

WINTER HARBOR

Zoning Ordinance

5/19/13
~~2/29/13~~
Adopted October 28, 2004

Chapter 12

Article III – Zoning Ordinance

Section 12-301 Authority

This ordinance is prepared and adopted pursuant to authority granted under the provisions of Article VIII -A of the Maine Constitution, Title 30 - A MSRA Section 3001 (Home Rule), Title 30 - A MSRA Section 4323 (Growth Management), Title 38, MSRA, Sections 435 through 499 as amended (Mandatory Shoreland Zoning), Title 22 MSRA 2642 (Protection of Drinking Water Supplies).

Section 12-302 Purpose

This Zoning Ordinance and its regulations are designed for all the purposes of zoning embraced in the Revised Statutes of Maine, as amended, as an integral part of a Comprehensive Plan.

The purposes of this ordinance are:

1. to encourage the most appropriate use of land throughout the municipality;
2. to promote traffic safety;
3. to provide safety from fire, flood and other elements;
4. to promote a wholesome home environment;
5. to provide adequate light and air;
6. to prevent overcrowding of real estate;
7. to prevent housing development in unsanitary areas;
8. to provide an adequate street system;
9. to further the maintenance of safe and healthful conditions;
10. to protect the public water supply in Winter Harbor from land uses which pose a threat to the quality and/or quantity of the ground water being extracted from the wells which serve the public water system;
11. to control building sites, placement of structures and land uses;
12. while ensuring the provision of adequate community services.

Section 12-303 Applicability

This Ordinance applies to the all land and water areas within the town limits of Winter Harbor, Maine.

Section 12-304 Basic Requirements

All building or structures hereafter erected, reconstructed, altered, enlarged or moved, and uses of premises in the municipality of Winter Harbor shall be in conformity with the provisions of this Ordinance. No building, structure, land or water 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. No new lot shall be created unless the lot is in conformity with the standards set forth in this ordinance.

Section 12-305 Non-Conformance

A. Purpose

1. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue subject to the requirements set forth in the applicable sections for non-conforming conditions in the Wellhead Protection Zones 1 & 2, Shoreland Zones, and subject to the requirements set forth in this section.

B. General

1. **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance.** This Ordinance allows, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-Conforming Structures

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.

Further Limitations:

- a. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2. Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
2. **Relocation.** 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 Subsurface Wastewater Disposal Rules (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.

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 the relocation.

3. **Reconstruction or Replacement.** Any non-conforming structure 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 one year of the date of said damage, destruction, or removal and provided that such reconstruction or replacement is in compliance with the 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 so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

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

4. **Change of Use of a Non-conforming Structure**

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving 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.

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 commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-Conforming Uses

1. **Expansions.** 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 structures as permitted in Section 12-305C(1)(a) above.

2. **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 to that time period. 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.
3. **Change of Use.** 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 12-305C (4) above.

E. Non-Conforming Lots

1. **Non-Conforming Lots.** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
2. **Contiguous Built Lots.** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with.

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

3. **Contiguous Lots: Vacant or Partially Built.** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

Section 12-306 Amendments

This Ordinance may be amended by majority vote of the Legislative Body of the Town of Winter Harbor at a regular or special Town Meeting. Any amendments approved after January 1, 1989 relevant to shoreland areas as defined in Title 38, MRSA, Section 435, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. The Department of Environmental Protection shall be notified by the municipal clerk of amendments to this Ordinance within thirty (30) days after the effective date of such amendments. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the

Department's receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.

Section 12-307 Validity and Separability

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

Section 12-308 Effective Date

This Ordinance shall take effect immediately upon adoption or amendment by the Legislative Body of Winter Harbor, Maine.

Any amendments approved after January 1, 1989, relevant to shoreland areas as defined in Title 38, MRSA, Section 435, shall not be effective uses approved by the Commissioner of the Department of Environmental Protection.

A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of its receipt of the Ordinance, it shall be deemed approved.

Any application for a permit submitted to the municipality relevant to shoreland areas as defined within the forty-five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Department of Environmental Protection.

Section 12-309 Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

Section 12-310 Establishment of Districts

A. **Zoning Districts.** To implement the provisions of this Ordinance, the municipality of Winter Harbor is hereby divided into the following districts as described in this Section and as shown on the Official Zoning Map appended to this Ordinance and hereby made a part of this Ordinance:

1. (RP) Resource Protection District
2. (RR) Residential/Recreation District
3. (LR) Limited Residential District
4. (GD) General Development District
5. (RD) Rural District
6. (SP) Stream Protection District

a. **Scale of Map.** The Official Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

b. **Certification of Official Zoning Map.** The Official Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.

c. **Changes to the Official Zoning Map.** If amendments, in accordance with Section 12-306 are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the official Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

B. **Zoning District Definitions**

1. **(RP) Resource Protection.** The Resource Protection District includes areas which development would adversely affect water quality, productive habitat, biotic habitat, or scenic and natural values.

This district shall include the following areas where they exist within the shoreland zone, except where areas, because of existing development, are suitable for inclusion in another districts as described in this Ordinance.

