

Article 5

5.1 ACCESSORY BUILDINGS

Garages and other accessory structures shall meet all setback requirements, except accessory structures less than 450 sq. ft. in area. They may be located 10 feet from side and rear lot lines providing they are located at least 100 feet from the normal high waterline of any water body or wetland. Any accessory structure more than 450 sq. ft. in floor area shall be placed on a permanent foundation.

5.1.2 FREESTANDING STAIRS

Stairs attached to the principal structure by a roof or common wall are considered part of the principal structure. Only freestanding stairs constitute an accessory structure. Freestanding stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access or access to a single family residence in areas of steep slopes or unstable soils provided that: the structure is maximum of 4 feet in width; maximum of three feet off the ground; the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and the applicant demonstrates that no reasonable access alternative exists on the property.

5.2 AGRICULTURE

5.2.1 All spreading or disposal of manure and sewage sludge 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).~~"Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and Maine Soil and Water Conservation Commission in July 1972.~~

5.2.2 There shall be no new tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond **or river**; nor within seventy-five (75) feet, horizontal distance, from other water bodies **including; nor within twenty five (25) feet, horizontal distance, of** tributary streams; and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

- 5.2.3 Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination and nutrient enrichment of ground and surface water. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, ~~disposal or storage~~ of manure within the Shoreland and Resource Protection Districts shall require a ~~Soil and Water~~ Planning Board CEO. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance. Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District Office.
- 5.2.4 Manure shall not be stored or stockpiled within two hundred fifty (250) feet, horizontal distance, of a great pond or a river and/or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. ~~Within three (3) years of the effective date of this Ordinance~~ All manure storage areas within the Shoreland and Resource Protection Districts must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. ~~Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the three (3) year period.~~
- 5.2.5 ~~After the effective date of this Ordinance, n~~Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond; ~~nor~~ within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, and wetlands. Livestock grazing associated with ongoing farm activities, which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a ~~York County Soil and Water~~ Conservation Plan submitted to the Code Enforcement Officer.

~~5.2.6 – Outside of the Shoreland and Resource Protection Districts agricultural practices not in conformance with these standards may be allowed by Conditional Use Permit.~~

NOTE: 17 M.R.S.A. Section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

5.3 BEACH CONSTRUCTION

Beach construction on any great pond, river, stream or tributary stream shall require a permit from the Department of Environmental Protection.

5.4 INDIVIDUAL PRIVATE CAMPSITES

Individual, private campsites not associated with campgrounds are **permitted 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 within the Shoreland and Resource Protection Districts, whichever is less, may be **permitted allowed**.
- b. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high water line of **rivers and great ponds**, and seventy-five (75) feet, horizontal distance, from the normal high water line of ~~other water bodies~~ **streams**, tributary streams, or the upland edge of a wetland.
- c. Only one recreational vehicles shall not 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(s) except a canopyies shall be attached to the recreational vehicle.
- d. The clearing of vegetation for the citing of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- e. A written sewage disposal plan describing the proposed method and location of sewage disposal, accompanied by a fee in accordance with Section 6.4 of this Ordinance, shall be required for each campsite and shall be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or land owner is required. The disposal plan shall be renewed **and approved by the Code Enforcement Officer** on an annual basis.
- f. **Outside of the Shoreland and Resource Protection Districts** ~~w~~When a recreational vehicle, tent or similar shelter is occupied on-site for more than six (6) months 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. **Within the Shoreland and Resource Protection Districts the rules in this section shall also apply** when a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year.

5.5 CAMPGROUNDS

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

a. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:

- (1) Each recreational vehicle, tent, or shelter site shall contain a minimum of five thousand (5,000) square feet, not including roads and driveways. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
- (3) Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace.

~~**b.** Wilderness recreational areas without water-carried sewage facilities shall contain a minimum of twenty thousand (20,000) square feet, not including roads and driveways, for each tent or shelter site.~~

be. Outside of the Shoreland and Resource Protection Districts, ~~t~~The areas intended for placement of the recreational vehicle, tent or shelter, and utility and service buildings, shall be set back a minimum of fifty (50) feet from the exterior lot lines of the camping area, and Within the Shoreland and Resource Protection Districts, ~~t~~The areas intended for placement of the 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 any water body, tributary stream, or the upland edge of a wetland.

cd. All campgrounds shall be screened from adjacent land areas uses in accordance with Article 5.6.2.B Good Neighbor Standards in this Ordinance.

5.6 FILLING, GRADING, OR OTHER EARTH-MOVING ACTIVITY

a. GENERAL

There shall be no earth-moving activity which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life.

b. STANDARDS FOR TOWN ROADS

All roads under consideration as a town road shall meet the following criteria:

- (1) Easement width 50 feet
- (2) Surface width 24 feet
- (3) Tar top 20 feet
- (4) The way shall be fully described with bounds and measurements
- (5) Base of the road:

<u>Street Materials</u>	<u>Minimum Requirements</u>				
	<u>Private</u>			<u>Industrial</u>	
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Right of Way</u>	<u>Commercial</u>

Aggregate Sub base Course
(Max. sized stone 4")

	18"	18"	18"	12"	18"
--	-----	-----	-----	-----	-----

Crushed Aggregate Base Course

	4"	3"	3"	3"	4"
--	----	----	----	----	----

c. STANDARDS FOR CAMP ROADS

Where requests have been made for winter work, roads shall comply with the above standards for town roads:

- (1) If the road base meets the required specifications the Town could be petitioned to help on tarring on a 50/50 basis.
- (2) After the road has met all specifications, an Article may be inserted in the Annual Town Meeting Warrant to have the road accepted by the Town, as a town road.

d. UNACCEPTED ROADS

Unaccepted roads that are now being plowed and are not up to town road

standards shall continue to be plowed but a concerted effort of those affected should be started to bring these roads to acceptable standards by:

- (1) Getting fifty (50) foot easements.
- (2) Removing such trees, stumps, and other obstructions that affect the plowing equipment.
- (3) Building the base of the road so that it is fit for tarring.
- (4) When, except for tarring, the road has been brought up to the above standards as listed, a petition could be presented to the Annual Town Meeting requesting help on a 50/50 basis.

e. ROADS - GENERAL

- (1) The amount of work to be done on camp roads is to be at the discretion of the road commissioners and/or municipal officers.
- (2) All dead-end roads shall have a turn-around of fifty (50) feet in radius, adequate for snow plowing equipment.
- (3) There shall be no parking at turn-arounds.
- (4) Any new requests for snow plowing will not be considered unless the roads meet town road standards.
- (5) There shall be no digging up of townways in any manner except by permission and under the guidance of the road commissioner.
- (6) There shall be no filling up of gutters along a townway.
- (7) Developers who have intentions of asking the Town to accept any roads they build shall build such roads in accordance with the regulations as set forth in this Ordinance.
- (8) The Code Enforcement Officer shall alert the road commissioners when a building is being built or about to be built near a townway.

The road commissioners shall decide the need for a culvert and if one is needed the cost of the culvert and the cost of installation shall be paid by the builder or the owner of the land.

- (9) Any vehicle parked on a townway which interferes with winter highway maintenance shall be subject to tow away at owner's expense.

