-Vacant or Partially Built**: If two or more contiguous lots or parcels are in single or joint ownership of record as of 10 March 1984 and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if ~~two~~ one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet all dimensional standards, except where rights are vested.

1.4.7 Vested Rights

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for building permit, or an application for required state permits and approvals. Such rights usually arise when actual construction has begun, or, in the case of pending application commences. Such construction must be legal at the time it is commenced and the owner must have and be in compliance with all validly issued permits, both state and local.

1.4.8 Restoration of Unsafe Property

Nothing in this Ordinance shall prevent the strengthening or restoration to safe condition any part of any building or structure declared unsafe by the Building Inspector or Code Enforcement Officer.

1.5 GENERAL

1.5.1 Legal Authority

Adoption of this ordinance is pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001, the Zoning powers described in Title 30-A, M.R.S.A., Section 4503, and Title 30-A M.R.S.A., Section 4358, Regulation of Manufactured Housing. The Shoreland Zoning sections of this ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

1.5.2 Effective Date

a. Effective date of Ordinance and Ordinance Amendments: This Ordinance shall be known as the "Zoning Ordinance of North Berwick Maine" adopted and effective by vote of the Town meeting on 11 March 1978 and subsequent amendments adopted pursuant to this ordinance. The Shoreland Zoning Sections of this Ordinance shall not be effective unless approved by the Commissioner of the Department of Environmental Protection.

b. Repeal of Municipal Timber Harvesting Regulation: The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-A(5), the following provisions of this ordinance are repealed:

- Section 5.2.17(m) in its entirety; and
- Section 3.2 Definitions, the definitions of "forest management activities" and "residual basal area".

NOTE: The statutory date established under 38 M.R.S.A. section 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards." 38 M.R.S.A. section 438-A(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards." The effective date was January 1, 2013.

1.5.3 Amendments

This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town.

If an amendment is by petition, all proposed amendments shall be presented initially to the Selectmen who shall forward them to the Planning Board which shall within thirty (30) days review the proposal and forward a recommendation and the Planning Board's reasoning respecting the proposed amendment to the Selectmen. All proposed amendments shall be forwarded to the Town's Counsel who shall within thirty (30) days review the proposed amendment putting it in proper form and indicating the legal effect of the proposed amendment. If the Town's Counsel indicates that the proposed amendment is legally impermissible, the Selectmen shall notify the author of the proposed amendment of that fact and no further action respecting that proposed amendment need be taken. In all other cases the Planning Board, once notified by the Selectmen that the Town Counsel's review is complete, shall within forty-five (45) days of initial receipt of a proposed amendment schedule a public hearing.

The Planning Board shall conduct a public hearing on any proposed amendment. After the Public Hearing, the proposed amendment shall be presented to voters at the Town Meeting so long as all requirements of 30-A MRSA section 4352 and the printing requirements for the Town Meeting have been met. If these requirements have not been met in time for an impending Town Meeting, the proposed amendment shall be scheduled for action at the next Town Meeting.

1.5.4 Validity and Severability

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

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, code or statute, the more restrictive requirements shall apply.

1.5.5 Repetitive Petitions

No proposed change in this Ordinance that has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within two years after the date of such unfavorable action, unless adoption of the proposed change is recommended by the Planning Board.

1.5.6. Fee Schedule

The Board of Selectmen shall by Order adopt a schedule of fees called for in this Ordinance. Prior to the adoption or revision of the fee schedule, the Board of Selectmen shall hold two public hearings. Notice of the public hearings shall be published in a newspaper of general circulation in the Town at least twice. The first notice shall be published no more than 30 days and no less than seven days in advance of the first hearing and the second notice shall be published no less than seven days in advance of the second hearing. A copy of the current fee schedule shall be kept n the office of the Town Clerk and made available to the public.

1.5.7. Substitution Clause

Notwithstanding any other provision of this Ordinance, any non-commercial copy may be substituted, in whole or in part, for any commercial copy on any lawfully existing sign or any sign permitted by this Ordinance. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech.

ARTICLE 2 - ESTABLISHMENT OF DISTRICTS

2.1 Zoning Districts

To implement the provisions of this Ordinance, the Town of North Berwick is divided into the following Districts:

a. Resource Protection District
b. Shoreland Limited Residential District
c. Shoreland - Stream Protection District
d. Shoreland - General Development I District
e. Village Center Overlay District
f. Village A District
g. Village B District
h. Village C Overlay District
i. Residential District 1
j. Residential District 2
k. Farm and Forest District
l. Commercial II District
m. Industrial District
n. Limited Commercial District
o. Aquifer Protection Zone A
p. Aquifer Protection Zone B

2.2 Location of Districts

Districts are located and bounded as shown on an Official Zoning Map entitled "Zoning Map of North Berwick, Maine", dated April 2001, and any other official zoning maps and overlays showing zoning boundaries. One copy of each official zoning map shall be signed by the Town Clerk and Planning Board Chair and filed in the Office of the Town Clerk. The Official Map shall be signed by the Town Clerk and Chairman of the Planning Board at the time of adoption or amendment and filed in the Town Clerk's Office. Additional copies of official zoning maps and overlays may be seen in the Selectmen's office.

2.3 Uncertainty of Boundary Location

a. Boundaries indicated as approximately following or being offset from the center lines of streets, highways, or alleys shall be construed to follow or be off-set from such center lines:

b. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines;

c. Boundaries indicated as approximately following town limits shall be construed as following town limits;

d. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or bodies of water shall be construed to follow such center lines;

e. Boundaries indicated as being parallel to or extensions of features indicated in subsections (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and

f. Where the physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsection (a) through (e) above, the Board of Appeals shall interpret the District boundaries using the tax maps annotated with the zoning districts.

g. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Residential or General Development I Districts need not be included within the Resource Protection District.

(1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

(2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

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

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

NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

(6) all land within 250 feet of each side of all watercourses designated on the North Berwick official zoning map or Shoreland Zoning Map.

(7) all land above the 700 foot elevation contour on Bauneg Beg Hill, and other land specifically shown on a map designated as the Town of North Berwick Shoreland Zoning Map, which is a supplement to the zoning map of the Town of North Berwick, Maine.

h. The Shoreland-General Development I District shall include the land 75 feet on either side of the normal high water line along the Great Works and Neoutaquet Rivers, horizontal distance, as mapped on the most recently adopted official zoning map that includes Shoreland Overlay Districts of North Berwick.

i. The Shoreland- Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development I District. Limited Residential District shall include the land within two hundred fifty (250) feet, horizontal distance, of the normal high water line of Bauneg Beg Pond, including associated wetlands along the shoreline. If the 100 year flood plain extends further than 250 feet from the shoreline, then the Shoreland-Limited Residential District shall extend as far as the 100 year flood plain.

j. The Stream Protection District includes all land areas within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

2.4 Division of Lots by District Boundaries

2.4.1 Zoning District Boundaries: Where a Zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions of paragraph 2.4.2 below.

2.4.2 Extension of Use: Extension of use shall be considered a Conditional Use, subject to approval of the Planning Board and in accordance with the criteria set forth in Section 6.7.6 Factors Applicable to Conditional Use.

ARTICLE 3 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.1 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive the words "used" or occupied" include the words "intended", "designed", or "arranged to be used or occupied"; the word "building" includes the word "structure", and the word "dwelling" includes the word "residence"; the word "lot" includes the words "plot" or "parcel". In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

3.2 Definitions

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed.

Abutting Land: "abutting land" means real estate which shares a common boundary, or portion of a boundary, with land that is held in common ownership by an applicant to the Board when the abutting real estate is within 500 feet of the land being considered. Abutting land includes, but is not limited to, land separated by a road and within 500 feet of land that is held in common ownership with land being considered.

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

Affordable Housing: Means decent, safe and sanitary dwellings, apartments or other living accommodations for low-income and moderate- income households. The Maine State Housing Office of Community Development in consultation with the Maine State Housing Office shall define "affordable housing" by rule. Affordable housing includes, but is not limited to:

a. Government assisted housing;
b. Housing for low-income moderate-income families;
c. Manufactured housing;
d. Multifamily housing; and
e. Group and Foster Care facilities.

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

Agriculture: the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Alteration: any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

Amusement Center: any private commercial premise which is maintained or operated for the amusement, patronage, or recreation of the public, containing four (4) or more pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs or whether activated through remote control by the management.

Animal breeding and care: The keeping and raising of animals including but not limited to fowl, for any non-commercial use. This term shall not include Household pets.

Animal Husbandry: the keeping and raising of animals, including fowl, for sale or for any commercial use. This definition also includes kennels.

Apartment: see "Dwelling Unit", "Living Unit", "Multi-Family Dwelling".

Auto Repair Garage: An enclosed structure where minor automobile repair is conducted. Sale of parts specific to said repair is permitted, not including storage of vehicles and not including body, fender, frame straightening and repair. Total floor area shall not exceed 1500 s/f.

Auto Service Station: a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Automobile Graveyard: a yard, field or other open area used as a place of storage for 3 or more unregistered, unserviceable, discarded, worn- out or junked motor vehicles, including all vehicles which can not pass the State inspection test in their existing condition or are otherwise inoperable.

Automobile Sales: a yard, field or other open area used for the sale of more than four (4) vehicles in a twelve (12) month period. All vehicles owned and registered by that person for at least six (6) months are not included in this definition.

Basal Area: the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement: any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed and Breakfast: a State licensed facility offering three or more rooms for overnight stay to the general public. A full or continental breakfast is included however **no** evening meal is offered

Billboard: a sign, structure or surface which is available for advertising purposes for goods or services that are not sold, manufactured or distributed on or from the premises on which the sign is located (off-premise sign).

Boathouse: a non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.

Boat Launching Facility: a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bottle Club: an establishment where no alcoholic drinks are sold, but where members, guests or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership to the bottle club and/or for "set-ups".

Building: a structure for the support, shelter, or enclosure of persons, animals, goods, or property of any kind. Building shall not include shipping containers.

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

Business Enterprise: is an activity which is conducted primarily on the customer's or client's property by tradesmen/professionals, including but not limited to carpenters, plasterers, brick layers, electricians, plumbers, general excavators, builders, paving contractors, landscaping, snow plowing, commercial lawn care, catering, and by those involved in "Essential Services" as defined elsewhere in the Ordinance. Business Enterprise does not include personal services as defined in "Personal Services".

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

Canopy: the more or less continuous cover formed by tree crowns in a wooded area.

Category 3 survey: A survey done by a registered land surveyor, comparable to a mortgage loan inspection survey, which verifies that property boundaries can be located, and which accurately shows the location of all buildings. The survey is sufficiently detailed to show that all zoning requirements are met, and includes an examination of the current deed of the parcel.

Cellar: a portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

Channel: a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Club: any voluntary association of persons organized for social, religious, benevolent, recreational, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and not the general public; and not generally engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.

Code Enforcement Officer: a person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Commercial use: the use of lands, buildings, or structures, other than a "home occupation," the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Conditional Use: a use permitted only after review and approval by either the Planning Board or Code Enforcement Officer. A conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. These uses may be permitted if specific provisions of such Conditional Use is made in this Ordinance.

Conforming Use: a use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill drainage, and the like, shall be considered a part of construction.

Cultural Center: a Cultural Center is a place or location, the primary purpose of which is the display or presentation of artistic, scientific, historical, literary or other cultural exhibits and productions to the public. Cultural Centers may include such uses as theaters, playhouses, concert , performance art galleries, museums or libraries and may expect to accommodate large gatherings of people on a regular basis.

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

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

Dimensional requirements: numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

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

Disruption of shoreline integrity: the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

District: a specified portion of the municipality, delineated on the Official Zoning map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

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

Dwelling: any building or structure or portion thereof designed or used exclusively for residential purposes.

a. **Single-Family Dwelling**: shall mean any building or structure containing only one (1) dwelling unit for occupancy by not more than two (2) families.

b. **Two-Family Dwelling**: shall mean any building or structure containing only two (2) dwelling units, such buildings being designed exclusively for residential use and for occupancy by not more than two (2) families in each dwelling unit.

c. **Multi-Family Dwelling**: shall mean a building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by not more than (2) families in each dwelling unit.

Dwelling Unit: "Dwelling unit" means any part of a structure which, through sale lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units.

Earth: topsoil, sand, gravel, clay, peat, rock, or other minerals.

Earth Removal: any operation within any twelve (12) month period which removes more than twenty-five (25) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed. away from the extraction site.

Edge of Travel-Way: The painted fog line, if the fog line is not present the face of curbing, or edge of pavement.

Electric power transmission or distribution lines and related equipment: Such systems may include towers, poles, wires, cables, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. Notwithstanding the height limitations in this ordinance, the maximum height for transmission towers located within or adjacent to an existing transmission corridor is 110 feet.

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

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

Eutrophication: the process of nutrient enrichment of waterbodies.

Excavation: any breaking of the ground except common household gardening and ground care.

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

Expansion of use: the addition of weeks or months to a uses' operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Externally Illuminated Sign: A sign illuminated by a seperate light fixture that casts light directly on the face of the sign.

Family: one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Fast Food Restaurant: an establishment whose primary businesses is the sale of "fast food" for consumption on or off the premises. The term "fast food" shall be interpreted as food which is:

a. primarily intended for immediate consumption;

b. available upon a short waiting time; and

c. pre-packaged or presented in such a manner that it can be readily eaten off the premises where it is sold.

Filling: depositing or dumping any matter on or into the ground or water.

Flea-Market: the indoor or outdoor sale of new or used merchandise, customarily involving tables or space leased or rented to individual vendors. A flea market is a principal commercial use, and is differentiated from "yard sales" and "used merchandise sales" which are defined separately.

Flood: a temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Flood Plain: the lands adjacent to a waterbody which have been or may be covered by the regional flood.

Floodway: the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Flood Proofing: a combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures, and contents of buildings.

Floor area: the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Food and Drink:

a. **Eating Establishment**: a business which sells prepared food, and which does not serve alcoholic beverages. Depending on their character, they may also be considered to be "automobile-oriented businesses".

b. **Drinking Establishment**: a business or club where alcoholic beverages are consumed on the premises, such as a tavern.

c. **Eating and Drinking Establishment**: a business where food and alcoholic beverages are sold for consumption on the premises.

d. **Mobile Food Wagons**: a vehicle or trailer which is used for selling prepared foods which remains at any establishment for a time period of one hour or more.

e. **Restaurant**: an establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures to take out food or beverage for consumption outside the enclosed building.

Footing: the support upon which a foundation is built. Footing may also include the support upon which a house, garage, deck or other structure of comparable size or bulk is built when there is no foundation.

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

Forest Management Activities: timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction or creation of roads.

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

Freshwater Wetland: "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

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

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

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

Front Lot Line or Frontage: the linear distance of the line separating the lot from any publicly or privately maintained road or drive which is a commonly traveled thoroughfare open to the public, but not including private driveways.

Frontage, Shore: the horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline at normal high water elevation.

Functionally water-dependent uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that can not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

Grade: in relation to buildings, the average of the finished ground level at the center of each wall of a building.

Gravel Pit: a plot of land from which the sub-soil is removed for sale or for use on another parcel.

Great pond: any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Great pond classified GPA: any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover: small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area: the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a Structure: the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

High Water Elevation, Normal: along lakes, ponds and tidal waters, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; and along rivers and streams, the highest elevation of the bank of a channel at which the water has left a definite mark.

Home Occupation: an occupation which is carried on in a dwelling unit or structure accessory to a dwelling unit that is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Home occupations may include the selling of products raised or produced on the premises. This shall not permit the reselling of goods and products purchased or obtained elsewhere. Home occupations may be conducted from a single office which provides professional services located within the home.

Increase in nonconformity of a structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Industrial Complex: a building or group of buildings in which three or more different firms or businesses are located. This term shall also include "industrial parks".

In-Law: One or more persons who are related by blood or marriage.

In-Law Accessory Apartment: An apartment contained in or attached to a single-family dwelling or accessory structure which meets the standards of Article 5.2.20.

Internally Illuminated Sign: A sign illuminated directly or indirectly by a light fixture located within the sign structure. Internal illumination includes illumination designed to project light against the surface behind the sign lettering or graphic, commonly referred to as backlit channel lettering or halo lighting. This shall also include LED signs and neon signs.

Junkyard: a yard, field or other area exposed to the elements and used as a place of storage or deposition for:

a. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;

b. Discarded or scrap lumber;

c. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other ferrous or nonferrous material; and,

d. Garbage dumps, waste dumps and sanitary fills.

Kennels: the term "kennel" shall apply to three or more dogs owned singly or jointly and living on a single premise, for any purpose, including but not limited to breeding, hunting, show, training, hobby, trials or exhibition purposes. This definition shall not apply to dogs under the age of six months.

Kennels (Boarding): a boarding kennel means any place, building, tract of land, abode; or vehicle wherein or whereon privately owned dogs or other pets, or both, are kept for their owners in return for a fee, and to animal shelters for lost or stray dogs.

Lagoon: an artificial enlargement of a waterbody, primarily by means of dredging and excavation.

Large Scale Box Stores: Any retail business establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion or renovation of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

Livestock: Domesticated animals, reared in an agricultural setting for sustenance or labor. This term shall include poultry.

Lodging House: a building in which more than two but not more than five rooms are offered for overnight accommodation, with or without meals, for compensation. This definition includes boarding houses and tourist homes.

Lot: a parcel of land in single or joint ownership, described on a deed, plot plan, or similar legal document. Separate contiguous parcels, any one or all of which are non-conforming to the minimum land area or yard (setback) requirements of this Ordinance, shall be considered to become part of the single lot for the purpose of this ordinance, and the lot shall not thereafter be divided in such a way as to leave or create any lot area or yards not meeting the minimum requirements of this Ordinance. This provision shall not apply to situations where the contiguous lots all support principal structures, or where the contiguous lots have frontage onto different streets.

Lot area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Corner: a lot with at least two continuous sides abutting upon a street.

Lot Coverage: the percentage of the lot covered by all buildings.

Lot, Interior: any lot other than a corner lot.

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

a. **Front Lot Line**: on an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

b. **Rear Lot Line**: the lot line opposite the front line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front line of least dimension.

c. **Side Lot Line**: any lot line other than the front lot line or rear lot line.

Lot Width: the horizontal distance between the side lot lines, measured at the setback line.

Lot of Record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by City or County Officials.

Lot, Shorefront: any lot abutting a waterbody.

Lot, Through: any interior lot having frontages on two more or less parallel streets, or between a street and waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

Manufactured Housing: a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two type of manufactured housing are included. Those two types are:

a. Those units constructed after June 15, 1976 commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;

1. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Marina: a shorefront commercial facility with provisions for one or more of the following: boat storage, boat launching, or the sale of supplies and services for watercraft and their equipment and accessories.

Manufacturing: the making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing.

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

Mineral exploration: hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction: any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed. away from the extraction site.

Misplaced Structure: a structure built prior to May 18, 1996 which is found to be in violation of the setback requirements in effect at the time of construction.

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

Motel: a building or group of buildings designed for overnight accommodation of travelers. This definition includes hotels, tourist courts and motor lodges, but excludes lodging houses.

Multi-Family Dwelling: See Dwelling, c.

Native: indigenous to the local forests.

Neighborhood-Variety/Convenience Store: a store of less than 1,000 square feet of gross floor space intended to service the convenience of a residential neighborhood with a limited variety of foods, beverages and dry goods, but not limited to, basic foods, newspapers, emergency home repair articles and other household items.

Net Residential Acreage: the gross acreage excluding the area needed for streets or access, and the areas which are unsuitable for development.

Net Residential Density: the number of dwelling units per net residential acre.

Non-Conformance: the term "non-conformance" shall refer to aspects of a lot (area, width, frontage, coverage), a building (setbacks, height) or a land-use which do not conform with the applicable standards or requirements of the Ordinance. Non-conforming aspects are permitted only because they were in lawful existence prior to the adoption of the zoning ordinance.

Non-conforming use: use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Non-Conforming Structure: a structure that does not meet any one or more of the following dimensional requirements; set-backs, height, yard, and lot coverage. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Lots of Record: a single lot or record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, width, or depth requirements, of the District in which it is located.

Normal high-water line: that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. -

Nursery Schools: a house or other place in which a person or persons maintains or otherwise carries out, for consideration, a regular program which provides care for 3 or more children. This term includes day-care centers and also private kindergarten(s) approved by the Commissioner of Educational and Cultural Services.