- a. 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 by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.
- b. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain 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. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- c. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

- d. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surface-connected to a water body during normal spring high water.
 - e. Land areas adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
2. **Residential/Recreational District (RR).** The Residential/Recreational District includes areas other than those included in the Resource Protection District and which are used less intensively than those included in the Limited Residential, Rural, and the General Development Districts.
3. **Limited Residential District (LR).** The Limited Residential District includes areas other than those included in the Resource Protection District and the Residential/Recreational District and which are used less intensively than those included in the General Development District.
4. **General Development District (GD).** The General Development District includes the following types of areas:
- Areas of two (2) acres or more devoted to intensive residential/recreational, commercial or industrial activities or combinations of such activities, including but not limited to:
- a. Transportation right-of-way
 - b. Communication right-of-way
 - c. Areas used for extraction or processing of mineral resources
 - d. Areas devoted to manufacturing, fabricating, wholesaling, warehousing or other commercial activities
 - e. Areas devoted to retail trade and service activities
 - f. Areas devoted to intensive recreational development and activities
 - g. Areas devoted to residential dwelling units at a density of three (3) or more per two (2) acres
 - h. Areas devoted to mixed or combined patterns of a-g.
5. **Rural District (RD).** The Rural District shall include those areas discerned as suitable for low intensity residential, agriculture, timber management and light industrial use.
6. **Stream Protection District (SP).** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, as defined in this Ordinance and as shown on the official shoreland zoning map, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, river or saltwater

body, or within two hundred and fifty (250) horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is 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.

C. The Wellhead Protection Area

- a. Zone 1: Immediate Recharge Area. This zone includes the area immediately around the wellhead (a 300' radius) as shown on the Wellhead Protection Area Map.
- b. Zone 2: Primary Recharge Area. This zone includes the area as shown on the Wellhead Protection Area Map. (See map Reference C).

D. Uncertainty of District Boundaries. Where uncertainty exists with respect to the boundaries of the various districts as described herein and shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways, alleys or right-of-way shall be construed to follow such lines;
2. Boundaries indicated as approximately following such lot lines as shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following such municipal limits;
4. 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;
5. Boundaries indicated as approximately following the centerline of streams, canals, lakes or other bodies of water shall be construed to follow such lines;
6. Boundaries indicated as being parallel to or extensions of features indicated in sub-sections 1-5 above shall be so construed;
7. Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or with the written description contained herein or in other circumstances not covered by sub-sections 1-6 above, the Board of Appeals shall interpret the District Boundary in question.

E. Division of Lots by District Boundaries

1. 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 fifty (50) feet into the more restricted portion of the lot.
2. Extension of use shall be considered a Conditional Use, subject to approval of the Planning Board in accordance with the provisions of this Ordinance.

F. District Boundary Descriptions

1. **Resource Protection District**
 - a. Resource Protection District #1. All Land and water area encompassed by Lots five (5) and nineteen (19) and Map 8.
 - b. Resource Protection District #2. All of Turtle Island and Schoodic Island.
2. **Residential/Recreational District.** All of the lots represented on Tax maps #17, #12, #14, and #11.
3. **Limited Residential District.** (Including that portion of Lot 6 shown on Map 20).
 - a. Limited Residential District #1. Beginning at the high water line at the Winter Harbor Town Line in Summer Harbor and extending inland following the Town Line a distance of two hundred and fifty (250) feet; thence running parallel to and two hundred and fifty (250) from the high water line southerly to where it intersects with the northern boundary line of Lot 11 Map 17: thence northwesterly along this northern boundary line to the high water lines to the beginning.
 - b. Limited Residential District #2. All the lands set forth by the boundary lines of lots 38, 38A, 38D, and 39 on Tax Map 15.
 - c. Limited Residential District #3. Beginning with the centerline on Beach Street opposite the southwestern boundary of lot 21 Map 18; thence north along the southwestern boundary of lot 21 Map 18 to a distance two hundred and fifty (250) feet from the high water line; thence northeasterly to the common border between lots 16 and 16 A, Map 18 maintaining a distance of two hundred and fifty (250) feet from the high water mark; thence southerly along the common border between lots 16A and 16 until the centerline of Beach Street; thence westerly along the centerline to the beginning.
 - d. Limited Residential District #4. Beginning at the centerline of Moore Road one thousand (1,000) feet from the centerline at the intersection of Moore and Main Street, thence proceeding westerly along the border of the General District, thence following the border of the General District to the high water line at the southwesterly corner of Lot 11 Map 16; thence southerly following the high water lines around Sargent Drive to Mill Stream to the northwestern boundary of Acadia National Park; thence easterly along the border of Acadia National Park to the centerline of Moore Road; thence northerly along the centerline to the beginning.
 - e. Limited Residential District #5. Beginning at the northern border of Frazer Creek between the two parcels of land owned by Acadia National Park; thence easterly to a point two hundred and fifty (250) feet inland from the high water line; thence southerly at a distance of two hundred and fifty (250) feet paralleling the high water line to the northern border of the property owned by Acadia National Park; thence northwesterly along this border of Acadia National Park to the high water line; thence north along the high water line to the beginning.
 - f. Limited Residential District. #6 - Islands. Includes all land within two hundred and fifty (250) feet, horizontal distance, of the high water line of Ironbound Island and Jordan Island. Also includes all lands on Rolling Island, Mark Island, Ned Island, Norris Island, Sargents Island, Spectacle Island, Heron Island, Flat Island, Crow Island, Yellow Island and all other small islands so marked on the Zoning Map.