5.6f. ROADS AND DRIVEWAYS IN THE SHORELAND DISTRICT

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

- (1a) New roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high water line of a great pond or a river and seventy-five (75) feet, horizontal distance, from the normal high water line of ~~other water bodies~~ streams, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, ~~the Planning Board may reduce~~ the road and/or driveway setback requirement shall be ~~to~~ no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
- (1b) With road or driveway reconstruction, ~~On~~ slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent. New roads or driveways, on slopes greater than ten (10) percent, are prohibited in the Shoreland and Resource Protection Districts as per the Acton Road Ordinance, Section G.1.a regarding maximum grade.
- (2) Existing public roads may be expanded within the legal road right-of-way regardless of ~~its~~ their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to provide access to permitted uses within the District; A road or driveway may also be ~~or as~~ approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the District; ~~in which case~~ When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practical from the normal high water line of a water body, tributary stream, or upland edge of a wetland. The construction standards for any road or driveway must be in accordance with the plans submitted to and approved by the York County Soil and Water Conservation District.

- (4) Road and driveway banks shall be no steeper than a slope of ~~three (3)~~ ~~two (2)~~ three (3) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Acton Road Ordinance, Section G.b.iii ~~Section 5.6.g. below.~~
- (5) New and Reconstructed Road and driveway grades shall be no greater than ten (10) percent except for ~~short~~ segments of less than two hundred (200) feet.
- (6) To prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two (2) times the average slope in width between the outflow point of the ditch or culvert and the normal high water line of a water body, tributary stream, or upland edge of a wetland. ~~Road~~ Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the run-off and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow ~~in the road or ditches~~ gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<u>Road</u> Grade (percent)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the ~~road~~ grade is ten (10) percent or less.
- (c) On ~~road~~ sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed ~~across the road~~ at approximately a

thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

- (d) Ditch relief culverts shall be sufficiently sized and properly installed to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water run-off control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

5.7g- EROSION AND SEDIMENTATION CONTROL IN SHORELAND AND RESOURCE PROTECTION DISTRICTS

- (1) All activities in the Shoreland and Resource Protection Districts which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary run-off control features such as hay bales, silt fencing or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch or other effective measures. In all cases

permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

- (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed to carry water from a ~~twenty-five (25)~~ **one hundred (100)** year storm or greater and shall be stabilized with vegetation or lined rip-rap.

5.86.1 MINERAL EXPLORATION AND MINERAL EXTRACTIVE INDUSTRY **(Adopted March 14, 1987)**

5.8.1 MINERAL EXPLORATION

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 ~~Planning Board~~ **Code Enforcement Officer** shall be required for mineral exploration which exceeds the above limitations. All excavations including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures so as to restore disturbed areas and to protect the public health and safety.

5.8.2 MINERAL EXTRACTIVE INDUSTRY

a. PERMIT REQUIRED

Topsoil, rock, sand, gravel and similar earth materials may be removed from locations where permitted only after a **Conditional** ~~Special Extractive~~ Use Permit for such operations has been issued by the Planning Board in accordance with the following provisions of this Ordinance.

b. EARTH MOVING NOT REQUIRING A CONDITIONAL SPECIAL EXTRACTIVE USE PERMIT

The following earth moving activity shall be allowed without a Conditional Special Extractive Use Permit from the Planning Board:

- (1) Except in the Shoreland District and the Resource Protection District, the removal or transfer of less than ten thousand (10,000) cubic yards of material from or onto any lot in any twelve (12) month period.
- (2) The removal or transfer of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental thereto.
- (3) The removal or transfer of material incidental to construction, alteration or repair of a public or private way or essential service.
- (4) Agricultural tillage.

NOTE: All other earth moving, processing and storage shall require a Special Conditional Use Permit from the Planning Board.

c. SUBMISSION REQUIREMENTS

- (1) Applications to the Planning Board for a Conditional Special Extractive Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam, sand, gravel, rock, or other mineral deposits, shall be accompanied by a plan prepared according to Planning Board specification, performance standards herein, in compliance with applicable State laws, and accompanied by all required State permits or licenses.
- (2) The applicant shall submit to the Planning Board plans of the proposed extraction site showing the property lines and names of abutting owners and ways indicating by not greater than five (5) foot contour intervals, related to U.S. Geodetic Survey data; the location and slope of the grades existing and as proposed upon completion of the extraction operation; detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits

together with a written statement of the restoration of the site upon completion of the operation.

d. PERFORMANCE STANDARDS

No part of any extraction operation, including drainage and runoff control features shall be permitted within the Shoreland or Resource Protection Districts.

- (1) No part of any extraction operation shall be permitted within one hundred (100) feet of any property or street line, except the drainage ways to reduce run-off into or from the extraction area may be allowed up to fifty (50) feet of such line. Natural vegetation shall be left and maintained on the undisturbed land.
- (2) If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of harmful insects.
- (3) Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation. The insurance company must be licensed by the State of Maine as qualified to provide such insurance.
- (4) Topsoil 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. Any topsoil and subsoil suitable for purposes of vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion.

~~(5) — Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.~~

~~(6) — The sides and bottoms of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.~~

~~(7) — Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.~~

- ~~(58)~~ The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with residents of the Town.
- ~~(69)~~ All access-egress roads leading to and from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways.
- ~~(710)~~ No equipment debris, junk or other material shall be permitted on an extraction site except those directly related to active extraction operations, and any temporary shelters or building erected for operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.
- ~~(811)~~ Within ~~six (6)~~ twelve (12) months of the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of material are removed in any consecutive twelve (12) month period, or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the following:
~~approved plans filed with the Planning Board so that:~~
 - (a) All debris, stumps, boulders and similar materials shall be removed ~~and~~ for disposed of in an approved location or site or shall be buried on site; or in the case of inorganic materials, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried on-site.
 - (b) Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 - (c) The final graded slope shall be two and one-half to one (2.5) slope or flatter.

(d) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as a re necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

e. PERMIT APPROVAL

- (1) All plans and supporting material shall be submitted to the Planning Board for their consideration with respect to the effect of the proposed operation upon existing and foreseeable traffic patterns within the Town, upon existing or approved land uses which may be affected by the operation and implementation of comprehensive plan policies. The Planning Board may obtain the technical assistance of the Soil Conservation Service, Regional Planning Commission, Department of Environmental Protection, or a consulting engineer in the review of the plans, at the expense of the applicant.
- (2) The Planning Board shall hold a public hearing on the application. The Planning Board shall make findings of fact and render a written decision specifying whether, and under what conditions, the proposed operation shall be permitted. The Planning Board shall require filing with the Town Treasurer a commercial surety bond, a certified check, or a savings account passbook payable to the Town of Acton in such amount, and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance of all conditions imposed or otherwise applicable.

5.96.2 COMMERCIAL OR INDUSTRIAL GROUNDWATER AND/OR SPRING WATER EXTRACTION AND/OR STORAGE

a. PERMIT REQUIRED

Ground water or spring water may be extracted and/or bulk stored as part of a commercial **or industrial**, ~~or extractive~~ operation where allowed are under this Ordinance subject to the approval of the Planning Board. The Board shall grant approval if it finds the proposal, with any reasonable conditions, will conform to the requirements of this section and Section

6.6.4 of the Site Plan Review provisions of this Ordinance. The application or permit shall be accompanied by a fee as required in 6.4(1)(h) the Town ordinance.