Nursing Homes: any building in which three (3) of more aged, chronically ill, infirm or incurable persons are housed and furnished meals and nursing care for compensation.

Open Space Use: a use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

Parking Space: a minimum area of two hundred (200) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

Personal Service: is a service by any individual offering skills to the public, including, but not limited to home and office cleaning service, baby sitters, general laborer, solicitation of which is conducted strictly over the telephone, where no materials are stocked and sold, and where customers or clients are not expected to go to a home or office.

Permanent Sign: any work, name, identification, description, emblem, insignia, symbol, banner, pennant, trade flag, or representation which is affixed to, painted or displayed upon a building, structure, post or tree, and which is exposed, in whole or in part, to public view, and which is designed to convey a message relating to any object, product, place, activity, person, business, service, institution, facility, organization, entertainment or amusement available either on the lot where the sign appears or in some other location.

Pet Shop: a pet shop shall mean any place, building, tract of land, abode or vehicle wherein and whereon any dogs, cats, rodents, fish, reptiles, pet birds, exotic birds or exotic animals are offered for sale which are not bred by the vendor.

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

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

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

Pier: a structure built out into the water, with piles, for use as a landing place by watercraft.

Planned Unit Development: land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other and for other uses and improvements on the land. Development may be a single operation or programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

Pond: any inland body of water which has a surface area in excess of 10 acres, except where such body of water is man-made and in addition is completely surrounded by land held by a single owner, and except those privately-owned ponds which are held primarily as waterfowl and fish breeding areas for hunting and fishing.

Premises: one or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

Principle Building: the building in which the primary use of the lot is conducted.

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

Principal use: a use other than one which is wholly incidental or accessory to another use on the same premises.

Primary Use: the primary use to which the premises are devoted, and the main purpose for which the premises exists.

Private Drive or Way: a privately owned access way or right-of-way, not intended to be dedicated to the Town and providing frontage for no more than two dwelling units.

Private Road: a privately owned access way or right-of-way that does not meet any of the standards contained in the Street Design and Construction Standards Ordinance. These roads are nonconforming and provide frontage for more than two dwelling units and cannot be dedicated to the Town.

Professional Office: An office of professional practice of which licensure qualifications and standards are required for compliance with State Law.

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

Public Road or Way: any street, thoroughfare or highway which is maintained by any level of government for use by the general public.

Public Utility: any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Race Track: any area designated for or used by motor vehicles for the express purpose of racing competitions, whether organized on a commercial or non-profit ("club") basis.

Recreational Vehicles: a vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pick-up campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to the; building code or federal manufactured housing standards, the unit must remain with its tires on the ground, and must be road-worthy (ie. posses a current registration sticker from any state division of motor vehicles). A recreational vehicle shall not be occupied as a dwelling for more than 90 consecutive days, or more than 120 days in any calendar year.

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

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

Redemption Center: Facilities used primarily for the processing of bottles, cans and other containers returned for deposit.

Registered Cultivation Facility: A location at which marijuana is cultivated pursuant to 22 M.R.S.A. § 2428. The location is considered to be, and must abide by all ordinance provisions regarding, a Registered Cultivation Facility whether it is at the same location as it is associated Registered Dispensary or at a different location pursuant to 22 M.R.S.A. § 2428(2)(A)(3). A Registered Cultivation Facility is not considered an accessory use within the meaning of this Chapter.

Registered Dispensary: A registered as defined by 22 M.R.S.A. § 2422. No Application for Certification of Occupancy shall be approved for a nonprofit dispensary unless it has been issued a valid registration certified by the State pursuant to 22 M.R.S.A. § 2428(2) and meets all other State and local laws and regulations.

Regional Flood: the maximum known flood of a waterbody; either the 100 year frequency flood, where calculated, or the flood of record.

Relative: child, parent, grandparent, brother, sister, and such relationships resulting from adoption or remarriage (step-parent), step- child, step-brother, step-sister, etc.)

Residential dwelling unit: a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residential Use: The use of a lot for one or more dwellings.

Residual basal area: the average of the basal area of trees remaining on a harvested site.

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

Restaurant: an establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures to take out food or beverage for consumption outside the enclosed building.

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

River: a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

Road: a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by repeated passage of motorized vehicles.

Sanitary Landfill: an engineered method of disposing of solid wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, and covering them with soil each working day in a manner which protects the environment. By definition, no burning of solid waste occurs at a sanitary landfill.

Seasonal Trailer Park: any premises established for overnight use by recreational vehicles, and for which a fee is charged.

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

a. in the case of electric service:

1. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

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

b. in the case of telephone service:

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

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

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

Shipping Container: A fully enclosed container, typically assembled with steel or aluminum, used by the shipping industry for the transportation or storage of goods and materials, including without limitations, trailers and semi-trailers when their primary use is for storage at one location rather than for transportation.

Shopping Center: any concentration of retail stores or service establishments under one ownership or management containing 15,000 square feet or more of gross floor space and at least 65 parking spaces.

Shore frontage: the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shoreland zone: the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, within 250 feet of the upland edge of a freshwater wetland; or within one hundred (100) feet of the normal high-water line of a stream.

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

Sign: any work, name, identification, description, emblem, insignia, symbol, banner, pennant, trade flag, or representation which is affixed to, painted or displayed upon a building, structure, post or tree, or other outdoor surface and which is exposed in whole or in part, to public view, and which is designed to direct attention to the sign face or convey a message.

Sign (Flashing): a sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate the time and temperature shall not be considered as flashing signs.

Solid Waste Recycling: The collection, separation, recovery and sale or reuse, excluding incineration, of solid materials that would otherwise be discarded or disposed of as waste. This term does not include the processing or handling of construction and demolition debris, hazardous waste, biomedical waste, septic tank sludge or agricultural waste and does not include activities related to redemption centers.

Roof-Sign: a sign which is located above, or which projects above, the eaves line or the parapet wall of the building.

Skid Road or Skid Trail: a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash: the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Storage Yard: A Commercial establishment offering self-storage facilities or storage space.

Stream: a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river.

Structure: anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. Structure shall not include shipping containers.

Subdivision: "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 23, 1971. This definition applies whether the division in accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction of 3 or more dwelling units on a single previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

a. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividing are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least 5 years prior to the 2nd dividing occurs; or

2. The division of the tract or parcel is otherwise exempt under this subchapter.

b. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

c. A lot of 40 or more acres shall be counted as a lot.

d. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land unless the intent of that transfer is to avoid the objective of this section, does not create a lot or lots for the purposes of this definition.

e. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

f. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

g. For the purpose of this Ordinance, the term subdivision shall include such functional divisions of land as shopping center, industrial complexes, condominiums, apartment, mobile home parks, motels and campgrounds, where there are three or more units involved.

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

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

Supply Yard: a commercial establishment storing or offering for sale building supplies including but not limited to lumber, raw earthen materials, steel supplies, coal, heavy equipment, food and grain, and similar goods. The term does not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

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

Swamp: SEE Freshwater Wetland

Temporary Sign: a sign that is not permanently attached to a building, structure, or mounted in the ground and designed to be transported, or rolled by means of wheels. Temporary signs shall include signs that are manufactured to stand as an “A” or “T” frame when displayed and self supporting double paneled signs that are connected with panels which are not parallel. Temporary signs include banners and feather flag signs. Temporary sign shall also be known as a Portable Sign.

Timber Harvesting: the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction or agriculture. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 5.2.17 (n), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

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

Trailer Utility: a vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Traveled Edge: the fog line (white line) painted on a roadway or, if no fog line exists, the edge of the pavement of the roadway.

Tributary stream: means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Two-Family Dwelling: See Dwelling, b.

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

Use: the purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Used Merchandise Sales: this term refers to so-called "garage sale businesses", which may be described as the indoor or outdoor sale of used articles, conducted for more than five consecutive days or for more than two week-ends during the period May 1 through September 30. This term shall include extended yard sales, but shall not include flea markets or shops for second-hand clothing or second-hand books. Used merchandise sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking.

Variance:

a. a relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owning to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

b. As used in this Ordinance, a variance is authorized only for height, lot area, and size of structures or size or yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformity's in the Zoning District or uses in adjoining Zoning Districts.

Vegetation: all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Vehicle Sales: any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

Veterinary Animal Hospital or Clinic: a place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for the treatment, observation, and or recuperation. It may also include boarding that is incidental to the principal activity or use.

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

Water body: any great pond, river, or stream.

Wetlands associated with great ponds and rivers: wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

Wetland, Inland: A freshwater wetland.

Yard: the area of land on a lot not occupied by principal building.

Yard, Front: the area of land between the front lot line and nearest part of the principal building.

Yard, Side: the area of land between the side lot line and the nearest part of the principal building.

Yard, Rear: the area of land between the rear lot line and the nearest part of the principal building.

Yard Sale: the term "yard sale" shall include so-called garage sales, porch sales, tag sales, and the like. Unless they occur more than five consecutive days or for more than two weekends during the period 1 May through 30 September, they shall not be considered to be "used merchandise sales" as defined in this Ordinance and shall not require a permit. However, the sale of used articles, conducted for more than five consecutive days or for more than two weekends during the period 1 May through 30 September shall include extended yard sales, but not include flea markets or shops for second-hand clothing or second-hand books. "Used merchandise" sales shall require a permit, which shall be conditional upon the provision of adequate off-street parking as determined and issued by the Code Enforcement Officer.

ARTICLE 4 - DISTRICT REQUIREMENTS

4.1 Purpose

4.1.1 Resource Protection Overlay District

In the interest of wise land use, public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables and steep slopes:

a. To further the maintenance of safe and healthful conditions and the general welfare, and to protect spawning grounds and other wildlife habitat;

b. To encourage open space uses such as forestry, agriculture and recreation;

c. To control the development of structures and land uses on naturally occurring wetlands which would contribute to pollution of surface water and groundwater by sewage;

d. To prevent the destruction of natural wetlands which provide flood protection and storm water storage, recharge of groundwater supply, and augmentation of stream flow during dry periods;

e. To prevent unnecessary or excessive expenses to the Town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands;

f. To encourage those uses that can be appropriately and safely located in wetland areas;

g. To protect presently existing natural wetland wildlife habitat, and

h. To protect the storage capacity of flood plains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.

This section applies to all areas as defined in Article 2.3(g).

4.1.2 Shoreland Limited Residential District

a. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses, to protect archeological and historical resources; to conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty; and to anticipate and respond to the impacts of development in shoreland areas.

b. To control the use and development of undeveloped shoreland areas, and to provide maximum protection to the land and water resources so that:

1. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;

2. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and

3. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.

c. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation, and the exact nature of the effects of shoreland development on the degradation process;

d. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication;

e. To minimize expenditures of public monies for flood control projects;

f. To minimize rescue and relief efforts undertaken at the expense of the general public;

g. To minimize flood damage to public facilities such as water mains, sewer lines, streets and bridges, and

h. To control building sites.

i. This section applies to all areas as defined in Article 2.3(i).

j. The more restrictive of either the Town of North Berwick Ordinances or the State of Maine statutes will be applied.

4.1.3 - Shoreland Stream Protection

Purpose

a. To provide water quality protection to year-round tributary streams to help prevent the accumulation of pollution at downstream points carried by these tributary streams;

b. To help maintain the upland water table by preventing stripping of vegetation along tributary streams thus protecting the land from draining off too quickly as well as protecting against land erosion and the siltation of upland streams.

c. This section applies to all areas as defined in Article 2.3(j).

4.1.4 - Shoreland - General Development I District

Purpose

a. To allow continued manufacturing and commercial uses of those commercial and industrial buildings in the Village within 250 feet of the Great Works and Neoutaquet Rivers, intensive recreational activities within 250 feet of the two said rivers, and also to allow continued mixed residential/non-residential uses of buildings within 250 feet of the two said rivers.

b. To provide minimum standards compatible with the existing uses, but which secure and maintain the water quality of the Great Works and the Neoutaquet Rivers.

c. This section applies to all areas as defined in Article 2.3(h).

4.1.5 - Village Center Overlay District

Purpose

a. To protect the historic character of North Berwick Village by allowing for mixed uses of existing and new buildings, high density use of buildings and satisfaction of some off-street parking requirements at sites other than at the building itself;

b. To provide special protection of designated historic buildings through the use of waivers for all density requirements except a minimum floor area per dwelling unit standard, and all off street parking requirements.

4.1.6 Village A District

a. To provide for areas of compact residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities;

b. To provide an area where the location of public facilities can serve the greatest number of people as economically as possible;

c. To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by controlling those uses which, by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or traffic) could otherwise create nuisances or unsafe or unhealthy conditions; and

d. To protect the historical and architectural integrity of existing village development and to ensure that future development is compatible both in character and use.

4.1.7 - Village B District

Purpose

a. The purpose of this District is to provide the same benefits as the Village A District but at a slightly lower density of development.

b. This District provides a transition between the built-up Village and the rural residential areas surrounding the Village.

4.1.8 - Village C Overlay District

Purpose

a. To support the opportunities to purchase safe and sanitary housing by North Berwick households who earn 80% or less of the median household income in Town such as, but not limited to, local school teachers and Town employees;

b. To require that houses built and sold as affordable will remain so for at least 30 years under appropriate deed restrictions;

c. To require that the siting and appearance of affordable houses will be similar to other houses in the area, thus supporting the long-term property values of the neighborhood.

4.1.9 Residential Districts I & II

a. To provide for the public health and safety, environmental quality, and economic well-being of the community;

b. To provide areas for residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities; and

c. To provide areas for commercial, public and semi-public and other uses compatible with and complementary to residential development.

4.1.10 Farm and Forest District

a. To provide for very low-density rural housing;

b. To protect the land from suburban development pressures, encourage the preservation of agricultural and forest land capable of economic production and to avoid the irretrievable loss of land best suited for food production;

c. To help maintain the Town's essentially rural and open character; and

d. To help enable landowners to qualify for property tax abatement under the Farm and Open Space Land Law (Title 36, M.R.S.A., Sections 585-593) and the Tree Growth Tax Law (Title 36, M.R.S.A., Sections 571-584-A)

4.1.11 Business/Commercial and Industrial Districts

a. To provide for the public health and safety, environmental quality, and economic well-being of the community;

b. To encourage the location of commercial and industrial uses on those lands within the community which are best suited for such development;

c. To provide effective controls on those uses which, by virtue of their size or external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions;

d. To avoid the blight, congestion, and inconvenience caused by inappropriate and poorly-located development of commercial and industrial facilities; and

e. To avoid the economic disadvantage of providing essential services to commercial and industrial facilities which would occur if commercial and industrial facilities developed in a strip fashion along highways and major thoroughfares.

4.1.12 RESERVED FOR FUTURE USE

4.1.13 Aquifer Protection District

The purpose of this district is to protect the quality and quantity of the municipality's present and future ground water resources by regulating activities and land use practices. The protection of ground water is critical to promoting the health, safety and general welfare of the residents of this municipality.

4.2 GENERAL REQUIREMENTS

The following requirements shall apply to all districts:

a. **Principal Building**: If more than one principal building is constructed on a single parcel of land, all dimensional requirements shall be met separately for each principal building.

b. **Accessory Buildings**: No garage or other accessory building shall be located at a distance less than the front set back. When located to the rear of the main building, the accessory building shall be set back at least 10 feet from the side or rear lot lines, provided that all accessory buildings, other than a boathouse, shall be set back at least 100 feet from the normal high water elevation of a body of water. When a garage is located to the side of the principle building, the set back shall be at least the minimum setback requirements of the principle building.

c. Principal and Accessory Structures within Shoreland Zones

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and one hundred (100) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least seventy five (75) feet, horizontal distance. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

(b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

(2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, General Development I and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

(3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

(4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development I District adjacent to rivers that do not flow to great ponds classified GPA, where lot coverage shall not exceed seventy (70) percent.

(5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

(c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

(d) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

(f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

(g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

(i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

(v) A footpath not to exceed the standards in Section 5.2.17(n)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

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(6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

d. **Required Yard Space Shall Serve Only One Lot**: No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

e. **Visibility at Corner Lots**: All corner lots shall be kept free from visual obstruction of a distance of 25 feet measured along the intersecting street lines.

f. **Building Height**: On any new building, the highest part of any eaves or parapet wall shall not be more than 35 feet above the average ground grade on any side of the building which is accessible to fire-trucks. Features of buildings and structures, such as chimneys, silos, towers, ventilators, and spires may exceed 35 feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features or structures, unless a greater setback is required by other provisions of the Ordinance.

g. **Swimming Pools**: No person or firm shall begin construction of or erect a swimming pool below grade, or an above-grade swimming pool more than 3 feet in height without first obtaining a permit, except that small portable "splash-pools" containing less than 15" of water shall be exempt from this requirement. The code Enforcement Officer shall issue a permit only after satisfying himself from plans or specification presented by the applicant that the proposed swimming pool will conform with the following requirements:

1. **Pools to be Kept Enclosed**: Every swimming pool shall be enclosed by a fence or wall at least 4 feet in height with no openings larger than 2 inches, and built so as to deter children. Any building related structure or inaccessible banking of earth may be included as part of the required enclosure. All gates and door openings through the enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely latched at all times when not in use. Any swimming pool constructed or erected prior to the effective date of the Ordinance is not subject to these regulations.

2. **Set-Back Requirements**: No swimming pool shall be constructed closer than 10 feet from the side or rear lot line, nor closer to the front line of any lot than would be permitted for buildings or other structures by other provisions of this chapter. All mechanical equipment for the purposes of filtering, heating, pumping, cleaning, filling, draining or any other maintenance related activity shall not be located closer to a property line than the minimum yard dimensions of the zoning district in which the pool is located.

h. **Maintenance of Minimum Yard Requirements**:

1. **General**: All structures, whether attached to principal structures or not, and whether open or enclosed, including but not limited to porches, carports, balconies or platforms above normal grade level, shall not project into or otherwise lessen the required minimum front, rear or side yard setbacks.

2. **Multi-Family Dwelling**: Driveways and parking spaces may be located within the side or rear yard setback requirements, provided that no vehicle is parked closer than five feet from the lot line, and provided the parking spaces and driveways are visually screened from abutting residential properties, in accordance with the standards in Section 5.1.8 of this Ordinance.

i. **Waiver of Minimum Yard Requirements**: The Code Enforcement Officer shall be authorized to waive minimum yard requirements, and to issue a Building Permit without a variance, under the following circumstances only:

1. Unenclosed, roofed structures (such as porches and carports) which are lawfully existing upon the date of adoption of this Ordinance Amendment (March 10, 1984) shall be permitted to be enclosed provided that the new walls will not extend closer to the lot line than five feet from any lot line.

2. Along existing residential streets which were developed prior to the enactment of the present front yard requirements, a new dwelling may be permitted to be built with a front setback from the street line equal to the average front setbacks of the existing houses on the immediately adjacent lots with the exception of new structures in the Farm and Forest District. However, in no case shall new construction be allowed closer than 15 feet from the front lot line, without a variance.

j. Uses Bordering Town Lines: The Planning Board shall be authorized, in all zones with the exception of Aquifer Protection Zone A and Aquifer Protection Zone B, to allow for the expansion of the use of a bordering property into North Berwick not currently permitted in the North Berwick Zoning District through the conditional use process as long as the following conditions are met:

1. The use cannot expand more than 250’ along the existing roadway frontage.
2. The use cannot expand by more than 50%.
2. The use must have a 100’ vegetated buffer.
3. The use cannot be closer than 250’ from an existing residence.