4. **General Development District**

- a. **General Development District #1.** Beginning at southeast corner Lot 28 Map 16; thence north along east boundary of said lot, across Main St., north along east boundary Lot 17 Map 8; thence south along west boundary Lot 17B and 17C Map 8 to Main St., thence west along centerline to southeast corner Lot 77 Map 19; thence north along east boundary and west along north boundary Lot 77 Map 19; thence north along east boundary and west along north boundary Lot 73 Map 19 to Hillcrest Drive; thence north along east boundary Lot 71A Map 19 to east boundary Lot 70 Map 19; thence north along east boundary Lots 70 and 67 Map 19 to Lot 61 Map 19; thence north along east boundaries of Lot 61 Map 19, Lot 8 Map 21, and Lots 36,40,38,37,35,34,33,32,31,30,29 Map 8 to northeast corner Lot 29 Map 8; thence west along boundary Lot 29 Map 8, across Newman St. and along north boundaries Lot 9 Map 8, Lots 3-2 and 2-1 Map 7 to northwest corner Lot 2-1 Map 7; thence south along west boundaries of Lots 2-1 and 2 Map 7, and Lot 48 Map 19 to northeast corner Lot 72C Map 18; thence west along north boundary Lot 54 Map 18; thence west along north boundary Lot 54 Map 18, across Bellevue Ave., along north boundaries Lots 40 and 29 Map 18 to Main St.; thence south along centerline to northeast corner Lot 17 Map 18; thence west along north boundary and south along west boundary Lot 17 Map 18 to north boundary Lot 16 Map 18; thence west along north boundary and south along west boundary Lot 16 Map 18, across Beach St., continuing south along west boundary Lots 37 and 37A Map 15; thence east along south boundary Lot 37A Map 15 to Inner Harbor; thence east along high water mark to the southwest corner Lot 16 Map 16; thence east along south boundary Lot 16 Map 16 to Sargent St.; thence north along the centerline to southwest corner Lot 1 Map 16; thence east along south boundaries Lots 1 and 29 Map 16 to west boundary Lot 27 Map 16; thence south along west boundary and east along south boundary Lot 27 Map 16 to west boundary Lot 28 Map 16; thence south along west boundary and east along south boundary Lot 28 Map 16 to Moore Rd. (Adopted at Town Meeting 12 June 2002). (See General Development Zoning Map Reference B.)
5. **Rural District.** Includes all other land areas of the Town of Winter Harbor covered by this Ordinance and not included in other districts as described herein.
6. **Stream Protection District.** The Stream Protection District includes all land areas within 75 feet of Mill Stream beginning at the northerly town boundary, thence flowing southerly to the point at which the stream is within 250 feet upland of the tidal limit.

Section 12-311 Conflicts with Other Ordinances

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

Section 12-312 Schedule of Uses

No structure shall be erected, altered, enlarged, rebuilt, moved or used and no premises shall be used unless such structure or use complies with the provisions of this Ordinance and the necessary permits as provided for in the following Schedule of Uses are obtained.

Legend

YES	Activity Permitted, no permit necessary provided all other laws and regulation either federal, state or local are adhered to.
NO	Activity prohibited.
CEO	Activity requires application for and permit issued by Code Enforcement Officer according to this Ordinance
RP	Resource Protection District
RR	Residential-Recreational District
LR	Limited Residential District
GD	General Development District
RD	Rural District
PB	Activity requires Planning Board approval.
SP	Stream Protection District
LPI	Local Plumbing Inspector permit required

1. Non-Intensive recreational uses not requiring structures, such as hunting, fishing, hiking, etc	Yes	YES	YES	YES	YES	YES
2. Motorized Vehicle traffic on roads and trails	Yes	YES	Yes	YES	YES	YES
3. Forest Management activities except for timber harvesting	Yes	YES	YES	YES	YES	YES
4. Fire Prevention Activities	Yes	YES	YES	YES	YES	YES
5. Wildlife Management Practices	Yes	YES	YES	YES	YES	YES
6. Soil and Water conservation practices not requiring structures, dredging or filling	Yes	YES	YES	YES	YES	YES
7. Surveying and Resources Analysis	Yes	YES	YES	YES	YES	YES

8. Emergency operations as defined	Yes	YES	YES	YES	YES	YES
9. Mineral Exploration*	Yes 3	YES 3	YES 3	YES 3	YES 3	NO
10. Harvesting of wild crops	Yes	YES	YES	YES	YES	YES
11. Agriculture and Gardening*	Yes	Yes	YES	YES	YES	YES
12. Timber Harvesting	CEO 2	CEO	CEO	CEO	CEO	CEO
13. Public or private recreation facilities including parks, playgrounds, golf courses, driving ranges and swimming pools but excluding campgrounds	PB	PB	PB	PB	PB	PB
14. Campgrounds	NO	NO	NO	PB	PB	NO
15. Principle Structures*						
a. Single family dwellings	NO	CEO	CEO	CEO	CEO	PB 4
b. Family farm	NO	PB	PB	CEO	CEO	PB
c. Professional office: clergyman, physician, architect, engineer, attorney or a similar professional person or occupation	NO	NO	PB	CEO	CEO	NO
d. Home occupation: customary home occupations carried on and requiring only customary home equipment such as fisherman, musician, dressmaker, etc.	NO	PB	PB	CEO	CEO	NO
e. Motels, hotels and transient lodgings	NO	NO	PB	CEO	CEO	NO
f. Automobile service stations	NO	NO	NO	PB	PB	NO
g. Multi-family dwellings or apartments	NO	NO	PB	CEO	CEO	NO
h. Road-side stands for agricultural products	NO	NO	PB	CEO	CEO	NO
i. Floral, nursery, shrubbery, greenhouse and similar enterprises	NO	NO	NO	CEO	CEO	NO
j. Water recreation/fishing related retail and service enterprises	NO	NO	PB	CEO	CEO	NO
16. Structures accessory to permitted uses	PB	CEO	CEO	CEO	CEO	PB 4
17. Road and driveway construction*	NO 6	PB	PB	YES	YES	PB
18. Small non-residential, non-profit facilities for educational, scientific or nature interpretation purposes	PB	PB	PB	CEO	CEO	PB 4
19. Municipal structures or uses	NO	PB	PB	PB	PB	PB
20. Mobile homes-manufactured housing	NO	NO	CEO	CEO	CEO	NO
21. Cluster Development*	NO	NO	NO	PB	PB	NO