- b. **WATER USES FOR AGRICULTURE AND PRIVATE RESIDENTIAL USES ARE EXCLUDED FROM THE PROVISIONS OF THIS SECTION** ~~PRIVATE RESIDENTIAL EXTRACTING EXCLUDED~~
- c. **SUBMISSION REQUIREMENTS**
- (1) Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate.
 - (2) A letter from the Maine Department of Human Services approving the facility as proposed where the Department has jurisdiction over the proposal.
 - (3) Where appropriate, letters of approval, from the Department of Environmental Protection when Site Location Law is applicable or a discharge permit is required.
 - (4) Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement will not increase the combined spring's catchment capacity by removing more than four (4) cubic yards of earth and not increase the spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and, where improvements do not pose a threat of adverse impact to groundwater quality, quantity or levels either on or off site. This report shall include the following information:
 - (a) A map of the aquifer tributary to the spring(s) or well(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten (10) years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

- (b) The results of the investigation shall establish the aquifer characteristics (depth, permeability, transmissivity), the rates of draw down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on groundwater levels and conditions in the tributary aquifer and at private or public wells within the aquifer one thousand (1,000) feet of the proposed extraction facilities. Impacts, if any, to surface water levels (including wetlands), shall also be established.
- (c) Nothing in this procedure, and no decision by the Planning Board shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine Law.
- (d) The Planning Board may ask the applicant to provide a traffic impact study if it finds a significant amount of vehicles will be entering and leaving the proposed facility or if it finds the proposed weight of the vehicles may be in excess of the capacity of the Town ways.

d. PERFORMANCE STANDARDS

- (1) The quantity of water to be taken from groundwater sources will not **substantially** lower the groundwater table beyond the property lines, cause salt water intrusion, cause undesirable changes in ground water flow patterns or in the quantity of groundwater available at properties within 1000 feet of the facility, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of one in ten (10) years.
- (2) The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
- (3) Safe and healthful conditions will be maintained at all times within and about the proposed use.
- (4) The proposed use will not cause sedimentation or erosion.
- (5) The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse effect on a public water supply will result.

- (6) The operator shall make monthly operating records of the quantify of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee.

5.106.2 GOOD NEIGHBOR AND DESIGN STANDARDS

The standards contained in this Section shall apply to all uses in all zoning districts unless otherwise stated.

This section shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law. Where this section imposes a greater restriction upon the use of land, buildings or structures, the provisions of this section shall control.

5.106.12.A Exterior Lighting

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated.

Lighting may be used which serves security, safety and operational needs, but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot candles at the lot line or upon abutting residential properties.

All exterior lighting, except security lighting, must be turned off between 11 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period.

Wiring to light poles and standards must be underground.

5.106.2.B Buffering of Adjacent Uses

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment, service and storage areas.

Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds or a combination thereof.

- 1) A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:
 - a) shield neighboring properties from any adverse external effect of the development, or
 - b) shield the development for the negative impacts of adjacent uses.

The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing or changes in grade must be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of twenty-five (25) feet. Areas adjacent to service, loading or storage areas should be screened by dense planting, berms, fencing or a combination thereof with a width of a minimum of five (5) feet.

5.106.2.C Noise

a1) Findings and Purpose

It is recognized that people have a right to and should be ensured an environment free from excessive noise that may jeopardize their health, safety, welfare or degrade the quality of life. This section is enacted to protect, preserve and promote the health, safety, welfare and quality of life through the reduction, control and prevention of excessive noise.

b2) Definitions

The following definitions shall apply in the interpretation and enforcement of this section:

CONSTRUCTION – Any site preparation, assembly, erection, substantial repair, alteration or similar action, but

excluding demolition for or of public or private rights-of-way, structures, utilities or similar property.

CONSTRUCTION EQUIPMENT – Any equipment or device operated by fuel or electric power used in construction or demolition work.

DAYTIME HOURS – The hours between 7:00 AM and 10:00 PM Monday through Saturday and the hours of 9:00 AM through 10:00 PM on Sundays.

dB(a) – The abbreviation designating both the unit measure sound level, the decibel and the mode of measurement that uses the A-weighting of a sound-level meter.

DECIBEL (dB) – The practical unit of measurement for sound-pressure level. The number of decibels of a measured sound is equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (twenty [20] micropascals); abbreviated dB.

DEMOLITION – Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

DOMESTIC POWER EQUIPMENT – Includes, but is not limited to, power saws, drills, grinders, lawn and garden tools and other domestic power equipment intended for use in residential areas by a homeowner.

EMERGENCY – Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY WORK – Work made necessary to restore property to a safe condition following an emergency or work required to protect persons or property from exposure to imminent danger.

LOUD AND UNREASONABLE NOISE – Any sound, the intensity of which exceeds the standards set forth in Section 5.6.2.(3).a

NIGHTTIME HOURS – The hours between 10:00 PM and 7:00 AM Sunday evening through Saturday morning, except that “night” shall mean the hours between 10:00 PM Saturday and 9:00 AM Sunday.

NOISE LEVEL – The sound-pressure level as measured with a sound-level meter using the A-weighting network. The level so read is designated db(A) or dB(A).

PERSON – Any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state or other legal entity of any kind.

PREMISES – Any building, structure, land or portion thereof, including any appurtenances and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person. The emitter’s premises include contiguous publicly dedicated streets and highway rights-of-way, all road rights-of-way and water rights-of-way.

PROPERTY LINE – That real or imaginary line along the ground surface and its vertical extension which separates real property owned or controlled by any person from contiguous real property owned or controlled by another person and separates real property from the public right-of-way. In situations involving multiple buildings on the same lot or multiple occupancies within the same building, the lot line shall be deemed to be the exterior wall (including floors and ceilings).

RESIDENTIAL ZONE – All zoning districts that allow residential uses.

SOUND LEVEL – The sound-pressure level measured in decibels with a sound-level meter set for A-weighting; sound level is expressed in dB(A).

SOUND-LEVEL METER – An instrument for the measurement of sound levels conforming to ANSI Type I or II Standards.

SOUND-PRESSURE LEVEL – The level of a sound measured in dB units with a sound-level meter which has a uniform response over the band of frequencies measured.

c2) Noise Levels

It shall be unlawful for any person to emit or cause to be emitted any noise beyond the boundaries of his/her premises in excess of the noise levels established in this section.

- a) **Noise level standards** – Sound from any source controlled by this section shall not exceed the following limits at the property line of the receiving property:

**Sound-Pressure Level Limits
[dB(A)]**

<u>District</u>	<u>Day</u>	<u>Night</u>
Commercial	60	50
Residential	55	45

- 1) Where the emitting and receiving premises are in different zones, the limits governing the stricter zone shall apply to any regulated noise entering that zone.
 - 2) The levels specified may be exceeded by 10 dB(A) for a single period, no longer than fifteen (15) minutes, in any one day.
- b) **Exclusions** – These levels shall not apply to noise emitted by or related to:
- 1) Natural phenomena;
 - 2) Any bell or chime from any building, clock, school or church;
 - 3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in an emergency situation, provided, however, that burglar alarms not terminating within thirty (30) minutes after being activated shall be unlawful;

- 4) Warning devices required by OSHA or other state or federal safety regulations;
- c) **Exemptions** – The following shall be exempt from these regulations, subject to special conditions as spelled out:
- 1) Noise from domestic power equipment, such as, but not limited to, power saws, sanders, grinders, lawn and garden tools or similar devices, operated during daytime hours;
 - 2) The noises of safety signals, warning devices, emergency pressure-relief valves, any other emergency activity and aircraft;
 - 3) Timber harvesting (falling trees and removing logs from the woods);
 - 4) Noise generated by construction or demolition equipment which is operated during daytime hours, provided that the operation of construction equipment during nighttime hours shall not exceed the maximum noise levels as specified in paragraph a) above. Emergency construction or repair work by public utilities shall also be exempt;
 - 5) Noise created by refuse and solid waste collection, provided that the activity is conducted during daytime hours;
 - 6) Noise created by recreational activities which are permitted by law and for which a license or permit has been granted by the Town, including, but not limited to, parades, sporting events, concerts and fireworks displays;
 - 7) Noise created by blasting other than that conducted in connection with construction activities shall be exempted provided that the blasting is conducted between 8:00 AM and 5:00 PM local time, at specified hours previously announced to the local public or

provided that a permit for such blasting has been obtained from the Code Enforcement Officer.