NORTH BERWICK ZONING ORDINANCE

LAND USE TABLES

LAND USES

KEY: NO = Not permitted YES = Permitted NA = Not Applicable CU = Conditional Use Permit Required
CEO = Code Enforcement Officer Permit Required (see Section 6.8 for details of Planning Board and CEO reviews)

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
RURAL Agriculture: Non-livestock, nurseries, gardening	YES	YES	CEO	CEO	CEO	YES	YES	YES	YES	YES	YES
Agriculture: livestock	NO	CEO	CEO	CEO	NO	NO	CEO	YES	CEO	CEO	CEO
Animal breeding or care	NO	CEO	NO	NO	NO	NO	CEO	CEO	NO	NO	NO
Seasonal sale of produce & plants raised locally	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES
Private recreational facilities including parks, playgrounds, golf courses, driving ranges, & swimming pools, but excluding campgrounds	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	NO
Publicly owned Recreational Facilities	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Campgrounds	NO	NO	NO	CU	NO	NO	CU	CU	NO	NO	CU
Timber Harvesting	NO	CU	CU	CU	CU	NO	YES	YES	NO	NO	YES
Earth Removal	NO	NO	NO	CU	NO	NO	CU	CU	CU	CU	CU
Harvesting of wild crops for profit (Timber harvesting not included)	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Kennels	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
Boarding kennels	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO	NO
Veterinary Clinics	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
RESIDENTIAL Single family dwelling	YES	YES	NO	CU	NO	CU	YES(1)	YES(1)	CU	YES	NO
Two family dwelling	YES	YES	NO	CEO	NO	CU	YES(1)	YES(1)	CU	YES	NO
Affordable 1 & 2 family dwellings(4)	NO	CU(3)	NO	NO	NO	NO	NO	NO	CU	CU	NO
Multi family dwelling (4)	YES(4)	CU(4)	NO	CU	NO	CU(4)	CU(1)	CU(1)	CU	CU	NO
In-Law Accessory Apartment	CU	CU	NO	CU	CU	CU	CU	CU	CU	CU	NO

	Village Center	Village A,B	Resrce protect.	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
RESIDENTIAL Planned Unit Development, Cluster Development	CU	CU	NO	CU	NO	CU	CU(1)	CU(1)	NO	NO	NO
Mobile home parks	CU	NO	NO	NO	NO	NO	CU	NO	NO	NO	NO
Manufactured housing, single width (14' - 20')	CEO	NO	NO	NO	NO	NO	CEO	NO	NO	NO	NO
Manufactured housing, double width (>20')	YES	YES	NO	CU	NO	NO	YES(1)	CU(1)	CU	YES	NO

(1) Residential subdivisions proposed to be located on open fields or pastures (whether or not they are actively used), shall be laid out according to the clustering approach described in sections 5.2.5 and 5.2.13 below.
(2) Residential district 1 only
(3) Village C overlay district only. See table 4.3 for dimensional requirements and Article 5.2.16 Affordable Housing Standards.
(4) Nothing herein prevents affordable housing from being built outside the Village C overlay district that are not subject to the requirements of Article 5.2.16.

BUSINESS/COMMERCIAL/INDUSTRIAL Home occupation	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Personal Services	YES	YES	YES	YES	NO	YES	YES	YES	YES	YES	YES
Neighborhood-Variety/Convenience Store **	YES	CU	NO	CU	NO	NO	CU	CU	YES	YES	CU
Automobile Service stations, Motor Vehicle sales and Auto Repair Garages, Car Washes	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Banks and Pharmacies (with or without drive through)	CU	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Drive-in or Take-out eating establish- ments, & Drive-in facilities offering goods and services to customers waiting in parked motor vehicles, except drive-in theaters,Auto Serv. Stations	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Drinking Establishments	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Eating and Drinking establishments	CU	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO
Eating establishments	CU	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Restaurants	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	CU
Adult Businesses	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	CU

** A store of less than 1,000 sq.ft. of gross floor space intended to service the convenience of a residential neighborhood with a limited variety of foods, beverages, and dry goods, but not limited to basic foods, newspapers, emergency home repair articles, and other household items.

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
BUSINESS/COMMERCIAL/INDUSTRIAL Fast Food Restaurants	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	CU
Mobile Food wagons	CEO non-motor	NO	NO	NO	NO	CEO non-motor	NO	NO	CEO	NO	YES
Lodging, Hotel, Motel, Boarding house, Inn, Motor Lodge, etc.	CU	CU	NO	CU	NO	CU	CU	NO	CU	CU	CU
Bed and Breakfast	CU	CU	NO	CU	NO	CU	CU	CU	CU	CU	NO
Bottle Clubs	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Other Clubs serving alcohol	CU	NO	NO	NO	NO	CU	NO	NO	CU	NO	NO
Clubs not serving alcohol	YES	YES	NO	YES	NO	CU	YES	NO	YES	YES	YES
Amusement centers, amusement parks	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Pet shops	NO	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO
Race tracks	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Commercial Facilities having less than 2500 sq.ft. per story	YES	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Commercial Facilities having more than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	CU	CU	CU
Shopping Centers	NO	NO	NO	NO	NO	CU	NO	NO	CU	NO	CU
Storage Yard	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	CU
Supply yards	NO	NO	NO	NO	NO	NO	NO	CU	CU	NO	CU
Shipping containers	NO	NO	NO	NO	NO	NO	NO	NO	SEE NOTE "Y"	NO	SEE NOTE "Y"
Business Enterprise	YES	YES	NO	NO	NO	CU	YES	YES	YES	YES	YES
Motor Vehicle grave yards, junkyards	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	CU
Professional & Administrative offices having less than 2500 sq.ft. per story	YES	CU	NO	NO	NO	CU	CU	NO	CU	CU	CU
Agricultural Business - less than 2500 sq.ft., Feed & Farm store & Nurseries	NO	NO	NO	NO	NO	CU	YES	YES	YES	YES	YES
Registered Dispensary	CU	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
Professional & Administrative offices having more than 2500 sq.ft. per story	CU	CU	NO	NO	NO	CU	CU	NO	CU	CU	CU
Industrial facilities & wholesale distribution & warehousing having less than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	CU	NO	CU
Industrial facilities & wholesale distribution & warehousing having more than 2500 sq.ft. per story	NO	NO	NO	NO	NO	CU	NO	NO	NO	NO	CU
Waste processing or disposal facilities other than sewage collection/treatment facilities and sanitary landfills	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO	CU
Solid-waste recycling	NO	NO	NO	NO	NO	NO	NO	CU	NO	NO	CU
Redemption Center	CU	NO	NO	NO	NO	NO	NO	NO	CU	CU	NO
Large Scale Box Stores	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
PUBLIC,SEMI-PUBLIC,INSTITUTIONAL Emergency public health&safety facil.	CU	CU	NO	NO	NO	NO	NO	CU	YES	YES	YES
Church or other place of worship, Parish house, Rectory, Convent, & other religious institutions	YES	CU	NO	CU	NO	CU	CU	CU	YES	YES	CU
Private, public, parochial schools, and Day Care Facilities	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Public buildings such as libraries, museums, and civic centers	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Hospitals, Nursing Homes	YES	CU	NO	NO	NO	CU	CU	CU	CU	CU	NO
Recreational or community activity blg	YES	CU	CU	CU	NO	CU	CU	CU	CU	CU	CU
Cemeteries	NO	CU	NO	NO	NO	NO	CU	CU	NO	NO	NO
Small non-residential facilities for education, scientific or nature inter-pretation.	YES	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Utilities, including sewage collection & treatment facilities & Essential Services.	CU	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU
Sanitary Landfills	NO	NO	NO	NO	NO	NO	CU	CU	NO	NO	NO
Private sewage disposal systems (CEO approval)	YES	YES	NO	CU	NO	YES	YES	YES	YES	YES	YES
Cultural Center	YES	CU	NO	CU	NO	CU	CU	CU	CU	CU	CU

Table 4.3 DIMENSIONAL REQUIREMENTS

Lots in all districts shall meet or exceed the following minimum requirements. (Additional area may be required by other provisions of this ordinance.)

	see notes all zones	Resrc prot. distr. (i)	Shrlnd limit. resid. dist.	Shrlnd Gen. devel.	Shrlnd stream prot.	Comm II & Industrial	Resid. distr. 1	Resid. distr. 2	Farm & Forest	Vill. Ctr. & Comm'l	Vill. A distr.	Vill. B distr.	Vill. C overlay
Minimum lot size (sq.ft.) without public water & sewer	j, p	a,o,r	60,000 o,r	40.000 o,r,s	60,000 o,r	40,000 k	40,000 k	80,000	160,000	20,000 k, m	20,000 k	30,000 k	20,000 k, m
" With public water & sewer	p	o, r	o, r	o,r,s	o, r					10,000 k, m			10,000 k, m
Minimum road frontage (feet)	b,e		200	100	100	100	150	200	300	25	100	125	und. distr.
Minimum shore frontage (feet)	b	q	200(q)	200(q)	200(q)	200	200	200	300	200	200	200	200
Minimum yard dimensions (feet) Front setback	c		50	50	50	50/30 (1)	50	80	100	10	35	50	50
Side setback	l		25	20	20	100/20 (d,g,2 Indus)	35	60	75	0 (d)	20 (g)	25 (g)	und. distr.
Rear setback			25	25	25	20(d,g)	50	60	75	10 (d)	25 (g)	30 (g)	und. distr.
Rear setback when abutting a Residential Use			30	30	30	100(g)	60	75	100	10	30	35	25
Shoreland setback from normal high water	t		100	75(n)	100	200	100	100	100	75		100	100
Maximum lot coverage Residential for structures	h		10%	70%	25%	25%	10%	5%	5%	80%	25%	25%	30%
" Non-residential for structures	h		10%	70%	40%	50%	20%	10%	10%	80%	40%	40%(l)	35%
Max. buidling height (feet)			35	35	35	35	35	35	35	35	35	35	35
Max. floor to area ratio (FAR)										240%			

(1) 50/30 = 50 feet from abutting residential lot
30 feet from abutting non-residential lot

(2) 100/20 = 100 feet from abutting residential district
20 feet from abutting non-residential district

	Village Center	Village A,B	Resrce protect	Shorel'd Lim.Res	Shorel'd Stream	Shorel'd General	Residen Dists.	Farm/ Forest	Commc'l Dist.	Commc'l II	Indust. Dist.
SHORELAND Boathouses	CU	CU	CU	CU	NO	CU	CU	CU	YES	YES	YES
Piers and docks	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Forest management, except marketing	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Commercial & Industrial facilities which by nature of their operation require shore front location, such as boatyards, marinas, etc.	CU	CU	NO	CU	NO	CU	CU	CU	NA	NO	NA
Shoreland agriculture	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland clearing	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland filling, grading, lagooning, dredging or other earthmoving activity	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
Shoreland timber harvesting	CU	CU	CU	CU	CU	CU	CU	CU	NA	CU	NA
MISCELLANEOUS Signs	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO	CEO
Billboards	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Uses accessory to permitted uses	YES	YES	CU	YES	CU	CU	YES	YES	YES	YES	YES
Structures accessory to permitted uses	YES	YES	CEO	YES	CEO	CEO	YES	YES	YES	YES	YES
Uses similar to permitted uses	CU	CU	CU	YES	CU	CU	CU	CU	YES	YES	YES
Structures accessory to uses which are similar to permitted uses	CU	CU	CU	CEO	CU	CU	CU	YES	YES	YES	YES
Uses accessory to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Structures accessory to conditional use	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Uses similar to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Structures accessory to uses which are similar to conditional uses	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	CU
Non-intensive recreational uses	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
Uses Bordering Town Lines	NO	CU	CU	NO	NO	CU	CU	CU	NO	CU	CU

NOTES TO TABLE 4.3

a. No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure exists on the effective date of adoption or amendment of this ordinance, no lot containing such structure shall be created which does not contain a minimum of 80,000 square feet.

b. All lots created after March 11, 1978 shall posses a minimum frontage on (1) a public road, or (2) a private drive or other thoroughfare or access route which meets the specifications for road construction in the Town of North Berwick Street Design & Construction Standards Ordinance. All lots for which a growth management permit has been granted, shall provide access on (1) public road, or on (2) a private drive or other thoroughfare or access route which meets the specifications for road construction in the Town of North Berwick Street Design & Construction Standards Ordinance. However in administering the minimum requirement for road frontage, the following provisions shall apply:

1. New building lots located at the end of a loop or along curves in a street may be designed so that they have 100 or more feet of street frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for lot frontage in that zoning district, and provided that the radius of the curve is not more than 300 feet, measured at the front lot line.

2. In situations where there is, in the opinion of the Planning Board, no reasonable future possibility of accessing the back land (ie. the property lying behind an existing row of lots with street frontage) with new roads, due to severe or unusual topographical features (such as swamps, ravines, steep slopes, waterbodies or watercourses), a maximum of two new building lots may be created without street frontage provided <u>all</u> the following conditions are met:

a. only lots of record, existing on or before the date of the Ordinance amendment (March 10, 1984) may be used to create two new lots without road frontage;

b. if the lots posses less than 30 feet of street frontage, they shall be accessed by a deeded right-of- way whose width, taken in combination with any street frontage legally connected with the lots, totals at least 30 feet. This right of way shall be provided with a common driveway meeting the following specifications: a 12" base of sand and gravel (with no stone greater than 4") shall be 18 feet wide plus two 2-foot shoulders; this shall be covered with 3" of 3/4" crushed stone except on the shoulders), and drainage ditches and culverts shall be provided wherever appropriate;

c. the new lots shall meet all other requirements of this Ordinance.

3. A lot abutting a lake, pond, river or stream in any District shall have a minimum shore frontage of 200 feet, except in the Farm and Forest District where the minimum shore frontage shall be 300 feet. Shore frontage shall be measured in a line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

4. New building lots located at the curved terminus of a Cul-de sac may be designed so that they have 75 feet or more of street frontage along the front lot line provided that the lot width at the location where the zoning district front setback requirement is at least equal to the distance normally required for street frontage in that zoning district.

c. A front yard abutting a street, as defined in the Town of North Berwick Street Design & Construction Standards Ordinance, shall be measured from the edge of the right of way line and conform to the front yard depth requirements of that district. Where the location of the front property line is in doubt, it shall be deemed to be located at a distance from the centerline of the road, which (distance) is one-half the known or assumed width of the road right-of-way, which width, when unknown, is assumed to be a three rod road (i.e. 50 foot right-of-way).

d. An industrial use that is permitted under the provisions of the Ordinance may reduce its sides and rear yard setbacks to a point that abuts a railroad right-of-way or spur track.

e. A corner lot, located at the juncture of two (2) roads, shall have the front lot line, or frontage, established by one of the following criteria:

1. Establish frontage on the more traveled road and if the more traveled road is not obvious, the Code Enforcement Officer shall determine the front lot line.

2. Establish the frontage on the more traveled road should the other road be a privately maintained road or drive.

3. Establish frontage on the road providing the required frontage, should the second road not provide the linear distance specified for the district.

f. **Reserved for Future Use.**

g. Any side and rear yards of any lots containing commercial or industrial uses in the Commercial, Commercial II, Industrial, Village A or Village B Zones that abut an existing residential district, the Farm and Forest Zone or the Residential 1 or Residential II Zones, shall have a minimum depth of 100 feet from the abutting side or rear lot lines. All side and rear yards abutting another commercial or industrial site shall have a minimum depth of 20 feet from side and rear lot lines. No parking areas, buildings, storage areas, loading and unloading areas and waste collection and disposal areas shall be permitted within this buffer. Side or rear yard setbacks may be reduced to a point that abuts the right-of-way of a railroad (including spur lines).

h. Within lots that existing development met or exceeded the maximum lot coverage in Table 4.3 as of June 21, 1992, the floor space on the ground floor may be expanded up to 25 percent subject to Planning Board approval. Parking areas may be expanded up to 50 percent subject to Planning Board approval. However, such expansion shall not violate any current setback requirements. Decks shall not be included as "floor space" for structures conforming as to all current dimensional requirements. In addition to this Subsection, all buildings, whether located within any Zoning District or Shoreland Zoning District, shall also be subject to the regulations of Subsection 1.4.5.

i. In Resource Protection District, home occupation shall be allowed as a Conditional Use in all houses existing at the date of adoption of this Ordinance.

j. The minimum lot size specified in Table 4.3 above shall be provided for each dwelling unit except as specified in Subsections "m." and "n." below.

k. Government subsidized elderly housing, designed and built specifically for the elderly, shall be permitted at the ratio of 8,000 square feet of land per 1 bedroom unit and 16,000 square feet of land per 2 bedroom unit in the following districts: Village, Commercial, Commercial II and Residential I.

l. Side yards may be reduced to 1/2 of the required side setback dimension listed in Table 4.3 for non-conforming lots of record which were created AND built upon prior to March 11, 1978.

m. Minimum Lot Area (Village Center District & Village C Overlay District)**:** The minimum lot area associated with each dwelling unit in multi-unit buildings (3 or more units), shall be 2,500 square feet where public water and sewer are provided. The minimum lot area associated with each dwelling unit in multi-unit buildings (3 or more units) where public water and/or sewer is not provided, shall be 5,000 square feet. There shall be no minimum lot required for dwelling units in designated historic buildings (such as designated in a historic district ordinance) in the Village Center District if the building is served by both public water and sewer. Any dwelling unit within said buildings shall have at least 400 square feet of floor area. This subsection shall prevail over any conflicting, more strict provision of this zoning ordinance.

n. Setbacks (Shoreland - General Development I District) The setback from the normal high water line within the Shoreland - General Development District may be reduced to twenty-five (25) feet under the Shoreland - General Development Overlay District regulations. For existing uses in designated historic buildings or over the water, a special exemption may be granted by the Planning Board pursuant to Article 1.4.5 paragraph (i) for changing to other non-conforming uses.

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

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

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

r. Dimensional Requirements (Shoreland Zone(s)) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use. Except clustered housing may be included within the shoreland districts provided that the overall dimensional requirements, including frontage and lot area per dwelling unit are met. Only land area within the shoreland zone shall be considered.

s. Exceptions to Dimensional Requirements (Shoreland General Development District)**:** Except, a special exception approved by the Planning Board may be given for changing existing non-conforming uses within designated historic buildings within the Shoreland General Development District to new residential non- conforming uses resulting in greater residential density than in subsection (r) above. See Article 1.4.5 paragraph (i).

t. Shipping containers are allowed only when accessory to permitted uses and only in the Industrial and Commercial Districts and are otherwise not allowed, except as a Conditional Use to permitted construction activities. In the Industrial and Commercial Districts, shipping containers shall comply with the following:

(l) Industrial District: Shipping Containers shall be regulated as a building or structure with respect to their placement on property, and they must meet all applicable space and bulk requirements of the district. Shipping containers shall not be stacked one on top of the other

(2) Commercial District: Shipping Containers shall be regulated as a building or structure with respect to their placement on property, and they must meet all applicable space and bulk requirements of the district. Shipping containers shall not be stacked one on top of the other and shall not be placed in parking stalls. The use of the shipping containers shall not be allowed on a lot for more than thirty (30) days in a six (6) month period. If the sum of the square footage of the shipping containers on one lot exceeds 2,000 square feet, they shall be regulated as a conditional use.

ARTICLE 5 - PERFORMANCE STANDARDS

These standards shall apply to all new expanded uses of land and buildings, which are listed as Permitted or Conditional Uses in Article 4 of this Ordinance. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste materials, or which would be dangerous to the health or safety of the community or to the community's disturbance or annoyance, notwithstanding and other provisions of this Ordinance and applicable State and Federal Laws and Regulations.

Plans for the effective control and/or elimination of same shall be presented to the Planning Board for approval. When the effects of use are uncertain, The Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of the Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

5.1 BASIC REQUIREMENTS

5.1.1 Traffic and Highway Access

a. **Traffic:** The proposed development shall provide for safe access to and from public and private roads or drives. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight-distances, intersections, schools, and other traffic generators. "Curb Cuts" shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the Town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

5.1.2 Noise

Excessive noise at unreasonable hours shall be required to be muffled as so not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table, below). The maximum permitted sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

SOUND PRESSURE LEVELS LIMITS MEASURED IN dB(A)'s

	7 a.m. - 8 p.m.	8 p.m. - 7 a.m.
Non-Industrial Establishment	60 dB(A)	55 dB(A)
Industrial Establishment	70 dB(A)	65 dB(A)

a. Where the emitting and receiving premises are in a different zones, the limits governing the stricter zone shall apply to any regulated noise entering the zone.

b. The levels specified may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes, in any one day.

On a site abutting any residential use, construction activities occurring between 8 p.m. and 7 a.m. shall be subject to maximum permissible sound level specified for industrial establishments.

Construction activities shall be subject to the maximum permissible sound level specified for industrial establishments for the periods within which construction is to be completed pursuant to any applicable building permit. The following uses and activities shall be exempt from the sound pressure level regulations:

a. Noises created by construction and maintenance activities between 7:00 a.m. and 8:00 p.m.

b. The noises of safety signals, warning devices, and emergency pressure relief valves and either emergency activity.

c. Traffic noise on public roads, or noise created by airplanes and railroads.