22. Commercial and industrial facilities having less than two thousand five hundred (2,500) square feet of gross floor area employing less than six (6) full-time employees or the equivalent thereof.	NO	NO	PB	CEO	CEO	NO
23. Commercial and industrial facilities having more than two thousand five hundred (2500) square feet of gross floor area and/or employing more than six (6) full-time employees or the equivalent thereof.	NO	NO	NO	PB	PB	NO
24. Commercial and industrial facilities which by their nature of operation require shore front location, such as boatyards, marinas, fishing facilities, and other marine resource related activities.	See Shoreland Ordinance					
25. Automobile graveyards and junkyards operated in accordance with state law	NO	NO	NO	PB	PB	NO
26. Piers, docks, wharves, breakwaters, causeways, marinas, bridges over twenty (20) feet in length and uses projecting into water bodies*	See Shoreland Ordinance					
a. Temporary						
b. Permanent						
27. Public and Private Schools	NO	NO	PB	PB	PB	NO
28. Church or other places of worship, parish house, rectory, convent, and other religious institutions	NO	PB	PB	PB	PB	NO
29. Hospitals, Clinics	NO	NO	PB	PB	PB	NO
30. Eleemosynary, Charitable and fraternal organizations, structures or uses	NO	NO	PB	PB	PB	NO
31. Cemeteries	NO	NO	PB	PB	PB	NO
32. Clearing for approved construction	CEO2	YES	YES	YES	YES	CEO
33. Filling or other earth-moving activity of less than ten (10) Yards	CEO	YES	YES	YES	YES	CEO
34. Filling or other earth-moving activity of more than ten (10) yards	PB	CEO1	CEO1	CEO1	CEO1	PB
35. Public Utilities	YES	YES	YES	YES	YES	YES
36. Uses similar to permitted uses	YES	YES	YES	YES	YES	YES
37. Aquaculture	PB	PB	PB	YES	PB	PB
38. Mineral Extraction	NO	PB	PB	PB	PB	NO
39. Conversion of Season Residences to year-round residence	NO	LPI	LPI	LPI	LPI	LPI
40. Private sewage disposal systems for allowed uses	NO	LPI	LPI	LPI	LPI	LPI
41. Essential Services	PB5	PB	PB	PB	PB	PB5
42. Uses similar to uses requiring a PB Permit	PB	PB	PB	PB	PB	PB

NOTES

1. Permit needed in the shore land zone only; see Shoreland Zoning Ordinance.
2. In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards. See Shoreland Zoning Ordinance.
3. Requires permit from the Code Enforcement officer if more than 100 square feet of surface area, in total, is disturbed.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. See further restrictions in Shoreland Zoning Ordinance.
6. Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB. See Shoreland Zoning Ordinance.

Section 12-313 Land Use Standards, Town Wide

These standards apply to all lands within the limits of the Town of Winter Harbor:

1. Dimensional Standards

Minimum Lot Size - The minimum lot size for each district shall be as follows:

- (a) Resource Protection District: one (1) acre
- (b) Residential-Recreational and Limited Residential Districts: one (1) acre
- (c) Rural District: One (1) acre
- (d) General Development District
 - Tidal Areas: 40,000 sq. ft.
 - Non-Tidal Areas: 20,000 sq. ft. without sewer; 10,000 sq. ft. with sewer
- (e) Stream Protection District (1) acre

If more than one residential dwelling unit is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit.

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

2. Space and Bulk Requirements - Lots and structures in all districts shall meet or exceed the following minimum requirements unless more restrictive requirements are stipulated elsewhere in this Ordinance or as a condition set by the Planning Board on a Conditional Use Permit:

- (a) Frontage on Road - 100 feet
- (b) Setback of Structures from Road - 25 feet from centerline
- (c) Side Yard Width - 10 feet
- (d) Maximum Height of Structure - 40 feet Maximum
- (e) 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.

3. Driveways - Lots in all districts which are used for residential purposes shall be provided with a driveway of not less than ten (10) feet in width.

4. **Off-street parking** shall be provided in the amount of three hundred (300) square feet per dwelling unit. This may be accomplished by driveway space, garage space or parking lot space or any combination of the three.

5. **Cluster Development** - Cluster developments shall meet all of the following criteria:

- (a) While individual building lots may occupy a lot smaller than that required under the minimum dimensional requirements of this Ordinance, the entire development shall meet the overall density requirements (number of dwellings per acre).
- (b) The minimum area of land in a cluster development shall be five acres.
- (c) All cluster developments shall require subdivision approval.
- (d) The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
- (e) 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 without subdivision review. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land, subject to the issuance of a Building Permit.
- (f) All dwelling units in a cluster development shall be connected to a suitable water supply and distribution system, at no expense to the Municipality.
- (g) All structures which require plumbing in a cluster development shall be connected to a disposal facility which meets the standards of the State Plumbing Code at no expense to the Municipality.
- (h) Buildings shall be oriented in accordance with the overall plan for site development.
- (i) Set backs from abutting properties shall be twenty (20) feet.
- (j) Set backs of structures shall be twenty-five (25) feet from all public ways.
- (k) Total frontage on public ways shall be one hundred (100) feet per dwelling unit, located on the public way.
- (l) Minimum building lot sized on cluster developments shall be twenty thousand (20,000) feet with on-site sewage and ten thousand (10,000) with public sewage.