- 8) Existing industrial noise sources which are in operation at the time of enactment of this section shall be permitted a permanent 10 dB(A) noise level allowance otherwise required herein.
- 9) Noise created by any agricultural use either by motorized or animal.

d) **Inspections/Interference with Authorized Personnel**

- 1) For the purpose of determining compliance with the provisions of this section, the Code Enforcement Officer is authorized to arrange for an individual trained and certified to make inspections of all noise sources, to take measurements and make tests whenever necessary to determine the quantity and character of the noise.
- 2) No person shall hinder, obstruct, delay, resist, prevent in any way or interfere or attempt to interfere with any authorized person while in the performance of his/her duties under this section.

e) **Manner of Enforcement**

- 1) The Code Enforcement Officer is directed to enforce the provisions of this section.
- 2) No person shall interfere with, oppose or resist any authorized person charged with the enforcement of this section while such person is engaged in the performance of his duty.
- 3) Violations of this section shall be prosecuted in the same manner as other misdemeanor violations, provided, however, that in the event of an initial violation of the provisions

of this section, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected or an application for a variance shall be received by the Code Enforcement Officer. No complaint or further action shall be taken in the event the cause of the violation has been removed or the condition abated or fully corrected within the time period specified in the written notice.

- 4) In the event the alleged violator cannot be located in order to serve the notice of intention to prosecute, the notice as required herein shall be deemed to be given upon mailing such notice by registered or certified mail to the alleged violator at his last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a misdemeanor complaint.

f. Violations and Penalties

Any person in violation of any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay for the hiring of an individual trained and certified to make inspections of all noise sources, to take measurements and make tests whenever necessary to determine the quantity and character of the noise, and additionally, shall be fined in an amount not to exceed \$100. Each day such violation continues after the time for correction of the violation has been given in an order shall constitute a continuing violation and the amount of the fine shall be doubled for each day said violation continues, said fine not to exceed \$400 per day.

5.106.2.C.3 Storage of Materials

Exposed non-residential storage areas, exposed machinery and areas used for the storage or collection of discarded automobiles, automobile parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential uses and users of public streets.

All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or public street, it must be screened by fencing or landscaping.

Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

5.106.2.D.4 Landscaping

Landscaping must be provided as part of a site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development and protect abutting properties.

Landscaping may include plant materials such as trees, shrubs, groundcovers, perennials and annuals and other materials such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture.

5.106.2.E.5 Building Placement

The site design should avoid creating a building surrounded by a parking lot. In urban, built-up areas and in villages, buildings should be placed close to the street in conformance with existing adjacent setbacks. Parking should be to the side or preferably in the back.

In rural uncongested areas, buildings should be set well back from the road so as to conform with the rural character of the area. If the parking is in front, a generous landscaped buffer between road

and parking lot is to be provided. Unused areas should be kept natural as field, forest, wetland, etc.

Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks. Tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five (5) to ten (10) feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

5.106.2.F.6 Building Illumination

Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building façade illumination must be concealed.

Building entrances may be illuminated using recessed lighting in overhangs and soffits or by use of spotlighting focused on the building entrances with the light source concealed (e.g., in landscaped areas). Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

5.106.2.G.7 Building Entrances

The main entrance to a building should be oriented to the street unless the parking layout or the grouping of the buildings justifies another approach and should be clearly identified as such through building and site design, landscaping and/or signage.

At building entrance areas and drop-off areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged. Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

5.106.2.H.8 Setback and Alignment of Buildings

Where there is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of “empty corners” should be avoided through the placement of the building and other site features.

5.106.2.I.9 Sidewalks

Where an existing or planned public sidewalk is interrupted by a proposed project driveway, the sidewalk material must continue to be maintained across the driveway or the driveway must be painted to distinguish it as a sidewalk. Further, if street trees exist on the adjacent property, street trees must be planted, in a like manner, on the new site. In village situations, a widening of the sidewalk onto private property to encourage window shopping and an improved streetscape should be encouraged. Benches, sculpture, planters and other street furniture should be encouraged.

5.106.2.J.10 Location of Off-Street Parking

In suburban and rural areas, smaller uses that may need public visibility from the street should be sited as close to the street as possible. In this case, no more than one row of parking shall be allowed between the building and the street with the balance of the parking located at the side and/or rear of the building. Larger scale uses and uses which do not require visibility from the road may be located further from the road with a landscaped buffer between the building and the street.

5.106.2.K.11 Landscaped Roadside Buffers

Whenever the area between the street and the front of the building is used for parking or vehicle movement, a vegetated buffer strip must be established along the edge of the road right-of-way. This buffer strip must soften the appearance of the site from the road and must create defined points of access to and egress from the site. The width of the buffer strip must increase with the setback of the building as follows:

<u>Building Setback</u>	<u>Buffer Width</u>
≤50 feet	10 feet
50 to 74 feet	15 feet
75 to 99 feet	20 feet
100 feet or more	25 feet

Where the buffer cannot be achieved, a low wall, fence or hedge may be used to create the buffer.

5.106.2.L.12 Landscaping of Parking Lots

Landscaping around and within parking lots shades hot surfaces and visually “softens” the hard surface look of parking areas. Parking areas must be designed and landscaped to create a pedestrian-friendly environment. A landscaped border must be created around parking lots. Any parking lot containing ten (10) or more parking spaces must include one (1) or more landscaped islands within the interior of the lot. There must be at least one (1) island for every twenty (20) spaces. Landscaping must screen the parking area from adjacent residential uses and from the street.

5.106.2.M.13 Building Orientation

New buildings within a built-up area should be compatible with the neighborhood such that they reflect the overall building bulk, square footage, dimensions, placement of the building on the lot and rhythm of buildings and spaces along the street edge and minimize the visual impact on the neighborhood. The visual impact of a building shall be measured by the relationship to other buildings on the lot, design of the front of the building and the rhythm of buildings and open spaces along the street.

5.106.2.N.14 Building Scale

When large new buildings or structures are proposed in built-up areas where their scale (size) and other features may be significantly different from that which already exists in the immediate neighborhood, care must be taken to design the new building or structure so that it is compatible with its neighbors. This may include making the building appear small, using traditional materials, styles and/or proportions.

5.106.2.O.15 Design of Drive-Through Facilities

Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent properties in residential use. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing normal parking areas. Adequate queuing space must be provided

to prevent any vehicles from having to wait on a public street, within the entry from the street or within designated parking areas. The drive-through must not interfere with any sidewalk or bicycle path.

5.106.2.P.16 View Protection

When a proposed development is located within the viewshed of a view, as identified in the comprehensive plan, from a public street or facility, the development must be designed to minimize the encroachment of all buildings, structures, landscaping and other site features on the identified view.