5.1.3 Air Emissions

Emissions of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall comply with applicable Federal and State regulations.

a. No emission of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which is composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emission from a chimney stack is prohibited. The emission of nonfarming odorous matter in such quantities, as determined by the Code Enforcement Officer to be offensive at the lot boundaries is prohibited.

5.1.4 Odor

No non-farming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

5.1.5 Glare

No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall comply with applicable Federal and State regulations.

5.1.6 Storm Water Run-Off

Surface water run-off shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on- site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodways, or rights-of-way shall be maintained as nearly as possible.

5.1.7 Erosion Control

Erosion of soil and sedimentation of watercourses and waterbodies shall be minimized by employing the following "best-management" practices:

a. Stripping of vegetation, soil removal, and regrading or other development shall be minimized as far as is practical, and shall be done in such a way as to minimize erosion.

b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

c. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.

d. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends.

e. Until a disturbed area is stabilized, sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board.

f. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100 feet of any property line.

g. During grading operations, methods of dust control shall be employed.

5.1.8 Setbacks and Screening

a. Setbacks and Screening: Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, motor vehicles, auto parts, motor vehicle parts, metal or any other articles of salvage or refuse, shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties. (Such as a dense evergreen hedge, 6 feet or more in height). Where potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

b. Buffer Areas: No industrial or commercial buildings or uses shall be established in, or abut, a residential district or use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to young children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to insure continuous year- round screening.

5.1.9 Explosive Materials

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least seventy- five (75) feet from any lot line, Town way or interior roadway. Underground storage tanks for highly flammable or explosive materials shall be set back at least 75 feet from every property line. The above requirements shall not apply to containers used for storage of Liquefied Petroleum Gas or Compressed or Liquefied Natural Gas that have been installed in compliance with all standards and rules adopted by the Maine Fuel Board.

5.1.10 Water Quality

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life. All above ground storage facilities for fuel, raw chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil", and diesel fuel, not exceeding 275 gallons in size may be exempted from this requirement, in situations where neither a high seasonal water table (within 15 inches of the surface) nor rapidly permeable sandy soils are involved.

5.1.11 Flood Protection

In order to minimize flood damage to persons and property, no fill or structures shall be placed in areas subject to periodic flooding, including the 100-year flood. Enlargement of existing structures already situated in such areas shall be so constructed that the lowest floor of the enlarged portion is at least two (2) feet above the base elevation of the 100-year flood. In determining areas which are subject to flooding, the Planning Board shall refer to all official, published maps of flood-prone areas, the Soil Conservation Service map of flood-plain soils, and all local flood records.

5.1.12 Soil Suitability for Construction

In any instance where the Code Enforcement Officer doubts the capability of the soil to adequately accommodate proposed construction, they may require that a soil test be made, at the owner's expense, in order to identify the soil type(s), by a Soil Scientist registered in the State of Maine. If the soil type which is identified is classified as having "poor" or "very poor" suitability for the proposed use, in the "Soil Suitability Guide for Land Use Planning in Maine". The Code Enforcement Officer may require the developer to submit written evidence from a professional civil engineer, registered in the State of Maine, that the soil will be able to support all proposed pavement, structures and utilities. This report may include recommended engineering measures to ensure that cracking, subsidence or other failure will not result.

5.1.13 Off-Street Parking and Loading

1. General (not applicable to single-family and duplex houses)

a. Parking requirements fall into two categories on-street parking and off-street parking. On-street parking only applies to the Commercial and Commercial II district. All other districts must meet required parking with off-street parking.

b. On-street parking is acceptable parking only if there is adequate space for vehicles to remain clear of the traveled way and not interfere with the safe and orderly flow of traffic on that public way.

c. The following standards shall apply to all new uses or establishments and also to all existing uses or establishments which expand or increase their volume or intensity of usage more than 25% in any 10-year period.

d. All new or enlarged off-street parking facilities shall also conform to all other relevant standards and criteria contained in Section 5.1 of this Ordinance.

e. An area of 200 square feet shall be considered sufficient for each automobile parking space.

f. Off-street parking shall be located so that vehicles can be turned around within each such area without backing into the street.

g. Required off-street parking for all land uses shall be located on the same lot as the principle buildings or facility, or within 100 feet measured along lines of access. All on-street parking shall be within 500 feet of the establishment it serves.

h. No off-street parking area shall have more than 2 openings onto the same street, each opening not to exceed 26 feet in width.

i. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and also to avoid generating traffic on local access streets of a primarily residential character.

j. A system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street.

k. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines in order to provide visibility for entering or leaving vehicles.

l. The Planning Board may approve the joint use of a parking facility by two or more principal buildings or uses where it is clearly demonstrated that said parking facility would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.

m. All parking and loading areas for industrial establishments shall be located at the side or rear of the principal building. A visitor parking area may be located between the front of the principal industrial building.

n. In any district where permitted or allowed, commercial, or industrial uses shall provide as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers shall not be located for loading or storage upon any public way.

2. **Parking Lot Design Criteria** (Non-Residential)

a. **Vehicular Entrance and Exit**

1. Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

2. Entrance/exit design should be reviewed by and be in conformance with the standards of Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

b. **Interior Vehicular Circulation**

1. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.

2. Painted arrows and/or elevated signs should be used as necessary to define desired circulation patterns.

3. Customer/employee and service traffic should be separated to the greatest extent possible.

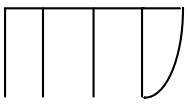
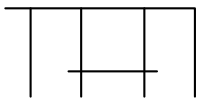
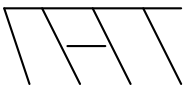
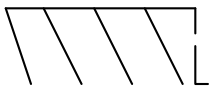
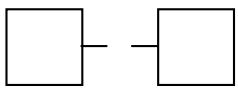
4. One-way travel lanes may be used as a traffic control device in conjunction with roadway dividers.

5. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

c. **Other Requirements**

Landscape: The existing landscape shall be preserved in its natural state insofar as practicable, by minimizing tree removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped with a continuous border of shrubbery along all lot-lines abutting residential properties according to the buffering standards in 5.1.8 above. Large parking lots shall be provided with at least one tree (of 3" caliper) for every 35 car spaces (4 trees per acre), to be located at representative points throughout such lots. All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide, planted with shade trees (minimum 3" caliper, planted at least 50 feet along the road frontage) and dense medium height shrubs (three feet in height on maturity to screen parked vehicles). All such planting shall be maintained as effective visual screen. Shrubs or trees which die shall be replaced within one growing season.

3. **Parking Stall and Aisle Layout**

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Depth
				
90	9'-0"		18'-5"	24'-0"
60	8'-6"	10'-5"	19'-0"	16'-0" one way
45	8'-6"	12'-9"	17'-5"	12'-0" one way
30	8'-6"	17'-0"	17'-0"	12'-0"

1. Painted stripes should be used to delineate parking stalls. Stripes should be a minimum of 4" in width. where double lines are used, they should be separated a minimum of 1'-0" on center.

2. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.

3. Bumpers and/or wheel stops should be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

4. Minimum Required Off-Street Parking Requirements

Activity	Minimum Required Parking
Dwellings (multi family)	1 space/unit
Motels, Hotels, Lodging Facilities, Campgrounds.	1 space/guest room or site plus 1 space for each employee based on average employee occupancy.
Churches, Theaters, Cultural Centers, Private or Public Assembly, Drinking Establishments, Restaurants	1 space/6 seats plus 1 space for each employee based on the average employee occupancy.
Hospitals, Nursing Homes	1 space/3 beds plus 1 space for each employee based on the average employee occupancy
Offices, Professional, and Public Buildings, Retail, Trade, Commercial Sales, and Service Establishments	1 space/300 sq.ft. work area excluding bulk storage areas plus 1 space for each employee based on the average employee occupancy.
Auto Service Station and Repair Garage:	2 spaces/enclosed bay plus 1 space for each day time employee.
Schools:	
Nursery School and Child Care Facility:	1 space/nursery room plus 1 space per instructor or aide.
Elementary and Junior High	1 space/adult employee plus 15 parking spaces for each 100 students, or major fraction thereof, of total enrollment.
Senior High	1 space/adult employee plus 20 parking spaces for each 100 students, or major fraction thereof, of total enrollment
Commercial (dance, art, ceramics,etc)	1 space/instructor plus 1 space per 5 students or major fraction thereof, total enrollment.

a. The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.

b. For any structure or use not specifically provided for above, the Planning Board shall determine the number of parking spaces required.

c. In specific cases where it is demonstrated that a particular building can be occupied or carried on with fewer parking spaces than required under this section, the Planning Board may reduce the requirements for parking upon finding that such reduction will not detract from neighborhood values, public safety, inconvenience the public, or increase congestion in the street. The granting of such reduction shall not be construed as the granting of a variance to relieve undue hardship.

5.1.14 Subsurface Sewage Disposal

No plumbing permit shall be issued for a subsurface sewage disposal system unless the soil conditions meet the criteria contained in the State Plumbing Code, Part II, latest edition. Further, the disposal of waste water by means other than a public system must comply with the laws of the State of Maine and the Town concerning water pollution.

5.1.15 Other On-Site Disposal Systems

Other systems of sanitary waste disposal may be permitted in all districts as a Conditional Use only after approval by the Planning Board and the Department of Human Services:

a. Alternative systems shall be presented to Planning Board on a plan prepared by a professional engineer registered in the State of Maine and shall be subject to review and approval of the Maine Department of Environmental Protection and/or the Maine Department of Human Services.

b. Proposed discharge of sanitary wastes to any water body shall be subject to the issuance of State of Maine Department of Environmental Protection licenses further, no such off-site discharge shall be allowed unless same is buried or not visible to a point below normal low water, and is secured against damage and uncovering by the tides, erosion or other foreseeable action.

5.1.16 Private Wells

Private wells shall be set back at least 50 feet from the center of any public road.

5.2 SPECIFIC ACTIVITIES

5.2.1 Medical Marijuana – The State of Maine enacted the Maine Medical Marijuana Act, 22 M.R.S.A.§ 2421, ET SEQ. The Act contemplates the creation of a not-for-profit dispensaries for the provision of marijuana for medical use as well as the creation of cultivation facilities to provide marijuana to legally qualified individuals. Marijuana has both legitimate medical uses and a history of widespread illegal use and trafficking. In order to preserve the safety, health and welfare of the citizens of North Berwick and others, the dispensing and cultivation of marijuana requires careful attention and control, including but not limited to reasonable security and oversight requirements.

a. Security and oversight requirements:
   1. There shall be no outdoor cultivation of marijuana.
   2. Alarm Systems - Registered dispensaries and registered cultivation facilities shall have door and window intrusion alarms with audible and police notification components.
   3. Exterior security lighting – registered dispensaries and registered cultivation facilities shall have spot lights with motion sensors covering the full perimeter of the facility.
   4. Video surveillance – registered dispensaries and registered cultivation facilities shall have recorded video surveillance covering all plants and the entire exterior. Fore registered cultivation facilities, the recorded video surveillance shall operate 24 hours a day, seven days a week and for registered dispensaries shall, at a minimum, operate at all times that the facility is not open to patients. Records of surveillance shall be kept for a minimum of 30 days.
   5. Registered dispensaries and registered cultivation facilities may not continue to employ an employee who is convicted of any state or federal controlled substance law while employed at the registered dispensary or registered cultivation facility. If a principal officer or board member of a registered dispensary or registered cultivation facility, that registered dispensary or registered cultivation facility shall immediately be considered in violation of this ordinance.
   6. A registered dispensary may not be open to the public between the hours of 8:00 pm and 7:00 am.
   7. Sufficient measures must be in place at all times to prevent smoke or order from exiting a registered dispensary or registered cultivation facility.

b. Registered dispensaries must be located in area defined as Village Center Overlay District as of July 1, 2012 with a minimum of 200 feet from any public or private school, public library, playground or public park and a minimum of 200 feet from any church, chapel, parish house, other place of worship, daycare measured by straight line from the dispensary property line to the property line of the protected location.

c. No more than one registered cultivation and dispensing facility may exist in the Town of North Berwick and is limited to 2500 square feet.

d. Hours of operation shall be between 8:00 am to 5:00 pm, Monday through Saturday.

5.2.2 Earth Material Removal

a. Filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock, peat or any other mineral or organic deposits, which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life, is prohibited.

b. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The Planning Board may waive any or all of the following requirements when less than 25 cubic yards of earth material per year is proposed to be removed, screened or stored.

c. Applications to the Planning Board for Conditional Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to Planning Board specification and in compliance with applicable State Laws, and accompanied by all required State Permits or licenses.

1. The applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site showing the property lines, based on a certified survey, and names of abutting owners and ways, indicating by not greater than 5-foot contour intervals, related to U.S. Geodetic Survey data, the location and slope of the grades existing and as proposed upon completion of the extraction operation, the boundary limits of the proposed extraction, and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits. In addition, a written statement of the proposed reclamation plan shall accompany the plan.

2. Said plans and statement shall be submitted with the recommendations of the Code Enforcement Officer to the Planning Board for its consideration with respect to the effect of proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies. The Planning Board may recommend changes to the applicant for resubmission to the Planning Board.

3. The Planning Board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The Planning Board shall require filing with the Town Clerk a commercial surety bond, a certified check, or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operations and to assure satisfactory performance of all conditions imposed or otherwise applicable.

4. Any operation involving the excavation, screening or storage of soil (including topsoil), peat, earth, loam, sand, gravel, rock or other mineral deposits in operation at the time this Ordinance becomes effective may continue to operate. When period of two (2) years has elapsed, in which no commercial sales have been made, a Conditional Use Permit shall be required before operations may be resumed.

d. The Planning Board shall specify such requirements in any conditional Use Permit issued for earth material removal as it deems necessary or desirable to assure compliance with the following requirements:

1. No part of any extraction operation shall be permitted within 150 feet of any property or street line. All property line setbacks will be in accordance with guidelines set by the D.E.P. or the requirements of this Ordinance, whichever are more restrictive.

2. All extraction pits shall be internally draining.

3. All areas of standing water exceeding two (2) feet in depth shall be entirely enclosed by a fence.

4. No slopes steeper than 3 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 4 feet high is erected to limit access to such locations.

5. The owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from proposed extraction operations. The town shall be listed on the policy and the policy shall be maintained throughout the period of operation.

6. Any top soil and subsoil suitable for purposes of revegetation shall be stripped from the location of extraction operations and stockpiled for use in restoring the location. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this Ordinance.

7. Sediment shall be trapped by diversion, silting basins, terraces and other measures designed by a professional engineer.

8. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the York County Soil and Water Conservation Commission.

9. Any proposed lagooning requires written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, prior to consideration by the Planning Board.

10. Hours of operation shall be determined by the Planning Board.

11. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Town Road Commissioner.

12. All access-egress roads leading to/from the extraction site to public ways shall be treated with water, or stone to reduce dust and mud for a distance of at least 100 feet from such public ways. If the public way is a paved surface, a paved entrance of at least 50 feet from the public way is required.

13. No equipment, debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.

14. Excavation may not occur within 5 feet of the seasonal high water table. A benchmark sufficient to verify the location of the seasonal high water table must be established an at least one monitoring well on each 5 acres of unreclaimed land must be established.

15. Any pit greater than 5 acres needs additional permits from the Department of Environmental Protection.

16. Any expansion of an existing extraction operation requires a Conditional Use Permit.

17. Extraction operations shall not occur within 250 feet of Bauneg Beg Pond and the Great Works River and within 100 feet of any protected natural resource and the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland.

18. Reclamation shall occur in conjunction with the expansion of the extraction pit i.e. as the third acre of unreclaimed land is opened for extraction, reclamation shall begin on the first two acres. The reclamation plan shall ensure that:

a. All debris, stumps boulders and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of 2 feet of soil.
b. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
c. At least 4" of top soil or loam shall be retained or obtained to cover all disturbed areas. Seeding or planting will occur between April 15 and June 15 or between August 30 and September 30. Seeding or planting shall ensure a permanent 90% ground cover.
d. Upon completion of all extraction operation reclamation of all unreclaimed areas and haul roads shall be complete within 12 months. Extraction operations shall be deemed complete when less than 100 cubic yards of material are removed in any 12 consecutive months.

5.2.3 HOME OCCUPATIONS

a. A home occupation is an occupation which is carried on in a dwelling unit or structure accessory to a dwelling unit that is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. Home occupations may include the selling of products raised or produced on the premises. This shall not permit the reselling of goods and products purchased or obtained elsewhere. Home occupations may be conducted from a single office which provides professional services located within the home.

b. Exterior display shall be limited to a total of two (2) samples or models of products sold or manufactured on premises, regardless of number articles which are sold or manufactured. Exterior storage of materials and any other exterior evidence of the home occupation shall be located or screened so as not to detract from the residential character of the principal building. Signs shall be permitted only as provided for under Section 5.2.6 of this Ordinance.

c. The following requirements shall be satisfactorily demonstrated to the Planning Board before said Board shall issue a conditional use permit for any district where home occupations are permitted:

1. the home occupation shall be carried on by a member of the family residing in the dwelling unit, with not more than three employees who are not a member of the family;

2. the home occupation shall be carried on wholly within the principal or accessory structure;

3. the home occupation shall not occupy more than 30% of the total floor area of a residential structure; never to exceed 2500 square feet of floor area of a residential structure or an accessory structure;

4. objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat, light, glare, or other nuisances shall not be permitted;

5. there shall be no artificial outdoor illumination of any kind for permitted home occupations on the property, including off-street parking areas, the house or any accessory structures, other than the normal and customary outdoor lighting for the single-family houses (such as a customary porch light or garage light or walk-way light).

6. no traffic shall be generated by such home occupation in a volume greater than would normally be expected during the daytime in a residential neighborhood, and the parking requirements stated in this Ordinance shall be met off the street.

e. if existing off-street parking is required to be expanded, it shall be adequately screened from the road and from adjacent lots (for example, with a dense screen of evergreens) and shall not be located between the house and the road as defined by a line drawn parallel to the road which touches the point of the house nearest the road. Such off-street parking areas shall be set at least eight (8) feet from side and rear lot lines.

f. Only one home occupation shall be allowed per lot.

g. Should all the above conditions not be maintained on a continual basis once the conditional use permit has been issued, the Planning Board shall schedule a public hearing to determine whether the conditional use permit should be rescinded.

5.2.4 MOBILE HOME PARKS, SEASONAL TRAILER PARKS, AND CAMPGROUNDS

a. Licenses: No person, firm, or corporation shall establish or maintain a mobile home park, seasonal trailer park, or campground within North Berwick without a license issued in conformity with the provisions of this code. A mobile home park, seasonal trailer park, or campground existing prior to the adoption of this Code may be enlarged only if the extension complies with the terms as specified herein.

1. Application for a mobile home park, seasonal trailer park, and/or campground license shall be filed with the Code Enforcement Officer who shall, in turn, present said application to the Planning Board for review as a subdivision except that applications for license renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and as contained in the Subdivision Regulations of the Town Planning Board. The Planning Board shall inform the Code Enforcement Officer of its decision in writing and he shall act on the application.

2. Each application for a license or a renewal thereof shall be accompanied by a fee as established by the Planning Board for a mobile home park, trailer park or campground designed for the accommodation of not more than ten mobile homes, trailers or tent sites, and an additional fee as established by the Planning Board for each additional mobile home, trailer or tent site in excess thereof. Each such license shall expire on the first day of April next following the date of issuance. Before any license shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Town and State Ordinances and Laws have been complied with, they shall certify same.

3. Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.

4. The Planning Board is hereby authorized to revoke any license issued pursuant to the terms of the code if after due investigation they determine the holder thereof has violated any of the provisions of this or any applicable code, law or statute.

b. Design and Performance Standards for Mobile Home Parks

1. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the North Berwick Zoning Ordinances, the provisions of this section shall prevail.

2. Lot Area and Lot Width Requirements: Notwithstanding the dimensional requirements table located in Article 4 of the North Berwick Zoning Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.

a. Lots served by public sewer:
Minimum lot area: 6,500 square feet
Minimum lot width: 50 feet

b. Lots served by individual subsurface waste water disposal systems:
Minimum lot area: 20,000 square feet
Minimum lot width: 100 feet

c. The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.

d. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements for that district.