6. **Commercial and Industrial Facilities** - Commercial and Industrial facilities in the rural zone having more than two thousand five hundred (2500) square feet of gross floor area and/or employing more than six (6) full-time employees shall:

- (a) Have all buildings set back a minimum of two hundred and fifty (250) feet from the edge of the public right-of-way.
- (b) Have all land between the facility and the public right-of-way appropriately landscaped.

7. **Existing Structures.** Any structure existing at the time of adoption of this Ordinance which is in violation of 12-313, 2 "Space and Bulk Requirements," may be expanded

horizontally or vertically but only with Planning Board approval. The structure may have only one setback, which may be defined by either the front, rear, or side of the structure. This setback will be considered as being "grandfathered" and the structure cannot encroach any further on this setback unless it is reduced by a variance from the Board of Appeals. In considering such approval of the requested expansion, the Planning Board shall evaluate the request in accordance with section 12-315, J., of this Ordinance.

8. **Campgrounds** – Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:
 - (a) 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.
 - (b) 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 Birch Harbor Pond, 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.
9. **Individual Private Campsites** – Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:
 - (a) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area whichever is less, may be permitted.
 - (b) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall observe the setback requirements outlined in 12-313 (2) Space and Bulk Requirements.
 - (c) 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.
 - (d) 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.
 - (e) 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.
10. **Parking Areas** –
 - (a) 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.
 - (b) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - i. 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.
 - ii. Internal travel aisles: Approximately twenty (20) feet wide.

11. Storm Water Runoff –

- (a) 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.
- (b) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

12. Septic Waste Disposal –

- (a) 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.

13. Essential Services –

- (a) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (b) 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.
- (c) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

14. Mineral Exploration and Extraction.

- (a) Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance 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.
- (b) Mineral extraction may be permitted under the following conditions:
 - i. 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 12-313(14)(c) below.
 - ii. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of Birch Harbor Pond, and within seventy-five (75) 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 fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

iii. 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.

B. The final graded slope shall be two and one-half to one (2 1/2:1) 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.

(c) 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.

15. Agriculture

(a) 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).

(b) 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.

16. Timber Harvesting

All timber harvesting shall be conducted in accordance with the Maine Forest Practices Act, M.R.S.A. Title 12 Chapter 805 Subchapter 3-A.

17. Soils.

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

18. 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.

19. 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.

Section 12-314 Land Use Standards, Shoreland Areas

(Superseded by "Chapter 1000 Shoreland Zoning Ordinance")

Section 12-315 Wellhead Protection

(Superseded by "Chapter 12 Article IV Wellhead Protection Ordinance")

Section 12-316 Administration and Enforcement

A. **Code Enforcement Officer** - It shall be the duty of the Code Enforcement Officer or other person duly authorized by the Selectmen to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land or structures, removal of illegal structures or additions, alterations or structural changes thereto; discontinuance of illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or prevent violation of its provisions.

1. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

B. **Planning Board** - It shall be the duty of the Planning Board duly authorized by the Town of Winter Harbor in accordance with State Law, to hear and decide on such applications for Conditional Use Permits in accordance with the provisions of this Ordinance.

C. **Board of Appeals.**

1. There is hereby created a Board of Appeals of the Town of Winter Harbor consisting of five (5) members appointed by the municipal officers pursuant to the provisions of Title 30A, MRSA, Sections 2691 and 4353 as amended.
 - a. **Powers and Duties of the Board of Appeals.** The Board of Appeals shall have the following powers:
 1. **Administrative Appeals:** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.
 2. **Variance Appeals:** to authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. **Variances** - The Board of appeals may, upon written application of an affected landowner, grant a variance from the strict application of this Ordinance under the following conditions:
 - a. The strict application of the terms of this Ordinance would result in undue hardship to the applicant;
 - b. The Board shall not grant a variance unless it finds that: The proposed structure or use would meet the provisions of Section 311A except for the specific provision which has created the non-conformity and from which relief is sought; and
 - c. That the term "Undue hardship" shall mean:
 1. That the land in question cannot yield a reasonable return unless the variance is granted;
 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood; and,
 3. That the granting of a variance will not alter the essential character of the locality.
 - d. That the hardship is not the result of action taken by the applicant or a prior owner;
 - e. That a variance is authorized only for dimensional requirements; and,
 - f. That no variance shall be granted to permit a use otherwise prohibited by this Ordinance.
 - g. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
 - h. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

3. **Appeals** - The Board of Appeals may, upon written application of an aggrieved party hear appeals from determinations of the Code Enforcement Officer and/or Planning Board in the administration of this Ordinance. The Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only on a finding that the decision is clearly contrary to specific provisions of this Ordinance. The Board of Appeals may authorize variances within the limitations set forth in this Ordinance. A decision of the Board of Appeals shall be issued within thirty (30) days of the receipt of the appeal or ten (10) days from the completion of a Public Hearing if one is held.

- a. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 1. A concise written statement indicating what relief is requested and why it should be granted.
 2. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- b. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- c. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

4. **Decision by Board of Appeals.**

- a. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its state terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
- c. The person filing the appeal shall have the burden of proof.
- d. The Board shall decide all appeals within ten (10) days after the close of the hearing, if one is held, and shall issue a written decision on all appeals.
- e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.