5.106.2.Q.17 Ridgeline Protection

When a proposed development is located on a hillside that is visible from a public street, road, water body or facility, the development must be designed so that buildings, structures and other improvements do not extend above the existing ridgeline or alter the ridge profile significantly when viewed from the public streets, roads, water bodies or facilities. This provision may be waived for communication towers, spotting towers and similar facilities that must be located above the ridgeline for operational reasons.

5.106.2.R.18 Hillside Development

When a proposed development is located on a hillside that is visible from a public street, road, water body or facility, the development must be designed so that it fits harmoniously into the visual environment when viewed by the public from public areas. In predominantly natural environments, site clearing must be minimized and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed environments, the appearance of the new development, when viewed by the public from public areas, must be compatible with the existing visual character in terms of scale, massing and height to the maximum extent reasonable.

5.106.2.S.19 Shoreland Development

When a proposed development is immediately visible from a great pond, river, or stream the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominately natural environments, site clearing must be minimized, natural vegetation must be maintained

adjacent to the shoreline to soften the appearance of the development and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

5.106.2.F.20 Odor

All site plans shall demonstrate that the proposed development will not result in undue air pollution and that it will comply with the following standards:

- a. No emission of dust, ash, smoke or other particulate matter or gases and chemicals shall be allowed which can cause damage to human or animal health, safety, vegetation or property by reason of concentration or toxicity which can cause soiling beyond the property boundaries or which fails to meet or cannot meet the standards set by the Maine Department of Environmental Protection Agency.
- b. No person, wherever located, shall cause or allow the emission of odorous air contaminants from any source such as to result in detectable odors at the lot line of the source which are measured in excess of the following limits:
 - 1) For the purposes of this regulation, two odor measurements shall be made within a period of one (1) hour, these measurements being separated by at least fifteen (15) minutes.
 - 2) An odor or odors beyond a lot line constitutes a nuisance if it unreasonably interferes with the enjoyment of life or use of property. Based on the following nuisance levels, the Code Enforcement Officer shall exclude or restrict uses that produce or emit an odor beyond a lot line that is above a Level 2.

4 ODOR LEVELS	
Level 1	An odor that would ordinarily not be noticed by the average person, but could be detected by the experienced inspector or hypersensitive individual.
Level 2	An odor, so weak, that the average person might detect it if attention was called to it, but would not otherwise attract attention.
Level 3	An odor of moderate intensity that would be readily detected and would be regarded with disfavor.
Level 4	An odor that would force itself upon the attention of the average person and that would make the air very unpleasant.
<u>Level 5</u>	An odor of such intensity that the air would be absolutely unfit to breathe.

5.11.7 HOME OCCUPATIONS

- 5.11.7.1** Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- 5.11.7.2** Not more than two (2) persons outside the family shall be employed in the home occupation.
- 5.11.7.3** There shall be no exterior sign (except as permitted by the provision of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- 5.11.7.4** No nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, or radiation shall be generated.

5.12.9 MANUFACTURED HOUSING AND MANUFACTURED HOUSING PARKS

5.12.1.9 MANUFACTURED HOUSING UNIT

- 5.12.1.1.9.1.1** No person shall move, place, erect, or bring into the Town of Acton, a manufactured housing unit without first obtaining a permit from the Code Enforcement Officer. The application for the permit shall state the name of the owner and the make, date of manufacture and serial number of the unit. In addition, the application shall be

accompanied by a sketch showing the length and width of the unit and the proposed placement on the lot, including setbacks from all property lines, bodies of water or wetlands. Permit applications for manufactured housing units manufactured prior to June 15, 1976 shall be accompanied by indication the unit meets Acton Building Code requirements. The permit shall be accompanied by a Sub-Surface Waste Disposal Permit obtained from the Plumbing Inspector.

5.12.1.2.9 After the manufactured housing unit has been placed in position and anchored, the space between the sills and the ground shall be filled in on all sides with durable construction materials or masonry walls in accordance with the Town Building Code.

5.12.2.9.2 MANUFACTURED HOUSING UNITS NOT IN A MANUFACTURED HOME PARK

Manufactured Housing Units not in a Manufactured Home Park shall meet all requirements of this Ordinance for single family dwellings including lot size, frontage, and setback, and shall have foundations.

5.12.3.9.3 DESIGN AND PERFORMANCE STANDARDS FOR MANUFACTURED HOME PARKS

5.12.3.1.9.3.1 Except as stipulated below, manufactured home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local Ordinances or Regulations. Where the provisions of this section conflict with specific provisions of the Acton Subdivision Regulations, the provisions of this section shall prevail.

5.12.3.2.9.3.2 Lot area and lot width dimensions. Notwithstanding the dimensional requirements located in this Ordinance, lots in a Manufactured Home Park shall meet the following lot area and lot width requirements:

- a. Lots served by individual waste disposal systems:
 - Min. lot area: 20,000 sq. ft.
 - Min. lot width: 100 ft.

- b. Lots served by a central subsurface waste disposal system approved by the Maine Department of Human Services:
 - Min. lot area: 20,000 sq. ft.
 - Min. lot width: 75 ft.

- c. The overall density of any park shall not exceed one dwelling per twenty thousand (20,000) square feet of total park area.

- ~~d. — Lots located within the Shoreland District shall meet the lot area, lot width, and shore frontage requirements for that District.~~

- d.e. Total area of structures on any lot shall not exceed 15% of total lot size.

5.12.4.9.3.3 UNIT SETBACK REQUIREMENTS

- a. Structures shall not be located less than ~~fifteen~~ twenty-five (~~+25~~) feet from any boundary lines of an individual lot.

- b. Structures on lots which abut a public way, either in the park or adjacent to the park, shall meet the applicable setbacks.

- ~~e. — Structures on lots which are located within the Shoreland District shall meet the applicable setbacks.~~

5.12.5.9.3.4 BUFFERING

If a park is proposed with residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than fifty (50) feet in width which shall contain no structures or streets. The first twenty-five (25) feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, tree

fences, walls or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering and leaving the park.

5.12.6.9.3.5 ROAD DESIGN, CIRCULATION, AND TRAFFIC IMPACTS

Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- a. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Acton Subdivision Regulations.
- b. Streets which the applicant proposes to remain private ways shall meet the minimum design standards as set by the Mobile Home Park Manufactured Housing Board.
- c. Any manufactured home park expected to generate average daily traffic of two hundred (200) trips per day or more, shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of two hundred (200) trips per day or more, shall have at least two street connections with existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- d. No individual lot within a park shall have direct vehicular access onto an existing public street.
- e. The intersection of any street within a park and an existing public street shall be designed and constructed in conformance with the Acton Subdivision Regulations.
- f. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the TRIP GENERATION MANUAL, ~~1991~~ the most recent edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than four hundred (400) vehicle trip ends per day, the application shall include a traffic impact analysis, by a professional engineer with experience in transportation engineering.

- g. On-street parking shall be prohibited in the park. Two off-street parking spaces shall be provided on each lot.

5.12.7.9.3.6 CONVERSION

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

- a. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.
- b. No dwelling unit transported in more than two sections shall be located within a park.

5.13.10 MULTI-FAMILY DWELLING UNITS

5.13.1.10.1 ATTACHED TWO-FAMILY DWELLING UNITS

Lots for attached two-family units shall meet all dimensional requirements for single dwelling units, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of single units, and the road frontage shall exceed by 50% the requirements for single family dwelling units.