3. Unit Setback Requirements.

a. On lots 10,000 square feet in area or larger, structures shall not be located less than 15 feet from any boundary lines of an individual lot. On lots less than 10,000 square feet in area, structures shall not be located less than 10 feet from any boundary lines of an individual lot.

b. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within a shoreland zoning district, structures shall meet the front setback and setback from high water mark requirements the dimensional requirements table in the North Berwick Zoning Ordinance.

4. Buffering: If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than fifty feet width which shall contain no structures or streets. The first twenty-five feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

5. Open Space Reservation: An area no less than 10% of the total area of those lots with a lot area of 10,000 square feet or less shall be reserved as open space. The area reserved as open space shall be suitable to be used for recreational purposes or use by the residents of the park for storage. Generally, the reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park.

6. All streets within a park shall meet the standards found in the Town of North Berwick Street Design & Construction Standards Ordinance.

7. Ground Water Impacts.

a. Submitted: Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed mobile home park on ground water quality. the hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology and shall contain at least the following information:

1. A map showing the basic soils types.

2. The depth to the water table at representative points throughout the mobile home park.

3. Drainage conditions throughout the mobile home park.

4. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

b. Standards for Acceptable Ground Water Impacts

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

2. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

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

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

c. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Plan.

8. No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.

a. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.

b. No dwelling unit other than a manufactured housing unit shall be located within the park.

c. Seasonal Trailer Parks and Campgrounds: In any district where campgrounds or seasonal trailer parks are permitted under the terms of this Code, the following regulations and minimum standards shall apply:

1. A time limit is placed on the occupancy of any one camping space on a continuing basis as follows: Twelve weeks for the period May 15 to September 15 of each year, and two weeks for all other time. Only camping units such as defined herein (plus a towing vehicle), shall be permitted within any camper park, temporarily or otherwise.

2. A campground may not be constructed on less than 10 acres of land.

3. Each recreational vehicle, tent, or shelter site shall contain a minimum 4,000 square feet when within 250 feet of normal high water elevation of a body of water. Minimum frontage along the traveled way shall be 75 feet, and minimum frontage along any shore shall be 100 feet.

4. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and a fireplace approved by the Town's Fire Chief.

5. A trailer park or campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Plumbing Code and the State of Maine Department of Human Services. In no case shall fewer than one toilet, lavatory and shower be provided for each sex for every ten (10) camping and tent sites.

6. Trailers shall be so parked in spaces that:

a. there shall be a minimum of 15 feet between vehicles,

b. there shall be a minimum of 25 feet between all trailers and all public rights-of-way located inside the boundaries of the trailer park or campground, and that,

c. no camping unit or structure shall be located less than 100 feet from any residence.

7. No unoccupied camping unit shall be stored or exhibited for sale for commercial purposes within the park.

8. Seasonal trailer parks and campgrounds shall meet the same requirements for landscaped buffer strips, refuse disposal, and fire protection as specified in this Ordinance for Mobile Home Parks.

5.2.5 Planned Unit Development, Open Space Development and Motels

a. Purpose: The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed. To this end, all layout, dimensional, and area requirements contained in this Ordinance of Town's subdivision review standards may be altered without restriction, except height limitations.

b. Basic Requirements: Planned unit developments, open space developments and motels shall meet all the following criteria:

1. All planned unit developments, open space development, and motels shall meet the requirements for a residential subdivision, including Planning Board approval, except those requirements relating to layout, setback, frontages, and areas.

2. The minimum area of land in a planned unit development, open space development or motel shall be 10 acres.

3. Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking, the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

4. The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit developments shall be calculated on the basis described in the table below, For example, in developments where sewer service is not being provided, all of the "well- drained" and "moderately well-drained" land may be included in the density calculations, plus half of the "poorly- drained" land.

Land Which May be Included as "Suitable Land" When Calculating Net Residential Density

	On Sewer	Not On Sewer
Excessively Drained Well-Drained Moderately Well-Drained	100%	100%
Poorly Drained*	75%	50%
Very Poorly-Drained*	40%	--
Slopes Greater Than 33%	50%	--
Borrow Pits	67%	33%

* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

5. In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations (according to the table), less the land needed for roads, shall be divided by the minimum lot size normally required in the district.

6. No single group of dwellings which are attached either horizontally or vertically shall contain more than four (4) dwelling units.

7. The extent of soil types in the six categories listed in the table shall be certified by a registered soil scientist licensed in the State of Maine, on a high-intensity soil survey map.

8. No dwelling or motel unit shall be constructed on soil classified as being "very-poorly" drained.

9. Where a planned unit development or open space development abuts a watercourse or waterbody, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

10. All dwelling units in a planned development or open space development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.

11. All structures with required plumbing in a planned unit development, open space development or motel shall be connected to a public sanitary sewer system, if available, a central collection and treatment system or an individual treatment system in accordance with the sanitary provisions of this Ordinance.

12. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

c. Dedication and Maintenance of Common Open Space

1. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.

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

3. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

a. It shall not be used for future building lots and that;

b. A part of all of the common open space may at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.

4. If any or all of the common space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.

5. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association or trust and the common land, shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.

6. This neighborhood association shall have the responsibility of maintaining the common open space(s).

7. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.

8. The developer of subdivider shall maintain control of such open spaces(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning board upon request of the neighborhood association or trust or the developer or subdivider.

5.2.6 Signs and Billboards

a. General

1. The following types of signs shall be prohibited in all Districts: (i) billboards; (ii) neon or gas-filled tubular signs (where such tubes are visible); (iii) signs placed on utility poles; (iv) flashing, moving or animated signs; and (v) mobile signs, such as those mounted on a movable chassis, with or without wheels.

2. No sign shall be erected in or adjacent to any public way or sidewalk in such a manner as to obstruct clear and free vision, or where, by reason of its position, shape, color, illumination or other design feature, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or otherwise interfere with or constitute a hazard to pedestrian or vehicular traffic.

b. Permanent Signs

1. No permanent sign shall exceed fifty (50) square feet in surface area, including the surface area of all informational sides. The total on-premise permanent signage shall be limited to sixty (60) square feet of surface area per land use, including all informational sides.

2. No permanent sign shall be located within fifteen (15) feet of the traveled edge of any travel way or fifteen 15 feet of any lot line.

3. Free-standing permanent signs (not attached to buildings) shall be attached to permanent posts.

4. The maximum height of a free-standing permanent sign (not attached to a building) shall be fifteen (15) feet above ground grade to the topmost point.

5. Permanent signs shall not be mounted on roofs or extend above the roof line (unless mounted on a parapet wall which extends above roof line).

6. Permanent signs may be illuminated only in such a manner as to deflect light away from residential properties and public roads. Steady white light shall be required on any illuminated signs. Signs which are internally lit are prohibited. When signs are to be externally illuminated, ~~they~~ such signs may be any color. No sign shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto adjacent properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way.

Strings of light bulbs, pennants, propellers, and the like shall not be permitted, except as part of a holiday celebration.

7. Permanent signs shall be placed only on the same lot as the use or activity which they are advertising, except that "official business directional" signs" and "approach signs" may be permitted to be located "off- premises" provided they conform the requirements of 23 M.R.S.A. §§ 1909-1912-A (directional signs) and 1914(10) (approach signs) (2016) and applicable Maine D.O.T. regulations, and off-premises name signs are allowed in the Resource Protection, Stream Protection and Limited Residential Districts provided such signs do not exceed two (2) signs per premises and six (6) square feet in surface area, including the surface area of all informational sides.

8. Home occupation signs relating to goods or services rendered on the premises may be up to six (6) square feet in surface area including the surface area of all informational sides.

c. Temporary Signs

Temporary signs, are permitted in any zoning district, subject to the following requirements:

1. No temporary sign shall exceed twenty-four (24) square feet in surface area, including the surface area of all informational sides. The total on-premise temporary signage shall be limited to fifty (50) square feet of surface area, including all informational sides, at any given time.

2. The maximum height of a temporary sign shall be fifteen (15) feet above ground grade to the topmost point.

3. No temporary sign may be located within eight (8) feet of the traveled edge of a travel way or within five (5) feet of the paved edge of a sidewalk.

4. No temporary sign may be displayed for more than six (6) weeks prior to any event bringing about its use, except that no temporary commercial sign advertising goods or services may be displayed for more than two (2) weeks prior to such event, and shall be removed forthwith after the event but in no case later than one (1) week after the sign has fulfilled its function.

5.2.7 Timber Harvesting

a. Basic Standards

1. Clearing land for agricultural field production or pasturage is exempted from the provisions of this section.

2. Harvesting operations shall be conducted in such a manner and at such time that minimal soil disturbance results. There shall be no harvesting of any trees within fifty (50) feet of any public or private cemetery, historic or otherwise and there shall be no damage of any kind to said cemeteries. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

3. Logging and wood lot roads shall be located, constructed and maintained in conformance with the recommended standards contained in the U.S. Forest Service's Guidebook, Permanent Logging Roads for Better Wood lot Management. Particular attention shall be paid to storm-water drainage and erosion prevention through proper grading, provision of box-culverts, and (on highly erodible soils) fertilizing, seeding and mulching roads which will not be used again for several years or more.

4. All logging operations conducted in the Town of North Berwick will be required to install a stabilized construction entrance designed pursuant to the Street Design and Construction Standards Ordinance for the duration of the logging operation.

5.2.8 Animal Husbandry

a. Animal husbandry, kennels, and boarding kennels as defined in this Ordinance, shall require a lot area of at least five (5) acres.

b. Structures of pens for housing or containing the animals (such as chicken coops, barns, byres, stables, or dog-runs) shall be located not less than five-hundred (500) feet from the nearest residence existing at the time of permit issuance (other than the dwelling on the same lot).

c. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

d. The owner or operator of a use approved under this section shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in such a manner that they will not provide a breeding place for insects, vermin or rodents.

e. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied not less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.

f. All enclosed kennels or veterinary buildings shall be constructed of masonry to provide for cleanliness, ease of maintenance, and noise control.

g. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or similar material to provide for cleanliness and ease of maintenance.

h. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located in accordance with the setbacks required for outdoor runs, and shall have a chimney vent not less than 35 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets State standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

i. all other relevant "good neighbor" performance standards in this Ordinance (such as for noise and odor) shall also be observed.

5.2.9 Residential Uses in Commercial Zones

New residential uses may be established in the commercial zone.

5.2.10 Recreational Vehicles

A recreational vehicle is a vehicle or vehicular attachment which is designed for temporary sleeping or living quarters for one or more persons, and which is not a dwelling. The term may include pick-up campers, travel trailers, tent trailers, and motor homes. In order to be considered as a vehicle and not as a structure subject to this Ordinance, the building code, and federal manufactured housing standard, the unit must:

a. remain with its tires on the ground;

b. posses a current registration sticker or papers from any State Division of Motor Vehicles; and

c. not be occupied as a dwelling for more than ninety consecutive days, or more than 120 days in any calendar year, unless the vehicle is located in a licensed campground.

5.2.11 Agricultural Land and Development Standards

The purpose of this section is to allow landowners a reasonable return on their holdings, in such a way that the majority of existing open fields and pasture may remain undeveloped for use by future generations. Toward this end, all residential subdivision development proposals encompassing existing open fields or pasture may be at the discretion of the North Berwick Planing Board laid out according to the "open space" standards in Section 5.2.5 above, and in a manner consistent with the North Berwick Subdivision Ordinance.

a. New dwellings shall be clustered on non-open land to the most practical extent, so that fields and pastures remain undeveloped.

b. In districts where the required minimum lot size is one, two or four acres, dwelling unit shall be clustered so that they consume no more than 1/2 acre for 1 acre zoning and 1 acre for 2 or 4 acre zoning of land for every dwelling (including roads).

1. In districts where the required minimum lot size in one half acre, dwelling units shall be clustered so that they consume no more than one acre of land for every four dwellings (including roads). (This shall only apply to area served by Public Sewerage).

c. The above building densities shall be based on the following table, which shows the percentage of land in various drainage categories which may be counted as "suitable soil for development".

	On Sewer	Not On Sewer
Excessively Drained Well-Drained Moderately Well-Drained	100%	100%
Poorly Drained*	75%	50%
Very Poorly-Drained*	40%	--

1. In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included (on the basis of the above table), less the land needed for roads, is divided by the minimum lot size required in the district (four, two, one or half acre). A high density soil survey by a registered soil scientist shall be submitted to certify the extent and location of these soil types.

d. To the fullest extent practicable, all buildings and roads shall be located away from the soils which are most suitable for agriculture (based on the Soil Suitability Guide or Land Use Planning in Maine). This provision does not apply to the location of on-site septic disposal facilities, which must be placed on soil meeting the Maine State Plumbing Code.

e. Applicants for subdivision review under this subsection shall provide the Planning Board with copies of deed covenants (with prospective purchasers) or conservation easements (with the Town of North Berwick) describing land management practices (to be followed by the developer and/or community association of condominium owner which will ensure that the existing fields or pastures will be plowed or mowed at least once per year.

f. Farmland owners are not required to sell that part of their property which is to become open space provided that they convey the development rights of that open space to the Town in a conservation easement prohibiting future non-agricultural development.

5.2.12 Manufactured Housing

a. Purpose: The purpose of this Ordinance is to establish minimum standards for the placement of manufactured housing in accordance with the provisions of Title 30-A MRSA Section 4358., to require that manufactured housing be compatible with site built homes, and to provide opportunities for the location of affordable and safe housing within the community.

b. Prohibitions: No person, firm, corporation or other legal entity shall locate, or move from one lot or parcel of land to another, an older mobile home, trailer, or manufactured home which fails to meet the requirements of Appendix A, "Suggested Safety Standards for Older Mobile Homes" of the Maine Office of Comprehensive Planning's Guidebook for Local Officials dated September 1989.

c. Manufactured Housing Standards:

Must meet Part 11 Chapter 951 Manufactured Housing Act, Subchapter 1: General Provision 9006 Installation Standards

d. Siting of Manufactured Housing:

1. Any style may be located within mobile home parks.

2. Residential style units at least 14 feet in width (single wide) shall be located in Village Center and Residential Districts only.

3. Residential units at least 20 feet in width (double wide) may be located in all zoning districts except Resource Protection and Industrial Districts.

5.2.13 Aquifer Protection with the Aquifer Protection District

a. Definitions for this District:

Animal Feedlot: Animal husbandry on a plot of land which is used to hold more than the numbers of animals per acre given in the Dimensional Standards section.

Aquifer: Geologic unit composed of rock, gravel, sand, silt, or clay, which unit contains sufficient saturated permeable materials to conduct groundwater and yield economically significant quantities of groundwater to wells and springs.

Disposal: The deposit, injection, dumping, spilling, leaking, incineration, or placing of any material into or onto any land or water so that such material or any constituent thereof may enter the environment or any waters, including ground waters.

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

Leachable Material: This term shall mean liquid or solid materials including solid wastes, sludge, and agricultural wastes that are capable of releasing contaminants into the ground water.

Motorized Vehicle: Any vehicle driven by an internal-combustion engine.

Open Space: Land which is not developed or altered by people for a specific use. Therefore, recreational areas such as baseball fields, golf courses, skimobile trails, etc. do not constitute open space.

Recharge Area: Area composed of porous sand, gravel, or other permeable material that collects precipitation or surface water and carries it to aquifers.

Sewered Development: Development served by the North Berwick Sewer District.

Sludge: Residential materials produced by water or sewage treatment processes, industrial processes, or by domestic septic tanks.

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

Street: Public and private ways such as highways, roads, and other rights-of-way.

Unsewered Development: Development which disposes of waste generated on the site by means of a privately owned and operated subsurface waste disposal system which leaches treated of untreated sewage into the ground.

b. Aquifer Protection Area

1. Delineation of Aquifer Protection Overlay. For the purposes of this ordinance aquifers and aquifer protection areas shall be delineated on a tax map and shall be entitled "Aquifer and Aquifer Protection District Map: Town of North Berwick." This map shall be deemed an integral part of this ordinance and shall be filed at the Town office. If there is any conflict between this section of the zoning ordinance and other sections, the most restructive ruling will prevail. When any portion of a lot is located in either Zone A or Zone B, all the land located in Zone A shall be governed by the regulations for Zone A, and all the land in Zone B shall be governed by the regulations for Zone B.

2. Aquifers and aquifer recharge areas are comprised of the following elements:

Zone A consists of aquifers, wells, and aquifer recharge areas, including the surface land overlying them, within an area in which leachable materials disposed of into or onto the land can travel to the well sites (existing or proposed) within 200 days travel time. Zone A as described above is delineated on the official aquifer protection district map.

Zone B consists of the area within which leachable materials disposed of into or onto the land can travel to the wells within more than 200 days but less than 2500 days. Zone B as described above is delineated on the official aquifer protection district map.

3. The delineation of aquifers and Zones A and B may be revised by amendment to this ordinance or to the official aquifer protection district maps upon recommendation of the Planning Board as aquifers and aquifer recharge areas are more accurately defined. Where the bounds as delineated are in doubt or dispute, the burden of proof shall be upon the owner(s) or occupier(s) of the land in question to show where they should be properly located. The Planning Board shall hold a public hearing in accordance with the procedures in section 6.8.5 to receive evidence from the owner/occupier, which shall include a report from a geologist licensed in the State of Maine with proven experience in hydrogeology. The Town may hire a hydrogeologist to review all information submitted by the applicant and charge the applicant the cost of the consultant. Or, at the request of the owner(s), the Town may engage a licensed geologist to determine more accurately the location and extent of an aquifer or aquifer recharge area, and may charge the owner(s) or occupier(s) for the cost of investigation. The Board shall also notify the No. Berwick Water District of the hearing at least 14 days prior to the date of the hearing. Within 30 days of the hearing the Board shall decide whether to recommend to the Selectmen that an amendment to the official Aquifer Map be placed on the next warrant.

4. Any time the map is revised, the date of the revision and the signature of the Chairman of the Planning Board certifying the revision shall be noted on the map.

c. Land Uses within the District

1. Zone A All uses are prohibited except the following:

a. Conservation of soil, water, plants, and wildlife

b. Outdoor recreation, including boating, fishing, nature study, and where otherwise legally permitted

c. Foot, bicycle, and horse paths or bridges

d. Normal operation and maintenance of water supply facilities including forest management by the water district.

e. Single family dwellings and accessory structures no closer than 500 feet to a public well. This requires CEO approval and notification to the water district.

f. Motor powered equipment necessary for home maintenance.

2. Zone B prohibited and conditional uses.

a. The following is a list of prohibited uses within the Acquifer Zone B Overlay:

1. Disposal or storage of solid waste, hazardous materials, leachable materials, road salt (except for winter road maintenance), or sludge.

2. Animal feedlots.

3. Commercial use, storage, or aerial spraying of herbicides, insecticides, or pesticides.

4. Mining, including sand and gravel excavation.

5. Boat and motor vehicle service or repair facilities.

6. Metal plating.

7. Commercial furniture stripping, painting, or wood preserving.

8. Commercial dry cleaning.

9. Truck or trailer terminals.

10. Nonresidential pipelines for transmission of oil, gasoline, or other hazardous materials.

11. Spray irrigation of industrial sewage, sludge, or wastewater.

12. Golf courses.

13. Sawmills and wood processing plants.

14. Medical and veterinary facilities.

15. Subsurface waste disposal systems with a capacity greater than 1,000 gallons per day.

b. Conditional uses within Zone B will be determined by the underlying district (i.e. Farm and Forest, Shoreland, etc.).

c. Any use that may affect the aquifer District and is not identified by these ordinances shall be subject to review. The review will be done by the CEO or at his discretion passed to the Planning Board.

d. Performance Standards

1. Manure Storage: Agricultural operations which generate or utilize manure must provide containment facilities for manure storage which shall be designed and operated according to the York county Soil and Water Conservation District Technical Guide, Standard and Specification Number 313. Manure containment facilities must be adequate to hold one years production and must be covered.

2. Application of Fertilizers: Application of nitrogen fertilizer or manure in excess of 250 lbs./acre/year of total nitrogen requires CEO approval and annual review. Manure spreading shall be carried out in accordance with Maine Guidelines for Manure and Manure Sludge Disposal on Land, (Cooperative Extension Service Miscellaneous Technical Report 142) and rate of application must not exceed the rate shown by soil type in the tables in the above cited report. Provision shall be made for control of runoff, erosion, and sedimentation. Application of fertilizer or manure to sand, or bare soil where the topsoil has been removed, is prohibited. Normal lawn maintenance and home garden care is permitted without a permit.