5. **Appeal to Superior Court.** An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party, to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.
6. **Reconsideration.** The Board of Appeals may reconsider any decisions within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

D. Code Enforcement Officer Permits Required.

1. No building or other structure shall be erected, moved, added to, replaced, or structurally altered without a permit issued by the Code Enforcement Officer and no land uses or renewal of a discontinued non-conforming use shall be permitted which is not in conformance with the Schedule of Uses in this Ordinance unless the designated permit is obtained.
2. No Code Enforcement Officer permit shall be issued except in conformity with the provisions of this Ordinance and the Building Code of Winter Harbor and all other local, state, and federal laws, regulations or ordinances which are pertinent, except after written order of the Board of Appeals. Any construction authorized by the Code Enforcement Officer permit shall commence within nine (9) months and must be substantially completed within two (2) years from the date of issuance of said permit or said permit shall be deemed to have expired unless otherwise ordered by the Board of Appeals.

E. Application for Code Enforcement Officer Permit. All applications for Code Enforcement Officer permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations and dimensions of proposed buildings, structures or alterations. All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Ordinance and the Town Code of Winter Harbor.

F. Code Enforcement Officer Actions. Within seven (7) days of the filing of an application for a Code Enforcement Officer permit, the Code Enforcement Officer shall approve, deny or refer the application to the Planning Board for a Conditional Use Permit, pursuant to the provisions of this Ordinance. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant or his agent. One (1) copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office.

G. Enforcement.

1. **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.
2. **Code Enforcement Officer.**

- a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Office shall also investigate complaints of alleged violations of this Ordinance.
 - c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On an biennial basis, a summary of this record shall be submitted to the Director of Bureau of Land Quality Control within the Department of Environmental Protection.
3. **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
 4. **Fines.** Any person, including but not limited to a landowner, a landowners agent or a contractor who orders or conducts any activity in violation of this ordinance shall be punished in accordance with Title 30-A MRSA Sec.4452.

H. Conditional Use Permits.

1. All applications for a Conditional Use Permit shall be based on a written decision from the Code Enforcement Officer pursuant to the Schedule of Uses in this Ordinance.
2. The Planning Board of the Town of Winter Harbor shall hear and approve, approve with modifications or conditions, or deny all applications for a Conditional Use Permit. No Conditional Use Permit shall be authorized unless specific provisions for such Conditional Use is made in this Ordinance.
3. Upon making their decision on a Conditional Use Permit, the Planning Board shall return the application to the Code Enforcement Officer with orders to issue a permit or to issue a denial of a permit. The Code Enforcement Officer shall be responsible

for enforcing any conditions which may be made a part of any Conditional Use Permit.

I. Application Procedure for Conditional Use Permit.

1. Upon the decision of the Code Enforcement Officer that a Conditional Use Permit is required by this Ordinance, the Code Enforcement Officer shall notify the applicant and forward a copy of his written decision, the application and all other pertinent information to the Planning Board.
2. The Planning Board shall notify the applicant within fourteen (14) days of receipt of the application if further information is required in order to make a decision on the application. The Planning board may require any information which is lawful and reasonable to be provided by the applicant in order to make their determination based on the criteria contained in this Section. This required information may include, but is not limited to, the following:
 - a. A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and/or vegetation cover.
 - b. A soils report identifying the soils boundaries and names in the proposed development with the soils information super-imposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
 - c. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces or other structures.
 - d. Plans of structures, sewage disposal facilities and water supply systems.
 - e. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance.
3. Depending on the possible adverse impacts or the amount of public interest in a given proposal, the Planning Board may, upon its own discretion or at the request of interested parties, convene a public hearing on a Conditional Use application within thirty (30) days of determining that the applicant has supplied all requested information.
4. Within twenty (20) days of receiving a completed application, or within ten (10) days of a public hearing, the Planning Board shall reach a decision on a Conditional Use Permit and shall inform in writing, the applicant and the Code Enforcement Officer of its decision and reasons therefore.
5. Upon notification of the decision of the Planning Board, the Code Enforcement Officer shall immediately issue, issue with condition prescribed by the Planning Board or deny the Conditional Use Permit.
6. The applicant shall have the burden of proof that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

J. Factors Applicable to Conditional Uses. In considering a Conditional Use Permit, the Planning Board shall evaluate the immediate and long-range effects of the proposed use upon the following:

1. The maintenance of safe and healthful conditions;

2. The prevention and control of water pollution and sedimentation;
 3. The control of building sites, placement of structures and land uses to provide for adequate sunshine and fresh air for neighboring land uses;
 4. The protection of spawning grounds, fish, aquatic life, birds and other wildlife habitat;
 5. The conservation of shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty;
 6. The compatibility of the proposed use with adjacent land uses;
 7. The need of a particular location for the proposed use;
 8. Access to the site from existing or proposed roads; especially for emergency and town services such as fire equipment or snowplow;
 9. The location of the site with respect to flood plains and flowery of rivers and streams;
 10. The amount and types of wastes to be generated by the proposed use and the adequacy of the proposed disposal system;
 11. The impact of the proposed use on the land and adjacent water bodies and the capability of the land and water to sustain such use without degradation;
 12. Existing topographic and drainage features and vegetative cover on the site;
 13. The erosion potential of the site based on the degree and direction of slope, soils type and vegetative cover;
 14. The impact of the proposed use on transportation facilities;
 15. The impact of the proposed use on the ability of the community to provide community services;
 16. The impact of the proposed use on local water supplies;
 17. Possible nuisance conditions that may arise from the proposed use;
 18. The impact of the proposed use on traffic congestion and safety particularly concerning children;
 19. The compatibility of the proposed use on the historical archaeological land architectural character of the community;
 20. The compatibility of the proposed use with the goals and objectives of the adopted Comprehensive Plan for Winter Harbor, Maine.
 21. The proposed use is in conformance with Sections 12-313 Land Use Standards, Town Wide and Chapter 1000 Shoreland Zoning Ordinance Section 15 Land Use Standards.
- K. **Conditions Applicable to Conditional Uses.** Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purpose of this Ordinance. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but is not limited to, specifications for;
1. Type of vegetative cover;
 2. Increased setbacks or dimensional requirements;