5.13.10.2 MULTI-FAMILY DWELLING UNITS

Any structure containing three or more dwelling units shall meet all of the following criteria:

- a. Lot area ~~and shoreline frontage~~ shall be equal to that required for the equivalent number of single family dwelling units.
- b. The minimum road frontage shall be ~~two hundred fifty~~ **three hundred (300)** ~~(250)~~ feet **in the Rural District** for each multi-family structure.
- c. Lots for multi-family dwelling units shall meet all other dimensional requirements for single family dwellings.

- d. No building shall contain more than ten (10) dwelling units.
- e. All multi-family dwellings shall be connected to a **private** **or** public water system, at no expense to the municipality.
- f. All multi-family dwellings shall be connected to a public sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance **at no expense to the municipality.**
- g. No parking area shall be located within the required yard areas.

5.14.11

OFF-STREET PARKING AND LOADING REQUIREMENTS

5.14.11.1 BASIC REQUIREMENT

In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged, unless there is provided for such extension, construction or enlargement, off-street automobile parking space within three hundred (300) feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements:

- a. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.
- b. No required space shall, for the purposes of this Ordinance, serve more than one use.
- c. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed twenty-six (26) feet in width.
- d. Parking areas with more than two (2) parking spaces shall be arranged so that vehicles can be turned around within such areas and are prevented from backing into the street.

5.14.11.2 SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS

- a. Two (2) spaces per dwelling unit are required.
- b. One (1) space for each sleeping room in a tourist home, boarding or lodging house, motel or hotel is required.
- c. One (1) space for each tent or recreational vehicle site in a campground is required.
- d. One (1) space for each two (2) beds in a hospital or sanitarium is required.
- e. One (1) space for each four (4) beds for other institutions devoted to board care, or treatment of persons is required.
- f. One (1) space for each one hundred fifty (150) square feet or fraction thereof of floor area of any retail, wholesale, or service establishment or office or professional building is required.
- g. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums, and other places of amusement or assembly is required.
- h. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted uses is required.
- i. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open air retail business and other permitted uses not specifically enumerated above.

5.14.11.3 OFF-STREET LOADING

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to

be served so that trucks, trailers and containers shall not be located for loading, unloading or storage upon any public way.

5.1411.4 NON-RESIDENTIAL

Required parking and loading spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, beams, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving.

5.1411.5 PARKING AREAS IN THE SHORELAND DISTRICT

- a. Parking areas shall meet the Shoreline and Tributary Stream setback requirements for structures in which such areas are located. The setback requirement for parking areas serving public boat launching facilities ~~shall be~~ may be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream ~~normal high water line or upland edge of a wetland~~ if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- b. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- c. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (1) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (2) Internal travel aisles: Approximately twenty (20) feet wide.

5.152 PIERS, DOCKS, AND OTHER SHORELAND CONSTRUCTION

5.152.1 GENERAL REQUIREMENTS

- a. No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection.
- b. No causeway, marina, wharf, dock or other permanent or floating structure shall extend more than ten percent (10%) of the width of any stream, measured at its normal high water elevation.
- ~~c. Any structure, permanent or floating, shall require a special exception permit from the Planning Board if it:
 - ~~(1) Extends more than ten (10) feet from the bank of any lake, pond, river or stream;~~
 - ~~(2) Has any permanent parts located between the banks of any stream or below the normal high water elevation of any lake or pond;~~
 - ~~(3) Is constructed as part of any commercial use; or~~
 - ~~(4) Requires dredging or filling.~~~~
- cd.** Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- de.** The location shall not interfere with existing developed or natural beach areas.
- ef.** The facility shall be located so as to minimize adverse effects on fisheries.
- fg.** The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and existing conditions, uses and character of the area. A temporary pier, dock or wharf shall not be wider than six feet for non-commercial uses.
- gh.** No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

- hi. No existing structures built on, over or abutting a pier, dock, wharf, or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- i. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- j. Structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, dock or other structure.
- k. New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

5.1613 SANITARY PROVISIONS

5.13.1 PURPOSE

~~To promote health, safety and general welfare, and to protect ground and surface waters and public and private water supplies from contamination or nutrient enrichment, the following provisions shall be applicable to the installation of sanitary waste disposal facilities in all Districts.~~

~~5.13.2 Follow State guidelines.~~

~~5.13.3 In keeping with the spirit of the Comprehensive Plan enacted by the Town of Acton in May, 1991, the purpose of this Ordinance is to continue to enhance and safeguard the water quality of our lakes and streams within the Shoreland District.~~

5.16.1 All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

- a) Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal

high-water line of a water body or the upland edge of a wetland and

- b) A holding tank is not allowed for a residential use in the Shoreland or Resource Protection Districts.
- c) The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

5.1613.42 OCCUPATION OF STRUCTURE

A structure requiring any type of ~~Waste~~ subsurface wastewater sewage disposal system shall not be occupied prior to the system being connected to the structure and approved as functional by the Local Plumbing Inspector, and prior to the Code Enforcement Officer issuing a Certificate of Occupancy.

5.1613.73 SEASONAL CONVERSIONS

~~a. A "seasonal conversion" as defined by state law in Title 30-A, Section 4201, Maine Revised Statutes Annotated.~~

~~b. Title 30-A, Section 4215 Maine Revised Statutes Annotated, requires that before a seasonal dwelling located in a shoreland area is converted to a year-round or principal dwelling, a conversion permit must be obtained from the Local Plumbing Inspector. An occupancy permit shall not be approved if a holding tank is used as a means of waste water disposal or storage. The Local Plumbing Inspector shall issue a permit providing all the provisions of Section 4215 of state law are met.~~

- a. The Town shall adopt the definition of "seasonal dwelling" and those conditions set forth as evidence of use as a principal of year-round residence contained in Title 30-A M.R.S.A, section 4201.
- be. The owner of a seasonal dwelling in the Shoreland or Resource Protection Districts within two hundred fifty (250) feet of a water body, wishing to convert said dwelling for year around occupancy, shall obtain a conversion permit from the Code Enforcement Officer. The permit shall be issued if all applicable provisions of State Law (including Local Plumbing Inspector, in accordance with the guidelines of the State Plumbing Code) can be met.

Lots of less than the State's minimum lot size (Title 30-A M.R.S.A., section 4807) for both well and subsurface waste water disposal shall not be converted or expanded without an alternative waste water disposal system which can be created or utilized. No Occupancy Permit shall be granted if a holding tank is used as a means of wastewater disposal or storage. Conversion of a seasonal dwelling such ~~property~~ without a permit and ~~Plumbing Inspector's~~ inspection by the Code Enforcement Officer shall not be allowed and shall be deemed a violation of this Ordinance and subject to a fine to be assessed by the Town Officers.

5.1613.84 SANITARY REQUIREMENTS ON CONSTRUCTION SITES IN SHORELAND OR RESOURCE PROTECTION DISTRICTS ZONES OR ANY COMMERCIAL CONSTRUCTION IN ALL DISTRICTS ZONES

Sanitary facilities shall be provided by the owner or agent during periods when construction is being conducted on a site without a licensed, functioning waste disposal facility. Failure to do so shall constitute a violation of this ordinance.

5.17 SIGNS AND BILLBOARDS

5.1714.1 GENERAL

~~Billboards are prohibited in the Shoreland District and the Resource Protection District.~~ The following provisions shall apply to signs ~~and billboards~~ in all Districts except the Shoreland and Resource Protection Districts where permitted.