3. Runoff and Drainage: Unless it can be shown that an increase in runoff will have no off-site impact, peak runoff from the site in the developed state shall not be increased beyond that in the undeveloped state. Provision shall be made for on-site recharge of storm water runoff from impervious surfaces unless the Planning Board determines that either recharge is infeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surfaces unless otherwise approved by the Planning Board. Dry wells shall not be used for control of surface runoff unless other methods of control are not feasible. Dry wells shall not be used for disposal of any leachable materials or hazardous materials and shall not be connected to floor drains.

4. Pollution Levels: The concentration of any pollutants introduced into the soil on the site will be attenuated to a contaminant concentration in the ground water that is less than one half of the difference between the background concentration before development, and the Safe Drinking Standard for that particular contaminant. Monitoring wells must be located within 500 feet of pollutant sources.

5. Safeguards: Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage, or vandalism through measures such as spill control provisions in the vicinity of chemical of fuel delivery, transfer, and storage points secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or leachable materials. Handling and storage of toxic and hazardous materials shall meet performance standards established by the Maine Department of Environmental Protection.

6. Subsurface Waste Disposal Systems: Subsurface waste disposal systems are only permitted in Zone A when they are set back at least 500 feet from public wells. In Zone B no more than two dwelling units may be connected per subsurface waste disposal system, and no "engineered systems" as defined in the State of Maine Subsurface Wastewater Disposal Rules are permitted. Disposal of hazardous materials to subsurface waste disposal systems, including organic solvents designed for cleaning such systems, is prohibited.

7. Storage Tanks: All storage tanks for oil, fuel, or other materials shall be protected from corrosion and shall have a secondary containment system. Above ground or indoor tanks shall be constructed over an impermeable base surrounded by a berm or enclosed area large enough to contain the contents of the tank. Underground tanks shall be equipped with a double-liner built to the specifications for double-containment listed in Title 38, chapter 691, MRSA. All tanks which do not meet the above-listed specifications shall be nonconforming. All above ground and indoor tanks must be equipped with a secondary containment system by October 1, 1986. All underground tanks in place prior to March 1, 1986 shall be assumed to be nonconforming unless the owner provides the Code Enforcement Officer with evidence that the tank is double-lined. Nonconforming tanks shall be pressure tested annually in Zone B and once every 200 days in Zone A. Tanks failing to pass the pressure test shall be excavated and examined for leaks. If a leak exists, an investigation of amount and location of spilled substance shall be undertaken at the expense of the owner. If the spilled substance poses a significant threat to health and safety it shall be removed at the expense of the owner. all nonconforming underground tanks shall be excavated when 20 years old. If date of installation can not be identified, the tank shall be removed.

e. Dimensional Standards: The dimensional standards of the underlying district as shown in section 4.3 shall be applied in the aquifer protection district except for the minimum lot size for unsewered residential use and acreage standards established for animal husbandry.

1. The dimensional standard for unsewered residential use is 4 acres and 300 feet of frontage per dwelling unit.

2. Acreage standards for animal husbandry are as follows:

Dairy Cattle	1 animal/acre
Beef Cattle	3 animals/acre
Swine	4 animals/acre
Sheep	8 animals/acre
Goats	12 animals/acre
Horses - Riding	3 animals/acre
Horses - Draft	1 animal/acre
Chickens/Roosters - Layers	139 animals/acre
Chickens/Roosters - Broilers	155 animals/acre
Dogs	24 animals/acre

Animal husbandry at densities higher than those listed above is not permitted in Zone A or Zone B. Acreage shall be calculated based on the area utilized by the animals during the winter and may include areas utilized for manure spreading. No area shall be considered to be smaller than one acre. Persons keeping more than one kind of animal may prorate the acreage used among the animals to be kept. Persons keeping animals not listed in this section must be considered on an individual basis and therefore must obtain a conditional use permit for such uses.

f. Administration and Enforcement

1. No activity of land use may be conducted except in accordance with these provisions. Failure to conform with these provisions shall constitute a violation and shall be subject to the penalties set forth in Section 6.6 of the North Berwick Zoning Ordinance.

2. Conditional use permit review shall be conducted by the Planning Board. A conditional use permit shall be granted as the Planning Board determines that the intent of this Ordinance as well as its specific criteria are met. In making such determination, the Planning Board shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to water quality which would result if the control measures failed. No activity of land use may be conducted in Zone B until a conditional use permit for such activity or use has been approved by the Planning Board.

3. Monitoring wells are required for:

a. any use deemed by the Planning Board to be an actual or potential source of pollution.

The number, location, and depth of monitoring wells shall be determined by a hydrogeologist chosen or approved by the Town and shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Monitoring wells shall be installed on the property, at the expense of the owner or occupier, within 500 feet of actual or potential pollution sources. The Planning Board shall determine, in consultation with the North Berwick Water District, when monitoring wells shall be sampled. Results from monitoring well samples shall be submitted to the North Berwick Water District.

g. Nonconformities

1. Nonconforming uses shall not be extended or expanded.

a. In the case of nonconformities, the buildings may be maintained, repaired, or renovated, but the expansion of the dwelling's footprint is prohibited.

b. In the case of earth removal operations, the removal of earth may not be extended as a non- conforming use beyond the required setback lines of the specific parcel upon which such operations were in progress when such use became non-conforming. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

2. A non-conforming use of a structure, building, or property may be changed to another non-conforming use by appeal to the Planning Board if the applicant presents the testimony of an expert witness that the proposed new use will be less detrimental to the aquifer protection district than the prior use is, and if the Board accepts that testimony as reliable.

3. A single lot in Zone B of record prior to March 1, 1986 may be built upon providing no subsurface waste disposal system is located within 300 feet of another septic system or if a variance is obtained from the Board of Appeals.

4. If any non-conforming use ceases for any reason for a period of one year or more, such land and buildings shall thereafter be used and developed only in accordance with the terms of this section of the Zoning Ordinance. This provision shall not apply to the resumption of use of a residential structure provided the structure has been used or maintained for residential purposes during the preceding five (5) year period.

5. Wherever a non-conforming use is changed to a permitted use, such use shall not thereafter revert to non-conforming status.

5.2.14 Street Design & Construction Standards

All streets in the Town of North Berwick will be built to the standards contained in Article 11.2 and 11.3 of the ordinance entitled Town of North Berwick Street Design & Construction Standards Ordinance.

5.2.15 Handicapped Accessibility

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 5 as determined by the Code Enforcement Officer:

a. Built according to BOCA and Life Safety Building Codes.

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

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

d. 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.

e. The applicant shall present to the Code Enforcement Officer written evidence that it cannot be constructed within configuration of the property and location of the structure being accessed.

f. The applicant shall present to the Code Enforcement Officer 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.

5.2.16 Affordable Housing Standards (Village C Overlay District)

A single-family unit in the Village C Overlay District and Commercial District shall be deemed affordable if all the following standards are met:

a. The total cost for the dwelling unit does not exceed 28% of the income of a household earning 80% of the median household income in North Berwick. Total housing cost shall be defined as the mortgage payment for the dwelling unit based upon 90% of the dwelling's value, the housing insurance, and property taxes;

b. The deed for the property states that for 30 years from the date of the initial purchase of the property as an affordable housing property, the property shall not be sold by any owner for more than an affordable cost as defined in Article 5.2.16.a.

c. The determination of an affordable price for a property shall be determined by the Planning Board based upon the latest available data from the U.S. Census, a department of State of Maine government, and or the Southern Maine Regional Planning Commission;

d. Before plans for affordable dwelling units are approved by the Planning Board or Code Enforcement Officer, the Town attorney shall review and approve in writing the deed(s) for each property assuring that the standards of Article 5.2.15 are met. The cost for Town attorney review shall be born by the applicant in all cases regardless of approval or disapproval.

e. These affordable homes are intended primarily for owner occupancy, however, if rented, the rent shall be limited to no more than the same maximum monthly cost as stated in 5.2.16 paragraph (a).

f. The siting and appearance of affordable housing will be similar to other houses in the area.

5.2.17 Shoreland Districts Standards

These standards are in addition to all performance standards of the underlying districts. Where these standards are in conflict with any underlying standards, the more strict shall prevail.

a. <u>Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.</u>

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

(2) The location shall not interfere with existing developed or natural beach areas.

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

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

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

(6) New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

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

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

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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

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

(2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

c. **Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

(1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.

(2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

(3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

(4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

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

(6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

d. <u>Commercial and Industrial Uses.</u> The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

(1) Auto washing facilities

(2) Auto or other vehicle service and/or repair operations, including body shops

(3) Chemical and bacteriological laboratories

(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms

(5) Commercial painting, wood preserving, and furniture stripping

(6) Dry cleaning establishments

(7) Electronic circuit assembly

(8) Laundromats, unless connected to a sanitary sewer

(9) Metal plating, finishing, or polishing

(10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Printing

e. <u>Parking Areas</u>

(1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

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

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

(1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 5.2.17 (f)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 5.2.17(f)(1) except for that portion of the road or driveway necessary for direct access to the structure.

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

(3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

(4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 5.2.17(o).

(5) Driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet. Road Grades shall conform to the Town of North Berwick Street Design and Construction Standards Ordinance.

(6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

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

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

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

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

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

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

g. <u>Signs.</u>

See Article 5.2.6 for sign Performance standards in Shoreland districts.

h. <u>Storm Water Runoff</u>

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

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

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i. Septic Waste Disposal

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

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

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j. Essential Services

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

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

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

k. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 5.2.17 (k)(4) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of Bauneg Beg Pond or the Great Works River, and within one hundred (100) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within one hundred and fifty (150) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

(b) The final graded slope shall be three to one (3:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

l. Agriculture

(1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a Bauneg Beg Pond, Great Works River, a river flowing to a great pond classified GPA, and of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

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(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a Bauneg Beg Pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

(5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Bauneg Beg Pond; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

m. <u>Timber Harvesting</u>

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;
(2) There is no resultant soil disturbance;
(3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
(4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(b) Beyond the 75 foot strip referred to in Section 15(m)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) Except in areas as described in Section 15(m)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

(ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

(b) Timber harvesting operations exceeding the 40% limitation in Section 15(m)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

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

(d) Timber harvesting equipment shall not use stream channels as travel routes except when:

(i) Surface waters are frozen; and

(ii) The activity will not result in any ground disturbance.

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

(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

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

n. <u>Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting</u>

(1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

(2) Except in areas as described in Section n(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 5.2.17(n)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

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

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

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

(4x1)+(2x2) + (3x4) + (2x8) = 36 points

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

The following shall govern in applying this point system:

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

For the purposes of Section 5.2.17(n)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 5.2.17(n) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 5.2.17(n)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development Districts.

(4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 5.2.17(n).

o. <u>Erosion and Sedimentation Control</u>

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

(a) Mulching and revegetation of disturbed soil.

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

(c) Permanent stabilization structures such as retaining walls or rip-rap.

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

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

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

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

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

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

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

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

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

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

5.2.18 Adult Businesses

a. Purpose: The purpose of this Ordinance is to regulate the location and operation of "Adult Businesses" within the Town of North Berwick.

b. Definitions:

1. Adult business means:

a. 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.

b. Any business utilizing a "viewing booth" to display by audio or visual reproduction, projection or other means, any materials which depict or describe specified sexual activities.

c. Any business which provides massage for consideration.

d. Any business which presents as entertainment, or for the purpose of attracting customers, nude or semi-nude dancing or entertainment, meaning that the entertainers male or female or other persons employed in the business expose any portion of the human genitals or any portion of the female breasts at or below the areola thereof in such a fashion that any of those parts of the body are not covered by a fully opaque cloth or textile material.

2. Massage means: any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction or manipulation of external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device performed by any person who is not a physician, surgeon, physician's assistant, nurse, chiropractor, physical therapist, barber, cosmetologist, beautician or other health or hygiene professional licensed by and practicing in accordance with the laws of the State of Maine. Massage does not include massage therapy as defined in 32 M.R.S.A. sl4301(4).

3. Specified sexual activities means: (1) human genitals in the state of sexual stimulation or arousal; (2) acts of human masturbation, sexual intercourse or sodomy; (3) fondling or other erotic touching of human genital, pubic region, buttock or female breast.

c. Operation and Location:

1. No adult business shall be located:

a. In any zoning district other than the Commercial II District between the intersections of Route 4 and (and Route 4, 9 and Madison Street as depicted in the Limited Commercial Zone as of July 1, 2012.

b. In any location where the customer entrance to the adult business would be closer than 500 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:

1. occupied by a school, park, playground, church, public building or day care center.

2. occupied by another adult business.

c. In any location where the customer entrance to the adult business would be closer than 100 feet measured in a straight line without regard to intervening structures or objects, to the nearest point of the main entrance to a residence.

2. Outside displays, materials, or devices exhibiting specified sexual activities shall not be visible from the exterior of the building in which the adult business is located.

3. The hours of operation may not be between the hours of 10:00 PM and 6:00 AM.

d. Application and Permitting Procedures:

1. No adult business shall be located or commence operation within the Town of North Berwick without first being approved by the North Berwick Planning Board pursuant to the procedures and standards applicable to conditional uses located in the Town of North Berwick Zoning Ordinance. Planning Board review under this Ordinance shall be limited to the impacts and effects of the proposed use and determined by applying the conditional use and adopted zoning 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. Planning Board decisions under this ordinance may be appealed to the North Berwick Zoning Board of Appeals or may be taken directly to the Superior Court pursuant to North Berwick Zoning Ordinance.

e. Exceptions:

1. This Ordinance is not intended to regulate any established and existing school, church, museum, private or public library or governmental agency, nor their libraries or collections as they may exist under state, local, federal law or act as a vehicle of censorship in artistic endeavors.

2. This Ordinance is not intended to regulate any conduct expressly regulated by existing state statues.

f. Penalty:

1. Any conduct made unlawful by this Ordinance and any violation of this Ordinance shall be punishable by a fine of Five Hundred Dollars ($500.00) for each offense, payable to the town of North Berwick. Each day that such unlawful act or violation continues shall be considered a separate violation. The fine or fines shall be assessed as provided by Maine state law.

2. In addition to any other penalty provided by law, the commission of acts prohibited by this ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violations.

g. Severability:

1. If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

5.2.19 Emergency Public Health and Safety Facilities

In addition to the requirements imposed by subsection 6.9.6, the following requirements shall be satisfactorily demonstrated to the Planning Board before said Board shall issue a conditional use permit for any emergency public health or safety facility, including but not limited to a fire department substation or an ambulance garage.

a. The facility shall serve the public impartially and equally;

b. The facility shall not be equipped or occupied by a family, but only for three (3) or fewer persons on call to operate the facility;

c. The facility may be located on a lot less than the minimum lot size required, but shall contain sufficient land area to meet all applicable state and North Berwick Plumbing Code requirements; if served by Town water and sewer, the facility shall be located on lot of at least 20,000 square feet; this subsection shall specifically override any other lot size requirements of this Ordinance;

d. Setbacks may be reduced up to 50% at the Planning Board’s discretion.

5.2.20 In-Law Accessory Apartment standards.

An apartment meeting the following standards shall be considered to be part of a single–family dwelling and shall not be considered to be a dwelling unit in terms of the space and bulk standards contained in Table 4.3. In-Law Accessory Apartments shall be permitted in those Districts where single family dwelling is an allowed use. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall meet the use and bulk standards contained in Table 4.3.

1. The initial use of the apartment is for the care of in-laws. The apartment can continue to be utilized by the property owner after the care of the in-law has ceased provided all other requirements of this section are met.

2. The apartment shall be accessory to the use of the premises as a single–family dwelling and only one apartment shall be created accessory to the single–family dwelling.

3. The apartment shall be created within or attached to a single-family dwelling or accessory structure.

4. The creation of the apartment shall not alter the single-family character of the property.

5. Provisions for one (1) additional parking space shall be made in conformance with article 5.

6. The habitable area of the apartment shall not exceed 650 square feet, shall not contain more than one bedroom and shall not have an occupancy that exceeds two persons.

7. One of the units must be occupied by the property owner.

5.2.21 Construction Standards for Commercial Use Buildings

The purpose of this section is to maintain the small New England village character of the town. The requirements of this section are in addition to those requirements in other sections of this ordinance. This section is to cover the construction of new structures and expansion of existing structures intended for commercial use within the commercial districts (i.e. Commercial, Commercial II, Village Center, Village A and Village B Districts). Existing commercial use buildings will be required to meet the standards of this section if they are renovated to increase square footage by one thousand (1000) square feet or more.

Professional offices may comply with this section by meeting the standards of this section or building to resemble a traditional New England home consistent in appearance with neighboring residences. All other commercial use buildings must comply with the following sections.

A. Exterior Appearance - The exterior appearance of commercial use buildings shall be made to look like a traditional New England storefront.

    1. Exterior walls shall be of traditional siding materials such as clapboard siding, wood shingles, red brick or red brick veneer. Contemporary materials that have the same visual characteristics (e.g. cement plank clapboards or vinyl siding) are acceptable if attention is paid to detailing (e.g., corners, trim at openings, changes in material). Metal cladding, highly reflective or processed materials (e.g., metal or plastic panels, brushed aluminum, bronzed glass, concrete block, T-1-11, untreated plywood, etc.) is not permitted.

    2. Siding color shall be neutral or pastel colors to be approved by the Planning Board.

B. Buildings with facades that exceed fifty (50) feet in width shall include features that modulate the façade walls in increments of thirty (30) feet or less, in order to create variety and interest along the public way. Use a minimal number of these features judiciously so that a larger building shall present a human-scaled appearance while remaining a unified design composition. The intent of this standard is to encourage buildings with architectural relief and interest. These features may include:

    1. Recess and/or project portions of the façade, for no less than 12 inches for the entire height of the building.

    2. In combination with #1, increase or decrease the height of portions of the facade.

    3. If appropriate for the building use(s), recess storefronts or entrances from the overall front of the building.

    4. Provide canopies or awnings at sidewalk level.

    5. Use different but compatible materials on different portions of the façade; for example, alternate wood clapboard and wood shingles.

    6. Use different but harmonious colors on different portions of the façade.

7. Use a small number of different details and/or door and window arrangements, shapes and/or sizes along the façade.

8. Use horizontal or vertical trim bands to relieve long facades.

C. Commercial facades shall be designed to reflect a traditional storefront design using the following design standards for display windows;

1. Storefronts of commercial facades under 100 feet in length shall have display windows comprising not more than eighty (80%) percent of the storefront surface area nor less than twenty (20%) percent. Storefronts of commercial facades over 100 feet in length shall have display windows comprising not more than sixty (60%) percent of the storefront surface area nor less than twenty (20%) percent. Facades shall be designed to avoid large areas of blank wall space.

2. Display windows shall be rectangular or square and shall be either vertical or horizontal in orientation.

3. Display windows shall extend no less than twelve (12”) or more than ninety-six (96”) above finished floor.

4. Mirrored or reflective glazing materials are prohibited.

5. All windows shall be detailed with sills, frames, trim and other architectural features appropriate to traditional storefront design.

D. Building Height, Roofs and Rooflines - In no case shall a building exceed thirty-five (35) feet in height pursuant to section 4.2.f.

1. Rooflines shall be of a gabled, gambrel, hip or mansard design. This roofline may be a facade used to hide roof-top equipment or a traditional roof. Roofs shall be no less than a 5/12 pitch.

2. To the greatest extent possible, any equipment mounted on a roof shall be hidden from public view with a parapet designed to resemble a gabled, gambrel, hip or mansard roof.

3. Roof colors shall be neutral shades such as earth tones, greys and black.

E. Additional Landscaping Requirements - The following landscaping requirements are mandatory for commercial use buildings;

1. Chain link fences are prohibited except for safety purposes.

2. Trash and recycling dumpsters shall be enclosed and hidden from view with a minimum 6 foot high solid fence or hedges.

3. Other ground level equipment shall be screened from the public way.

4. All curbing that extends into the public way shall be made of granite in keeping with the curbing maintained by the Town of North Berwick.

   All curbing within the development, not extending into the public way, shall be made of granite, monolithic or slip-form concrete. Bituminous curbing and pre-cast concrete curbing shall be prohibited.

ARTICLE 6 - ADMINISTRATION

6.1 Building or Use Permit

6.1.1 Use of permits shall not be required for permitted uses.

6.1.2 All applications for building or use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose.

6.1.3 Within ten days of the filing of an application for a building or use permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for conditional use permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the North Berwick Town Office. In cases where the Code Enforcement Officer deems that a conditional use permit is required, he shall also provide a copy of his decision to the Planning Board.