3. Specified sewage or other waste disposal facilities;
 4. Specified water supply facilities;
 5. Landscaping and planting screens;
 6. Periods of operation;
 7. Operational controls;
 8. Professional inspection and maintenance;
 9. Off-street storage and display requirements;
 10. Specified storage and display requirements;
 11. Sureties;
 12. Restrictive Covenants;
 13. Locations of piers, docks, parking areas and signs;
 14. Type of Construction;
 15. Any other conditions necessary to fulfill the purposes of this Ordinance.
- L. **Installation of Public Utility Service.** No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in any zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been complete.
- M. **Plumbing Permits Required** - No building or other structure shall be erected, moved, added to or structurally altered without a Plumbing Permit issued by the Plumbing Inspector for the Town of Winter Harbor if said erection, moving, adding to or structural alteration involves the plumbing of said structure. Further, no Code Enforcement Officer Permit or Conditional Use Permit shall be issued except in conformity with the provisions of this Ordinance, and any and all State Statutes which are relevant and pertinent thereto;
- N. **Violation** - The Code Enforcement Officer is authorized to institute or cause to be instituted, upon approval by the municipal officers, in the name of the Town of Winter Harbor and all actions, legal and equitable, that may be appropriate or necessary for the enforcement of this Ordinance, provided, however, that this Article shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this Ordinance.
- O. **Penalty** - Any person, firm or corporation, being the owner or occupant of, having control of, or use of, any building or premises, or part thereof, who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars (\$10) and not more than one hundred dollars (\$100) for each offense. Each day such violation continues shall constitute a separate offense.

Section 12-317 Definitions

Accessory Use or Structure - A use or structure of a nature customarily incidental and subordinate to those of the principle use or structure, not to include any structure with two hundred and fifty (250) cubic feet of total volume or less. A use or structure which 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 or a common wall is considered part of the principal structure.

Aggrieved Parties - A person whose land is directly or indirectly affected by the grant 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 a group of five (5) or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and 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.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer - A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

Automobile Graveyards and Junkyards - A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked motor vehicles. A yard, field, or other area used as a place of storage for: discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture; discarded scrap junked lumber; old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and garbage dumps, waste dumps and sanitary fills.

Best Management Practice - Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity.

Billboard - A sign, structure or surface which is available for advertising purposes for goods or services rendered off the premises.

Board - Refers to the Town of Winter Harbor Planning Board.

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.

Boathouse - A non-residential structure designed for non-commercial purposes.

Building - A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

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

Campground - Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged. Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Chemical Bulk Storage - Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

Coastal Wetlands - Any swamp, marsh, bog, flat or other land above extreme low water which is subject to tidal action. All tidal and sub-tidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Code Enforcement Officer - A person appointed by the Municipal Officers to administer and enforce this Ordinance.

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

Conditional Use - A use permitted only after review and approval by the Planning Board. 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. Such uses may be permitted if specific provision for 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 of the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Construction and Commercial Equipment & Vehicle Storage - Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

Construction/Demolition - Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

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

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.

Drinking Water Standards, Primary and Secondary - Standards for drinking water as stated in the "State of Maine Rules Relating to Drinking Water", Maine Department of Human Services.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Dwelling Unit - A room or group of rooms designed and equipped for use as permanent, seasonal or temporary living quarters for only one (1) family or person. This term shall include mobile homes, modular homes, and stick built homes.

Dump - (see landfill)

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property 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.

Excavation – (see construction)

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

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

Family - one or more persons occupying premises and living as a single housekeeping unit.

Fill – (see construction)

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.

Floor Drain - An opening in the floor that leads to the ground and/or is not permitted under other State, Federal, or local regulations. Work sinks which lead to such drains are included.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Foundation - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Freshwater wetland -freshwater swamps, marshes, bogs and similar areas which are:

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

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

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

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

Fuel Oil Distributor, Fuel Oil Storage - The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

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, coastal and inland waters and which cannot be located away from these waters. The uses include but are not limited to,

commercial and recreational fishing and boating facilities, 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 aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

Gas Station, Service Station - Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

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

Great Pond - any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increases 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.

Ground water - the water continued within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer.

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

Hazardous Waste - Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

Height of a structure - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home Occupation - An occupation or profession which is customarily carried on in a dwelling unit or structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Horticulture - (see agriculture)

House Trailers - A vehicle similar to a mobile home, but which does not have a toilet or bathtub or shower.

Inert Fill - Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platform.

Industrial - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Industrial Waste - Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

Intensive Open Space Uses - Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity.

Landfill - An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

Lagoon - An artificial enlargement of a water body, primarily by means of dredging and excavation.

Lot - A parcel of land in single ownership, described in a deed, plot or similar legal document.

Lot Area - The total horizontal area within the lot lines.

Lot, Corner - A lot with at least two (2) contiguous sides abutting upon a street.

Lot Coverage - The percentage of the lot covered by all structures.

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 Town or County Officials.

Lot, Shorefront - any lot abutting a pond, river or salt-water body as defined herein.

Marina - A shorefront commercial facility with the provisions for one (1) or more of the following; boat storage, boat launching or the sale of supplies or services for watercraft or their equipment and accessories. A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

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.