5.1714.2 SIZE, LOCATION AND ILLUMINATION

- a. No sign ~~or billboard~~ shall be erected adjacent to any public way in a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination of wording the sign ~~or billboard~~ may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
- b. Flashing, moving, or animated signs and billboards are prohibited.

- c. No sign or billboard shall be located within three (3) feet of a street line or other lot line.

5.1744.3 TYPES OF SIGNS

- a. Public traffic and directional signs and signs designating public or semi-public activities shall be permitted.
- b. Name signs shall be permitted, provided such signs shall not exceed two (2) square feet in area, and shall not exceed two (2) signs per premises, other than state signs.
- c. Signs on state highways shall conform to state highway rules.
- d. Signs relating to trespassing and hunting shall be permitted.

5.1744.4 SIGNS IN THE SHORELAND AND RESOURCE PROTECTION DISTRICTS

The following provisions shall govern the use of signs in the Shoreland and Resource Protection Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.

- (7) Signs may be illuminated only by shielded, non-flashing lights.

5.1518 TIMBER HARVESTING

The following standards shall govern Timber Harvesting within the Shoreland District and Resource Protection District. See Section 1.9.B for additional information pertaining to timber harvesting regulations.

NOTE: If the applicant has retained a forester to manage ALL AREAS to be harvested in the cut (not just in the Shoreland Zone and Resource Protection), no Planning Board review (i.e. Conditional Use Permit) shall be required. However, the State's Intent to Cut Form must be submitted to the Code Enforcement Officer for review in the Shoreland Zone and Resource Protection District prior to any cutting taking place.

NOTE: See Land Use Chart – Note #4. If the applicant has retained a forester to manage all areas to be harvested, no Planning Board review (i.e. Conditional Use Permit) is required. Otherwise, a Planning Board review and a Conditional Use Permit of any cutting in the applicable Shoreland Zone and Resource Protection District is required.

5.18.1 TIMBER HARVESTING

5.18.1.1 In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

- (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
- (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than

6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and

(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(b) Beyond the 75 foot strip referred to in Section 5.18.1.1(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

NOTE: Consistent with 38 M.R.S.A. section 439-A(5)(B), a municipality may elect to replace subparagraph 5.17.1(a) with the following: (a) Within the strip of land extending 75 feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting except to remove safety hazards.

5.18.1.2 Except in areas as described in Section 5.18.1.1 above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond ~~classified GPA~~ or a river flowing to a great pond ~~classified GPA~~, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.

- (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond ~~classified-GPA~~ or a river flowing to a great pond ~~classified-GPA~~, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

NOTE: Subparagraph 5.17.1.2.(b) below, should be included only if a municipality desires to permit harvesting operations to exceed 40% of the volume of trees in a 10-year period if necessary for good forest management. The adoption of subparagraph 5.15.1(2)(b) is not a requirement.

- (b) Timber harvesting operations exceeding the 40% limitation in Section 5.18.1.1.(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
- (i) Surface waters are frozen; and
- (ii) The activity will not result in any ground disturbance.

- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

5.18.2 Timber Harvesting – Statewide Standards |Effective on effective date established in Section 1.9.B

5.18.2.1 Shoreline Integrity and Sedimentation.

Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

5.18.2.2 **Slash Treatment**

Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 5.18.2.2 does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to great ponds, rivers and wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

5.18.2.3 Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or

upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a licensed forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

NOTE: Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

5.18.2.4 Skid Trails, Yards and Equipment Operation

This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary

stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) Setbacks:

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

5.18.2.5 Land Management Roads

Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 5.18.2.7 of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

- (b) The minimum 100 foot setback specified in Section 5.18.2.5(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 5.18.2.5(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.

- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the

shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 5.18.2(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) **Road Closeout and Discontinuance.** Maintenance of the water control installations required in Section 5.18.2(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) **Upgrading Existing Roads.** Extension or enlargement of presently existing roads must conform to the provisions of Section 5.18.2. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 5.18.2(5)(a) if, prior to extension or enlargement, the landowner or the

landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) **Additional Measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

5.18.2.6 Crossings of Waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.

(a) **Determination of Flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 5.18.2: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.

(b) **Upgrading Existing Water Crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 5.18.2. Any nonconforming existing water crossing may

continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 5.18.2.

(c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.

(d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.

(e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

(i) a map showing the location of all proposed permanent crossings;

(ii) the GPS location of all proposed permanent crossings;

(iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and

(iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

- (f) **Water Crossing Standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of Section 5.18.2(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
- (i) concentrated water runoff does not enter the stream or tributary stream;
 - (ii) sedimentation of surface waters is reasonably avoided;
 - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
 - (iv) fish passage is not impeded; and,
 - (v) water flow is not unreasonably impeded.

Subject to Section 5.18.2(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
 - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 5.18.2(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided.

Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) River, stream and tributary stream crossings allowed under Section 5.18.2, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed

and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) **Skid Trail Closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

(i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 5.18.2(6)(i) below.

(ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.

- (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land Management Road Closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

 - 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - 2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or

3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

5.18.2.7 Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 5.18.2, but in no case shall be less than shown in the following table.

<u>Average slope of land between exposed mineral soil and the shoreline (percent)</u>	<u>Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)</u>
<u>0</u>	<u>25</u>
<u>10</u>	<u>45</u>
<u>20</u>	<u>65</u>
<u>30</u>	<u>85</u>
<u>40</u>	<u>105</u>
<u>50</u>	<u>125</u>
<u>60</u>	<u>145</u>
<u>70</u>	<u>165</u>

5.15.1 HARVESTING OPERATIONS

~~a. Within the strip of land extending seventy five (75) feet inland from the normal high water line of a great pond there shall be no timber harvesting, except to remove safety hazards. Harvesting operations shall be conducted in such a manner that a well distributed stand of trees is retained.~~

~~b. Except in areas as described in paragraph (1)(a) above, Timber Harvesting activities shall not create single openings greater than seventy five hundred (7,500) square feet in the forest canopy and shall conform with the following.~~

~~c. Harvesting shall remove not more than 40% of the volume of trees four (4) inches in diameter and larger, measured at 4 1/2 feet above ground level in any ten (10) year period.~~

~~(1) Within one hundred (100) feet horizontal distance of the normal high water line of a great pond and within seventy five (75) feet horizontal distance of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~

- ~~(2) — At distances greater than one hundred (100) feet horizontal distance of a great pond and greater than seventy five (75) feet horizontal distance of the normal high water line of other water bodies or the upland edge of a wetland, where harvesting operations create clearcut openings greater than five thousand (5,000) square feet, shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered to be equivalent to basal area.~~
- ~~d. — Harvesting operations shall be conducted in such a manner and at such time that minimal soil disturbance results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.~~

~~5.15.2 TIMBER HARVESTING—COMMERCIAL~~

- ~~a. — Timber Harvesting shall be under the control of a licensed forester and a management plan shall be submitted to the CEO.~~
- ~~b. — The management plan will show:~~
- ~~(1) — How run-off will be controlled.~~
 - ~~(2) — How stream banks will be protected.~~
 - ~~(3) — Properly constructed stream crossing (if any).~~
 - ~~(4) — Percent of timber to be harvested.~~
 - ~~(5) — Designated ecologically sensitive areas, and how these areas will be protected.~~
- ~~c. — No storage of fuels or oils will be permitted in the Resource Protection District.~~

~~5.15.3 TIMBER HARVESTING—PERSONAL~~

~~Shall conform to general standards delineated in 5.15.1 Harvesting Operations.~~