6.1.4 Building permits for a building or structure on any lot shall be issued only to the owner of record thereof, or his authorized agent, and shall not be issued until the proposed construction or alteration of a building or structure complies in all respects with the provisions of the Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. All applications for such a permit shall be accompanied by a plan, accurately drawn to scale, showing the actual slope and dimensions of the lot to be built upon, an on-site soils survey in accord with the USDA Soil Conservation Service National Cooperative Soil Survey, the exact location and size of all buildings or structures already on the lot, within which all buildings and structures are to be constructed, the existing and intended use of each building or structure, and such other information as may be necessary to provide for the execution and enforcement of this Ordinance.

Follow the example of the sample site plan enclosed at the end of this Ordinance. For more exacting details, consult the North Berwick Subdivision Regulations. (Note: The site plan does not have to be drawn by a registered engineer, but must be neat and contain all required data).

6.1.5 Applications for permits with their accompanying plans and building permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.

6.1.6 A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, or if the work or change is not substantially completed within two years of the date on which the permit is granted.

6.1.7 For construction of a principal or accessory building, application for a building permit must include a plot plan showing the location of proposed and existing structures to assure that setback requirements are satisfied, and a category 3 survey will be required from the applicant or contractor when the footing is inspected. No construction shall be placed upon the footing until the footing has been inspected.

6.1.8 Demolition permit required. A demolition permit shall be required before any person who proceeds with any of the following work:

(a) The demolition or removal of 50 percent or more of the floor area of any structure (or structures on the same lot) in any residential or business district; or

(b) The demolition or removal of 50 percent or more of the structural elements of the walls or facade of a structure (or structures on the same lot) facing a street in any residential or business district,

6.1.8.1. Demolition work. No part of any demolition work for which a permit is required under this Ordinance shall be commenced unless and until:

(a) A demolition permit is applied for and issued in the name of the owner and/or applicant in accordance with this Ordinance and has not expired; and

(b) Unless the code official shall issue a demolition permit pursuant to Section 6.1.8.4, a building permit is issued by the code official for the proposed new structure or improvements to the existing structure.

6.1.8.2. Building permit. No building permit that contemplates demolition work for which a demolition permit is required pursuant to this Ordinance shall be applied for or accepted by the code official unless and until:

(a) A demolition permit shall be applied for, approved and issued in the name of the owner and/or applicant in accordance with this Ordinance;

(b) All required fees shall have been paid by the owner or applicant;

6.1.8.3 Emergency permit. A demolition permit may be issued by the code official without compliance with Sections 17-14 through 17-21 upon a determination by the code official that the building or structure in question presents a threat to public safety.

6.1.8.4. Permit application. All applications for demolition permits shall be submitted in accordance with this section No demolition permit application shall be accepted for processing unless it is complete and is accompanied by all applicable fees. Other information and documentation as the code official may determine to be reasonably necessary to process the application in accordance with the provisions of this Ordinance may be required.

6.1.8.5. Expiration of permit. Unless the demolition work authorized by a demolition permit shall have commenced in accordance with such permit and this Ordinance prior to the expiration of such permit, a demolition permit issued pursuant to this Ordinance shall expire six months after its issuance.

6.2 Fee

No building, use or demolition permit shall be issued without payment of a fee in accordance with the current fee on file with the Town Clerk.

6.3 Growth Management Permit Required

6.3.1. The purpose of this section is to ensure that this Ordinance supports the objectives of the Comprehensive Plan, including, but not limited to, the following:

a. Provide for the local housing needs of the Town's existing residents;

b. Plan for continued residential population growth of the Town at a rate which is compatible with the orderly and gradual expansion of community services, including education, fire and police protection, road maintenance, waste disposal, etc.

c. Avoid a situation in which the rapid completion of major subdivisions, housing many families with school age children, could outstrip the Town's capability to expand its schools and other services soon enough to avoid serious overcrowding;

d. Ensure fairness in the allocation of building permits; and

e. Ensure that the Town experiences growth rates which are at parity with other municipalities in the region.

6.3.2. Except as provided below, a building permit for the construction of a new single family, two-family or multi-family dwelling or for the placement of manufactured housing shall be issued only if the application for the building permit includes a valid growth management permit issued in accordance with the provisions of this section. Both permanent and seasonal dwelling units are included within this provision.

6.3.3. The following are exempt from the provisions of this section:

a. The repair, replacement, reconstruction or alteration of any existing building or structure;

b. Housing for the elderly which is constructed, operated, subsidized or funded, in whole or in part, by an agency of the state or federal government; and

c. The construction or alteration of a nonresidential building or structure.

6.3.4. The Town shall issue not more than the number of growth management permits each fiscal year, i.e., July 1 to June 30, as shall be determined by the Selectmen for the fiscal year beginning July 1, 2004 and biennially thereafter and filed with the Town Clerk. To determine the maximum number of growth management permits that may be issued in a fiscal year, the Selectmen shall multiply by 0.022 the number of dwelling units in North Berwick at the end of the immediately preceding fiscal year. This annual total shall be subject to the review procedure set forth below.

6.3.5. The operation of this chapter shall be reviewed by the Planning Board periodically, but not less frequently than once every two years, to ensure that the annual maximum growth rate has not become inconsistent with the Town's capability to establish or enlarge needed public facilities and services. Based upon its review, the Planning Board may recommend amending this section as provided in Article 1, section 1.5.3.

6.3.6. Applications for growth management permits shall comply with the following:

a. A growth management permit application must be completed by the lot owner of record, including all endorsements and certifications.

b. Applications shall be on forms provided by the Town. The code enforcement officer may request additional information and shall have the authority to require that the application be revised or supplemented in order to meet state or local requirements.

c. Applications shall include a description of the proposed building project.

d. Growth management permit applications shall be accompanied by a nonrefundable fee of $550.00. $500 will be applied to the building permit fees

6.3.7. Growth management permit applications shall be submitted to the code enforcement officer who shall endorse each with the date and time of receipt. In the event two or more growth management permit applications are received simultaneously, the code enforcement officer shall determine their order by random selection. The code enforcement officer shall review growth management permit applications in the same order as they are received. The code enforcement officer shall review all growth management permit applications for completeness and accuracy. When the code enforcement officer finds an application to be complete, he shall approve it by signing the application and endorsing the date and time of approval on the application. For each fiscal year, the code enforcement officer may accept more complete applications than the number of growth management permits determined under Section 6.3.4. and maintain a waiting list not to exceed twice the number of permits authorized for that year. Applications on the waiting list shall be ranked according to the date and time of receipt, as above, and shall be eligible for a permit based on their ranking. Any application that remains on the waiting list for two fiscal years shall be removed from the list. Presence on the waiting list for part of a fiscal year shall be considered one year.

a. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit application for a period of one year.

b. Growth management permit applications which are not approved by the code enforcement officer because of incomplete or inaccurate information shall be automatically re-ranked and reconsidered upon re-submission following corrections.

6.3.8. The holder of a valid growth management permit may apply for and be issued a building permit for a building project which is the same as or substantially similar to the project described in the growth management permit and which is on the lot which is the subject of the growth management permit. A growth management permit which has not been used to obtain a building permit within 90 days of the approval by the code enforcement officer of the growth management permit shall expire. Expiration of building permits shall be in conformity with the applicable provisions of this Ordinance.

6.3.9. No more than 6 growth management permits shall be issued for dwelling units within a single subdivision during each fiscal year. Additional permits for such subdivision may be issued in succeeding years in accordance with section 6.3.7. The limitations contained in this subsection shall not apply to subdivisions approved prior to the enactment of this Ordinance or which have had at least one substantive review by the Planning Board prior to the enactment of this Ordinance but growth management permits issued for such subdivisions shall be counted against the maximum number of permits issued each year as provided in section 6.3.4.

6.3.10. Growth management permits shall be site specific, and shall be valid for construction only on the lot specified on the application. However, such permits and applications for permits shall be transferable to new owners of the lot, if the lot is sold or otherwise legally transferred. Transfer of ownership of the lot shall leave the application ranking unchanged. An application which has been transferred not in accordance with the section shall be nullified and revoked by the code enforcement officer.

6.3.11. This section shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this article imposes a greater restriction upon the use of land, buildings or structures, the provisions of this article shall prevail.

6.4 Plumbing Permit Required

No building permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance, and with the provisions of State Plumbing Code.

6.4.1 Plumbing Permit Fee

No plumbing permit shall be issued without payment of a fee in accordance with the current fee schedule on file with the Town Clerk.

6.5 Sign Permit Requirements

6.5.1 Permanent Signs

All permanent signs shall comply with the following permitting requirements:

a. Written application to the Code Enforcement Officer shall be made for the installation of all permanent signs.

b. It shall be unlawful to erect, construct, reconstruct, alter, paint, repair or change the use of any permanent sign without first obtaining a sign permit from the Code Enforcement Officer approving such action.

c. Such sign permit shall not be required in order to repaint any existing permanent sign exactly as it was previously and which, at the time of the proposed repainting, conforms in all respects with the provisions of this Ordinance.

d. Permanent signs advertising defunct businesses or premises shall be removed by the property owner within three months after the advertised activity ceases.

e. All permanent signs shall meet the setback requirements of section 5.2.6. Signs placed closer to roadways than permitted shall be removed and shall not be permitted to be replaced until after 30 days have expired and a new sign permit is obtained from the Code Enforcement Officer.

6.5.2 Temporary Signs

Temporary signs conforming to section 5.2.6.c do not require a permit. Temporary signs not conforming to section 5.2.6.c are considered a violation of this ordinance and are subject to enforcement pursuant to section 6.6 and 6.7 of this Ordinance.

6.6 Enforcement

6.6.1 This Ordinance shall be enforced by the Code Enforcement Officer appointed by the Municipal Officers. If the Code Enforcement Officer should find that any provision of this Ordinance is being violated, he shall notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structures, additions, or work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

6.7 Violations, Legal Action and Fines

6.7.1 When any violation of any provision of this Ordinance is found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

6.7.2 Any person, firm, or corporation be the owner or having control of any building, land use, or premises who violated any of the provisions of this Ordinance, shall be guilty of a misdemeanor and shall be subject to penalties outlined in 30-A, MRSA, Section 4452 for each day the violation continues after notification. Amount of fines shall be set by the Municipal Officers, and inure to the Town of North Berwick.

6.8 Appeals

6.8.1 Jurisdiction

a. If the Planning Board disapproves an application for a Conditional Use, or grants approval with conditions that are objectionable to the applicant or to any abutting land owner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongly interpreted, the applicant, an abutting land owner, or aggrieved party may appeal the decision of the Planning Board, as follows:

1. Appeals involving administrative procedures or interpretation of this Ordinance may be heard and decided by the Town's Board of Appeals, as detailed below:

2. When errors of administrative procedures are found, the case shall be referred back to the Planning Board for rectification.

3. When errors of interpretation are found, the Town's Board of Appeals may modify or reverse the order or action but may not alter the conditions attached by the Planning Board. All changes in conditions, other than changes made by the granting of a variance, shall be made by the Planning Board in accordance with the Town's Board of Appeals interpretation.

4. Appeals involving administrative procedures or interpretation shall lie from the decision of the Planning Board to the Town's Board of Appeals and from the Town's Board of Appeals to the Superior Court according to State Law.

5. Appeals involving conditions imposed by the Planning Board, or a decision to deny approval, shall be from the Planning Board to the Superior Court according to State law when such appeals do not involve administrative procedures and interpretation. Appeals involving administrative procedure and/or interpretation may first be heard and decided by the Town's Zoning Board of Appeals, as detailed above.

6.8.2 Board of Appeals

a. **Establishment**: A Board of Appeals is hereby established in accordance with State law and provisions of this Ordinance.

b. **Appointment and Composition**

1. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of five (5) regular members and up to two (2) associate members who can be granted voting rights in the absence of regular members, all of whom shall be legal residents of the Town of North Berwick, serving staggered terms of at least three years and not more than five years. The Board shall annually elect a chairman and secretary from its membership. The secretary shall keep the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the board shall be public record. A quorum shall consist of three members.

2. Neither a Municipal Officer nor his spouse may serve as a member or as an associate member.

3. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting therefore on shall be decided by majority vote of the members, except the member who is being challenged.

4. A member of the board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.

c. **Powers and Duties**

1. **Administrative Appeals**: to hear and decide where any person affected by a decision, order, rule, or failure to act alleges there is an error in the procedure followed by either the Code Enforcement Officer or the Planning Board, or in the interpretation of the Ordinance by the Code Enforcement Officer or the Planning Board. Interpretive and administrative procedural error may be modified or reversed by the Board of Appeals by concurring vote of at least three (3) members of the Board.

2. **Variance Appeals**: To hear and decide, upon appeal, a specific case where a relaxation of the Zoning Ordinance may be effected only on the areas of height, area, structure size and setbacks. Additional conditions and safeguard may be prescribed by the board upon the landowner appropriate to the conditions of this Ordinance. Expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformance in the zoning district or uses in adjoining zoning districts. The Board of Appeals shall grant a variance by concurring vote of at least three (3) members only in strict compliance with all of the following criteria:

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

b. That the need for a variance is due to the unique circumstances of the property (not desired use or personal hardship) and not to the general conditions in the neighborhood.

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner (as required by State law: Title 30-A MRSA Section 4963.)

3. **Setback Variance for Single Family Dwellings:**
The Board may grant a variance from the setback requirements for a single family dwelling only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

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

b. The granting of a variance will not alter the essential character of the locality;

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

d. The granting of a variance will not substantially reduce or impair the use of abutting property; and

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

This subsection is strictly limited to permitting a variance from a setback requirement for a single family dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed twenty (20%) percent of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage.

4. **Mislocated Structure Appeal:**
The Board of Appeals may grant setback reduction in specific cases where existing structures are found to be in violation of the setback requirements and where the board concludes it would not be in the public interest to require that it be relocated or removed, and that allowing the structure to remain in its existing location would not be contrary to the public health, safety, or welfare. Before granting an appeal under this subsection, the board must find that the setback violation is not the result of a willful, pre-meditated act, or gross negligence on the part of the applicant, a predecessor in title to the applicant, or an agent of either of them.

The applicant for a mislocated structure appeal must also demonstrate the following:

a. The setback of the existing structure under appeal is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties in the zoning district.

b. The impacts of allowing the mislocated structure to remain in its existing location will not be substantially different from or greater than the impact and effects of a structure which conforms to the setback requirements.

A variance is not justified unless all elements above are present. The burden of proof rests with the landowner to prove the above conditions exist. A financial disadvantage or personal hardship are not sufficient to grant a variance as all variances must relate to a unique feature of the land.

d. **Appeal Procedure**

1. In all cases, a person aggrieved by a decision of the Code Enforcement Officer or by a decision of the Planning Board shall commence his appeal within 30 days after the decision is made by the Code Enforcement Officer. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.

2. Following the filing of an appeal, and before taking action on any appeal, the Board of Appeals shall hold a public hearing on the appeal within 30 days. The Board of Appeals shall notify Municipal Officers, the Code Enforcement Officer and the Planning Board, at least 10 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area. In appeals involving the use of buildings, premises, space and bulk regulations, or interpretations, a fee in accordance with the current fee schedule on file with the Town Clerk plus all mailing and advertising costs shall accompany the appellant's application.

3. In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the appellant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the appeal and of the time and place of the public hearing.

4. In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail the appellant and only the owners of property abutting the property for which an appeal is taken, at least 10 days in advance of the hearing, of the nature of the appeal and of time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties directly across a street or waterbody from the property for which the appeal is made.

5. In the case of appeals involving properties within Shoreland Zones, A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

6. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.

7. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.

8. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.

9. The appellant's case shall be heard first. Then the board should hear from abutters and then any other citizens attending the meeting should be given an opportunity to speak. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

10. Within 20 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall inform, in writing, the applicant, the Code Enforcement Officer, the Planning Board, and the Municipal Officers of its decision and reasons therefore.

11. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a building permit in accordance with the condition of the approval.

12. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.

6.9 Conditional Use Permits

The Planning Board is hereby authorized to hear and decide upon application for conditional use permits in accordance with State law and the provisions of this Ordinance. The CEO is authorized to decide upon applications for conditional uses that are designated as requiring CEO approval. The CEO at his discretion may refer any applications requiring his approval to the Planning Board. The decision of the Planning Board or CEO may be appealed to the Board of Appeals, and thence to Superior Court.

6.9.1 Fee

The applicant is responsible for all costs for the review process of any conditional use permit application. Costs are to include but not be limited to: Conditional Use application fee in accordance with the current fee schedule on file with the Town Clerk, professional consultation fees, mailing and advertising expenses. Fees collected by the process will inure to the Town of North Berwick.

6.9.2 Powers and Duties

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications which require Planning Board review. The CEO shall hear and approve, disapprove, or refer to the Planning Board, all applications which require CEO review. No conditional use permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

6.9.3 Activities Requiring Conditional Use Permits

A Conditional Use Permit shall be required for any land use or activity which is classified as a "Conditional Use" in the land use table appearing in Article 4 of this Ordinance. A conditional use permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such conforming use on a continued basis which has been discontinued for at least two (2) years.

6.9.4 Application Procedure

a. A person informed by the Code Enforcement Officer that a conditional use permit is required shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for conditional uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:

1. an appropriate place for the signatures of Planning Board.

2. a date, scale and arrow showing both true and magnetic north.

3. the zoning district where the premises in question is located.

4. all existing and proposed setback dimensions.

5. all landscape area, fencing, and size and type of plant material upon the premises in question.

6. all proposed signs and their size, location, and direction of illumination.

7. all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas.

8. all existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

b. Following the filing of a complete application, and before taking action on any application, the Planning Board, may, hold a public hearing on the application within 60 working days according to the procedures detailed in Section 6.8.5 below. Regardless whether a public hearing is held, the Planning Board shall notify all abutters, including owners of property on the opposite side of any public way, that such an application has been received for review. Any conditional use application for a commercial use shall require a Public Hearing under this section.

c. Within 60 days of the public hearing, or 90 days of the application being filed if no public hearing is held, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing to the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reason therefore.

d. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a building permit.

e. A conditional use permit secured under the provision of this Ordinance shall expire if the work or change involved is not commenced within one year of the date of which the Conditional Use is authorized, or if the work or change is not substantially completed within two years.

6.9.5 Public Hearings

a. In scheduling public hearings under this Ordinance, the Planning Board shall notify the Selectmen, the Code Enforcement Officer and the Zoning Board of Appeals, at least seven (7) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area.

b. The Planning Board as a minimum shall notify, by mail, the applicant, abutters and owners of all property within 500 feet of the property involved, at least seven (7) days in advance of the hearing, of the nature of the application of the time and place of the public hearing.

c. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

d. At any hearing, a party may be represented by agent or attorney. Hearing shall not be continued to other times except for good cause.

e. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

6.9.6 Factors Applicable to Conditional Uses

a. In considering a conditional use permit the Planning Board shall evaluate immediate and long-range effects of the proposed uses, and the following factors:

1. the compatibility of the proposed with adjacent land uses and other property in the district;

2. the need of a particular location for the proposed use;

3. the impact of the proposed use on local population and community facilities;

4. the impact of the proposed use on transportation facilities;

5. the maintenance of safe and healthful conditions;

6. existing topographic and drainage features and vegetation cover on site;

7. the prevention and control of water pollution and sedimentation;

8. the location of the site with respect to flood plains and floodways of rivers or streams.

b. Before any conditional use permit may be issued, the Planning Board shall make written findings certifying compliance with the relevant Performance Standards in Article 5 of this Ordinance, and certifying that satisfactory provisions and arrangements have been made concerning the following, where applicable:

1. ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

2. off-street parking and loading areas where required with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional Use on adjoining properties generally in the district;

3. refuse and service areas, with particular reference to items in (1) and (2) above;

4. utilities, with reference to locations, availability and compatibility;

5. screening and buffering with reference to type, dimensions, and character;

6. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district; and

7. required yards and other open space.

c. Additional Factors for Shoreland Zones: The Planning Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

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

(5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Article 5, Performance Standards.