Mining or Mineral Extraction - The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site.

Mobile Home - Structure designed as a dwelling unit, and not considered as a recreation vehicle, with or without a permanent foundation containing kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provide for attachment to outside systems; and designed to be transported after fabrications on its own wheels. Such structures shall meet or exceed the National Manufactured Home Construction & Safety Act of 1974 (P.L. 3-383, Title VI, as amended).

Mobile Home Park - A plot of land laid out to accommodate at least two (2) mobile homes.

Non-Conforming Building, Structure or Use - A building, structure or use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of this Ordinance.

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 change in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to Birch harbor Pond, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Nursery – (see agriculture)

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

Park - Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

Parking Space - A minimum of three hundred (300) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking entity.

Paving – (see construction)

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Pesticide, Herbicide Bulk Storage - Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges Over Twenty (20) Feet in Length, and Uses Projecting Into Water Bodies -

A. Temporary - Structures which remain in the water for less than even (7) months in any period of twelve (12) consecutive months.

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

Premises - One (1) or more lots which are in the same ownership and are contiguous or separated only by a road or water body, including all buildings, structures and improvements.

Principal Use - The primary use to which the premises are devoted, and the main purpose for which the premises exist.

Principal Structure - A building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

Privy - A pit in the ground into which human excrement is placed.

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 or public entity.

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

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

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

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational Vehicle (RV) - A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one (1) or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer and motor home. A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1). an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2). any existing overboard discharge wastewater discharge.

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. The term shall include mobile homes, but not recreational vehicles.

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.

Road - A route of 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.

Salt marsh - Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is salt marsh cord grass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas which support salt tolerant Plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cord grass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

Salt or Sand/Salt Piles (covered) - Storage of salt or sand/salt mix intended for municipal, commercial or other use beneath a roof or other structure capable of preventing precipitation from reaching the salt or Sand/salt.

Salt or Sand/Salt Piles (uncovered) - Storage of any amount of salt or sand/salt mix, for any purpose, without a roof or other structure capable of preventing precipitation from reaching the salt or sand/salt.

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

1. in the case of electric service
 - a. 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
 - b. the total length of the extension is less than one thousand (1000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or

- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1000) feet in length.

Setback - The minimum horizontal distance from a lot line or roadway centerline to the nearest part of a structure. The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

Setback from water - The minimum horizontal distance from the normal high water line to the nearest part of a structure.

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 a normal high-water elevation.

Shoreland zone or Shoreland Area - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Silvaculture - (see agriculture)

Sign, Off-Premise - A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which related to an object, product, place, activity, person, institution, organization or business which is located on some other premises.

Sign, On Premise - A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which related to an object, product, place, activity, person, institution, organization, or business on the premises.

Sludge - Residual material produced by water or sewer treatment processes, industrial processes, or domestic septic tanks.

Sludge Utilization - The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

Snow Dump - A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing operations.

Solid Waste - Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

SPCC Plan - Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

Storm water Drainage - A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

Storm water Impoundment - Any structure designed and constructed to contain storm water runoff.

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 State 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, exclusive of fences.

Subdivision - A subdivision shall be defined as stated in Title 30-A, MRSA, Section 4401, as amended.

Subdivision Cluster - A residential subdivision wherein the dwelling does not occupy a lot meeting the minimum dimensional requirements of this Ordinance for the district in which it is located but where the overall density (number of dwellings per acre) does not exceed that required by such minimum lot size requirements. This shall include Mobile Home Parks.

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

Subsurface injection – (see subsurface wastewater disposal)

Subsurface sewage disposal system - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Subsurface Wastewater Disposal System - A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant.

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

Timber Harvesting - The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Transfer station - Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

Tributary stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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.

Underground Storage Tank - As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

Upland edge - The boundary between upland and wetland.

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

Utility Corridor - Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc..

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 ½ above ground level.

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

Waste disposal, Industrial/Commercial – (see industrial waste)

Wastewater - Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

Wastewater Treatment Plant - Any arrangement of devices and structures used for treating wastewater.

Water body - any great pond, stream or tidal area.

Water Crossing - any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintained work on these crossings.

Watershed - Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

Wellhead - The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

Wellhead Protection Area – A zone, consisting of two (2) districts, delineated according to Article III, Section 12-315 of this Ordinance.

Well, abandoned – A shaft, casing, tile, hole, or pipe placed, drilled or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period of two (2) consecutive years.

Well, Existing or New – A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

Wetland - a freshwater or coastal wetland.

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

Historical Note: Some portions adopted December 14, 1981 at a Special Town Meeting.

Amendments

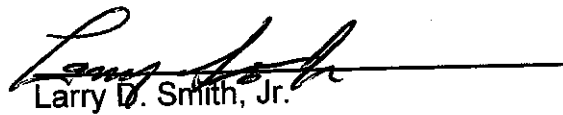
March 2, 1987	Section 12-311, B.2.
May 25, 1988	Section 12-306
	Section 12-311, 13. b.
	Section 12-311, 10.
	Section 12-312, C., 2.
	Section 12-313
	Section 12-311, A., 2.
May 21, 1990	Section 12-311, B.
	Section 12-310
November 5, 1991	All Sections except for 12-303
June 16, 2004	All Sections
October 28, 2004	All Sections
February 27, 2013	All Sections

Zoning Ordinance

Revised Ordinance adopted and accepted on **February 27, 2013.**

BOARD OF SELECTMEN


Terry D. Bickford


Larry D. Smith, Jr.


William R. Faulkingham