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

d. Special Exceptions. In addition to the criteria specified in Section 6.9.6(c) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

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

6.9.7 Conditions Attached to Conditional Use

a. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that would mitigate any adverse effects on adjoining or neighboring properties, which might otherwise result from the proposed use. These conditions may include, but are not limited to, specifications for; type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; the establishment of a performance guarantee to ensure compliance with any condition attached by the Planning Board; or any other conditions, restriction, or safeguard that would uphold the spirit and intent of this Ordinance.

b. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information:

1. A plan showing contours (at intervals to be determined by the Planning Board) showing Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover;

2. A high density soils report identifying the soils boundaries and names in proposed development, with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification;

3. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping;

4. Plans of buildings, sewage disposal facilities, and water supply systems;

5. Engineering studies necessary to determine that the proposed use complies with the provisions of this Ordinance and other pertinent Town Ordinances (i.e. Street Design and Construction Standards Ordinance). If the Planning Board requires any engineering to be performed as part of the conditional use review, the engineering study shall be reviewed by the Town’s Engineer for compliance with the Town’s ordinances prior to Planning Board approval.

6. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance;

c. In evaluating each application the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any State or Federal agency or an outside consultant (i.e. engineer, attorney) which can provide technical assistance. Any additional costs for consultation with the above agencies or technical assistance required by the Board, as determined by the Board, for evaluation of an application will be paid by the applicant prior to the granting of the conditional use permit in question. Failure to approve a conditional use permit application will not negate the liability of the applicant for any of the above costs.

6.9.8 Violations

a. Failure to comply with any conditions of a conditional use permit subsequent to the receipt of a building permit, shall be construed to be a violation of this regulation and shall be the grounds for revoking the building permit; initiating legal proceedings to enjoin construction, development, or any specific activity violating the conditions of permit approval; or applying the legal penalties detailed below:

b. In instances where no new building or construction is proposed, establishment of a new use or resumption of a use which has been discontinued for at least two (2) years if accomplished without Planning Board approval, shall constitute a violation of this Ordinance. Such violation shall be punishable by a fine of not less than fifty dollars ($50) nor more than five-hundred dollars ($500). Each day that the violation continues to exist, after official notification by the Planning Board, shall be deemed to be a separate offense.

6.10 Community Facilities Impact Analysis

6.10.1. Purpose of Program

The Town of North Berwick finds that new development places demands on municipal government to provide new services and expand and improve public facilities. In order to provide an equitable source of funding for these new services and facilities, the Town of North Berwick has established a municipal infrastructure facilities improvement program which charges a proportionate share of the costs of infrastructure facilities improvements to those who are creating the demand for these improvements.

6.10.2 Authority

This section of the North Berwick Zoning Ordinance is adopted pursuant to 30-A MRSA § 4354 et seq.

6.10.3. Use of Impact Fees

6.10.3.1 Impact fees may only be used for financing infrastructure facilities improvements needed due to demand caused by new growth.

6.10.3.2. Impact fees may not he used for any of the following

a) Operations and maintenance costs, such as but not limited to paying salaries, day-to-day operational costs or replacement of existing equipment,

b) The cost to improve infrastructure facilities to meet existing deficiencies, such as but not limited to relieving existing congestion or overcrowding, or

c) The cost to construct or improve infrastructure facilities that are not needed to serve new development or which do not benefit new development. There must be a reasonable connection between the need for additional infrastructure facilities and growth due to new development and between spending the fees collected and benefits received by the development paying the fee.

6.10.4 Applicability

6.10.4.1 The Code Enforcement Officer shall require the applicant for a Building Permit to participate in the municipal infrastructure facilities improvement program and pay a development impact fee at the rate currently in effect. The total impact fee shall be paid separately from any other fees required by this Ordinance and shall be paid at the time the Occupancy Permit is issued.

6.10.4.2 The Board of Selectmen shall establish the initial impact fee schedule and shall review and revise, if necessary the impact fee schedule at least annually to reflect changes in planned improvements current budget levels and compliance with the Town of North Berwick Comprehensive Plan and the Town's Capital Improvement Program. Prior to the establishment or revision of the impact fee schedule, The Board of Selectmen shall hold two public hearings on the proposed fee schedule. Notice of the public hearings shall be published in a newspaper of general circulation in the Town at least twice. The first notice shall be published no more than 30 days in advance of the first hearing and the second no less than seven days in advance of the first hearing.

6.10.4.3 The impact fee schedule shall indicate the improvements to be financed, the anticipated schedule for construction, and the characteristic of new development by which the fee shall be calculated such as, but not limited to:

a. number of bedrooms
b. square footage of floor area
c. traffic generated.

6.10.4.4 The amount of the fee shall be reasonably related to the development's share of the cost of the infrastructure facilities improvements made necessary by the development or, if the improvements were previously constructed at municipal expense prior to the development, the fee must be reasonably related to the portion or percentage of the improvement used by the development.

6.10.5 Segregation of Impact Fees from General Fund

6.10.5.1. The Code Enforcement Officer shall record the name of the individual paying the impact fee. The Tax Assessor's map and lot numbers for the property for which the impact fee is being paid, the amount of the fee paid for the facility for which fees are collected, and the date the impact fee was paid.

6.10.5.2. Upon collection of an impact fee, the Code Enforcement Officer shall transfer the funds to the Municipal Treasurer who shall deposit the impact fee in special non-lapsing accounts dedicated for funding the improvements for which the fee is collected.

6.10.5.3. Impact fee funds shall be maintained separately from and shall not be combined with other municipal revenues.

6.10.5.4. Funds collected as impact fees shall be expended only for the infrastructure improvement for which the fee was collected.

6.10.6 Refund of Impact Fees

The Town shall refund Impact fees or that portion of impact fees, actually paid that exceed the Town's actual costs or that were not expended within ten years of the date they were collected. The Board of Selectmen shall establish the procedure for refunding impact fees or portions of impact fees not expended. Unexpended fees shall be returned to the owner of record at the time a refund is warranted.

NORTH BERWICK ZONING ORDINANCE

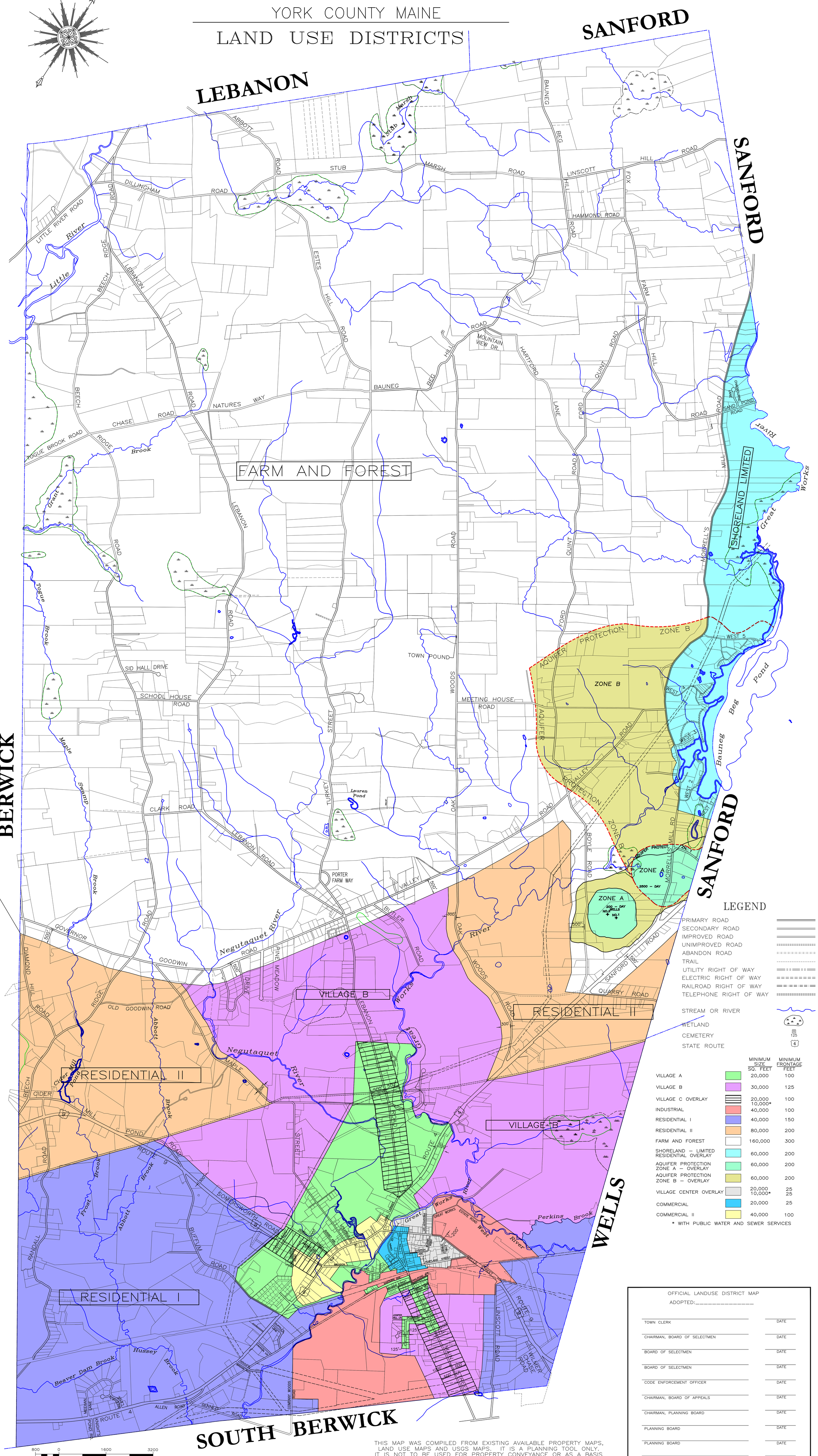
APPENDICES

MAPS AND GRAPHICS

NORTH BERWICK

YORK COUNTY MAINE

LAND USE DISTRICTS



THIS MAP WAS COMPILED FROM EXISTING AVAILABLE PROPERTY MAPS, LAND USE MAPS AND USGS MAPS. IT IS A PLANNING TOOL ONLY, IT IS NOT TO BE USED FOR PROPERTY CONVEYANCE OR AS A BASIS FOR LEGAL TORT. THE INFORMATION SHOWN SHOULD NOT BE A SUBSTITUTE FOR ACTUAL FIELD INVESTIGATION.

APRIL 2012

OFFICIAL LANDUSE DISTRICT MAP

ADOPTED:_____

TOWN CLERK	DATE
CHAIRMAN, BOARD OF SELECTMEN	DATE
BOARD OF SELECTMEN	DATE
BOARD OF SELECTMEN	DATE
CODE ENFORCEMENT OFFICER	DATE
CHAIRMAN, BOARD OF APPEALS	DATE
CHAIRMAN, PLANNING BOARD	DATE
PLANNING BOARD	DATE
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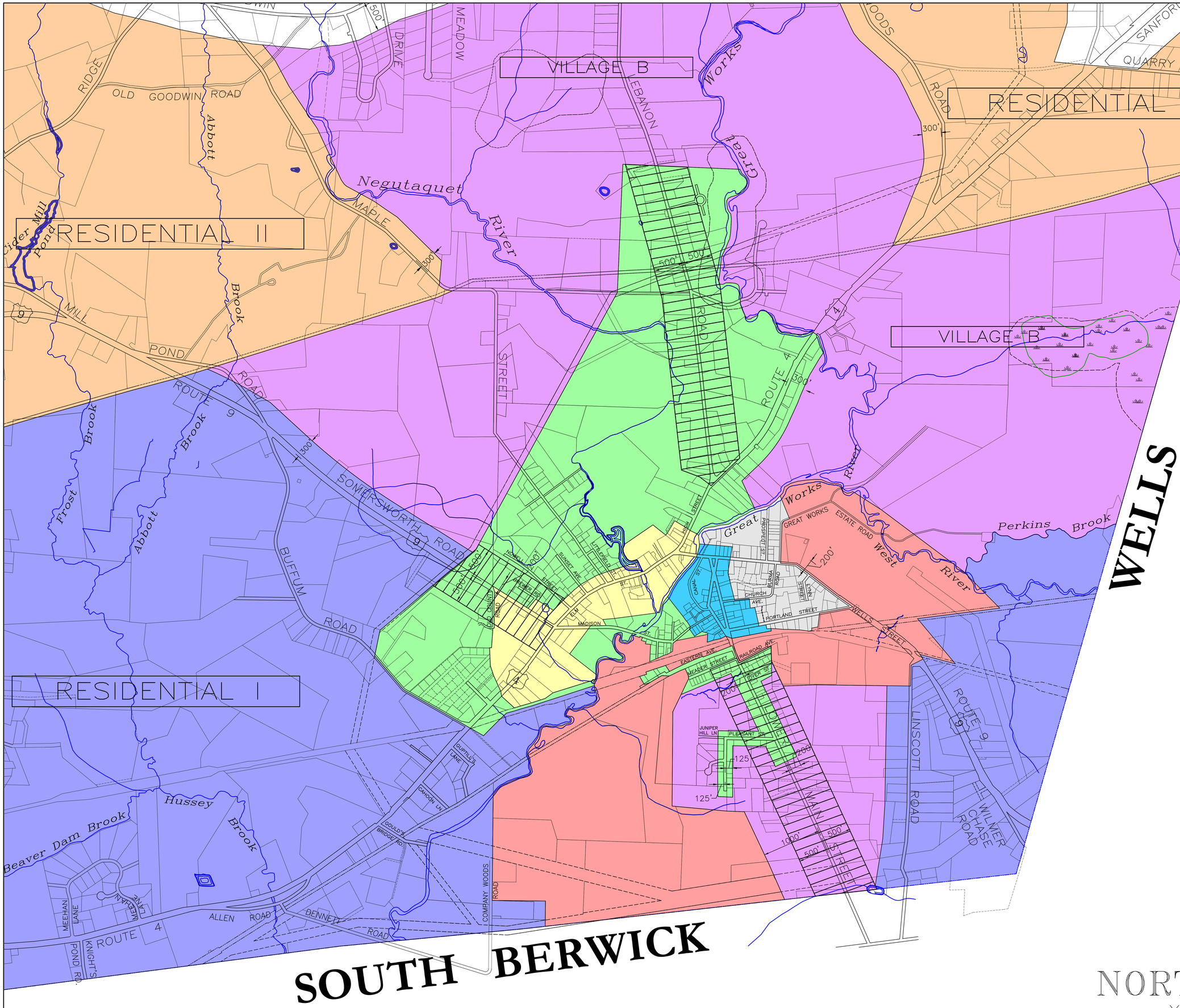
PLANNING BOARD	DATE



	MINIMUM SIZE SQ. FEET	MINIMUM FRONTAGE FEET
VILLAGE A	20,000	100
VILLAGE B	30,000	125
VILLAGE C OVERLAY	20,000 10,000*	100
INDUSTRIAL	40,000	100
RESIDENTIAL I	40,000	150
RESIDENTIAL II	80,000	200
FARM AND FOREST	160,000	300
SHORELAND – LIMITED RESIDENTIAL OVERLAY	60,000	200
AQUIFER PROTECTION ZONE A – OVERLAY	60,000	200
AQUIFER PROTECTION ZONE B – OVERLAY	60,000	200
VILLAGE CENTER OVERLAY	20,000 10,000*	25 25
COMMERCIAL	20,000	25
COMMERCIAL II	40,000	100

* WITH PUBLIC WATER AND SEWER SERVICES

LEGEND

- PRIMARY ROAD
- SECONDARY ROAD
- IMPROVED ROAD
- UNIMPROVED ROAD
- ABANDON ROAD
- TRAIL
- UTILITY RIGHT OF WAY
- ELECTRIC RIGHT OF WAY
- RAILROAD RIGHT OF WAY
- TELEPHONE RIGHT OF WAY
- STREAM OR RIVER
- WETLAND
- CEMETERY (125)
- STATE ROUTE (4)

OFFICIAL LAND USE DISTRICT MAP
ADOPTED:_____

TOWN CLERK	DATE
CHAIRMAN, BOARD OF SELECTMEN	DATE
BOARD OF SELECTMEN	DATE
BOARD OF SELECTMEN	DATE
CODE ENFORCEMENT OFFICER	DATE
CHAIRMAN, BOARD OF APPEALS	DATE
CHAIRMAN, PLANNING BOARD	DATE
PLANNING BOARD	DATE
PLANNING BOARD	DATE
PLANNING BOARD	DATE
PLANNING BOARD	DATE

500 0 1000 2000
SCALE IN FEET
SCALE: 1" = 500'±

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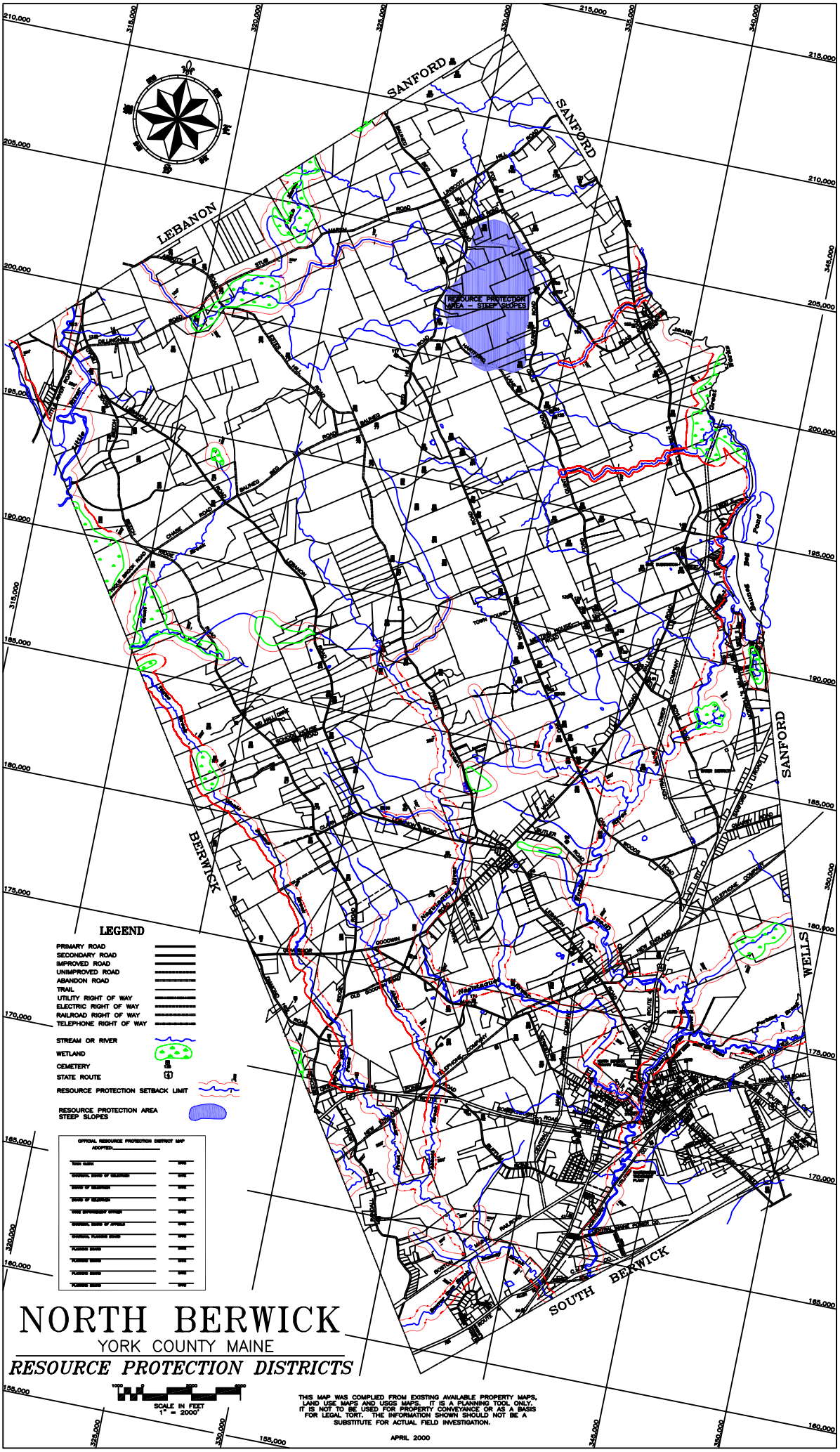
APRIL 2012

NORTH BERWICK
YORK COUNTY MAINE

LAND USE DISTRICTS



NORTH BERWICK

YORK COUNTY MAINE

RESOURCE PROTECTION DISTRICTS

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APRIL 2000