~~5.15.4 SLASH~~

~~No accumulation of slash shall be left within fifty (50) feet of the normal high water line of a water body. At distances greater than fifty (50) feet but less than two hundred fifty (250) feet from the normal high water line of such waters, all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four feet above the ground. Any debris that falls below the normal high water line of a water body shall be removed.~~

~~5.15.5 ROADS~~

- ~~a. — No roads requiring earth moving, cut or fill shall be constructed.~~
- ~~b. — Timber Harvesting equipment shall not use stream channels as travel routes except when:~~
- ~~(1) — Surface waters are frozen; and~~
 - ~~(2) — The activity will not result in any ground disturbance~~
- ~~c. — All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.~~
- ~~d. — Skid trail approaches to water crossings shall be located and designed so as to prevent water run-off from directly entering the water body or tributary stream. Upon~~

~~completion of Timber Harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~

~~e. — Except for water crossings, skid trails and other sites where the operation of machinery used in Timber Harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high water line of a water body or upland edge of a wetland.~~

5.1916 CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES DEVELOPMENT OTHER THAN TIMBER HARVESTING

5. 1916.1 Within a Resource Protection District adjacent to a great pond there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet horizontal distance inland from the normal high water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that District.

5. 1916.2 Except in areas as described in Section **5.1916.1** above and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet horizontal distance inland from the normal high water line of a great pond or river and seventy-five (75) feet horizontal distance from any other water body, tributary stream or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- a. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six ten (106) feet in width as measured between tree trunks and/or shrub stems is allowed permitted provided that a cleared line of sight to the water through the buffer strip is not created. ~~Adjacent to a great pond, or a stream flowing to a great pond, the width of the foot path shall be limited to six (6) feet.~~

- b. Selective cutting of trees within the buffer strip is allowed permitted provided that a ~~registered~~ licensed forester submits to the CEO a plan for selective cutting in accordance with this section of the Ordinance, and that a well-distributed stand of trees ~~and other vegetation~~ is maintained. For the purposes of ~~this s~~Section 5.19.2.b a "well-distributed stand of trees ~~and other vegetation~~" adjacent to a great pond or a river or a stream flowing to a great pond, shall be defined as maintaining a rating score of twelve (12) or more in ~~each any~~ twenty-five (25) foot by twenty-five (25) foot square (six hundred twenty-five (625) square feet) area as determined by the following rating system:

Tree at 4 1/2 feet above ground level (inches)	Points
2-4 in.	1
4-12 in.	2
12 in.	4

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees ~~and other vegetation~~" is defined as maintaining a minimum rating score of eight (8) per twenty-five (25) foot square area.

NOTE: For the purposes of Section 5.19.2.b, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 1/2) feet above ground level for each 25-foot by 25-foot rectangular area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. To protect water quality and wildlife habitat, ~~adjacent to great ponds and streams which flow to great ponds~~, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom one-third (1/3) of the tree is allowed permitted.

- e. To maintain a buffer strip of vegetation, when the removal of storm damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native trees species unless existing new tree growth is present.

NOTE: Section 5.19.2 does ~~The provisions contained in Paragraph 2 above shall~~ not apply to those portions of public recreational facilities adjacent to public swimming areas as long as. ~~Cleared areas are, however, shall be~~ limited to the minimum area necessary.

5. 1916.3 At distances greater than one hundred (100) feet, horizontal distance, from a great pond or river, and seventy-five (75) feet horizontal distance from the normal high water line of any other water body, tributary stream or the upland edge of a wetland, ~~except to allow for the development of permitted uses~~, there shall be allowed ~~permitted~~ on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter measured four and one-half (4 1/2) feet above the ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose development, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, twenty-five percent (25%) of the lot area within the shoreland zone or ~~and~~ ten thousand (10,000) square feet, whichever is greater, including land previously cleared ~~developed~~.

5. 1916.4 Legally existing nonconforming ~~c~~Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as allowed ~~permitted~~ by this Ordinance.

5. 1916.5 Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of ~~this s~~Section 5.19.

5.2017 WATER QUALITY PROTECTION

~~No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature, run off, seep, percolate, or wash into surface or~~

~~ground waters so as to contaminate, pollute, or harm such objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.~~

5. ~~2017.1~~ No person, land use, or activity may locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that will run off, seep, percolate, or wash into surface or ground waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.

5. ~~2017.2~~ A study of the impacts on an aquifer shall be required if a development which comes under the Planning Board review is proposed in any aquifer area shown on any of the following Maps:

- (1) current Maine Geological Survey Significant Aquifer Map,
- (2) Bedrock Groundwater Resources Basic Data Maps,
- (3) Maps showing lineaments, high yield bedrock wells and potential bedrock recharge areas and
- (4) Map 7 Groundwater Resources in the 1991 Comprehensive Plan.

5. ~~2017.3~~ All outdoor fixed storage facilities for fuel, chemical or industrial wastes, and potentially harmful raw materials, must be located on impervious pavement and must be completely enclosed by an impervious dike which is high enough to contain the total volume of liquid kept within the storage area, plus, if not covered by a roof, the rain falling into this storage area equivalent to an amount of rainfall in a ~~50~~ 100 year storm, so that such liquid will not spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel, not exceeding 350 gallons in size, are exempted from this requirement, if they are not located over a high seasonal water table (within 15 inches of the surface) or over rapidly permeable sandy soils.

5. ~~2017.4~~ The proposed development and use must not adversely impact either the quality or quantity of ground water available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal system with a capacity of 2,000 gallons per day or greater must

demonstrate that the ground water at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine Acton Subdivision Regulations, Section 10.9 Impact on Ground Water Quality or Quantity.

5.2148 RECREATIONAL VEHICLES (RV's)

The following standards shall not apply to RV's that are being stored and not used as sleeping or living quarters.

5. 2148.1 PLACEMENT

- a. A person shall not locate or cause to locate, or permit to be located more than one RV on any lot which is not licensed by the Maine Department of Human Services as a mobile home park or campground.
- b. A person shall not locate, cause to locate, or permit to be located, any RV in the Resource Protection District as defined in the Acton Zoning Ordinance.
- c. The placement of an RV shall meet all setback requirements from water bodies, streets, and property lines as required for structures in the Acton Zoning Ordinance.

5. 2148.2 REGISTRATION

Anyone locating an RV on any lot which is to remain on the lot for more than seven days must notify the Local Plumbing Inspector of the location of the RV. Under no circumstances will an RV be occupied for more than six (6) months in any year.

5. 2148.3 REQUIREMENTS

All sewage and "grey water" disposal shall be in accordance with the "Maine Subsurface Wastewater Disposal Rules" and other State and Federal laws concerning clean water.

5.2219 APPLICATION OF SLUDGE/RESIDUALS TO LAND

5. 2219.1 GENERAL REQUIREMENTS

- a.** Application and/or storage of sludge/residuals shall meet all conditions of permit approval as set forth in Section 5.22.2 applicable Performance Standards set forth in this ordinance.
- b.** Each applicant, generator, operator, and owner (if different) shall comply with the most current state laws and regulations applicable to this activity.
- c.** No application shall be approved prior to the Acton Planning Board hiring, at the applicant's expense, a hydrogeologist and/or soil scientist, licensed by the State of Maine, to review and comment upon the application submitted to the Department of Environmental Protection for state approval of the proposed activity.

5. 2219.2 CONDITIONS OF PERMIT APPROVAL

The Planning Board may issue a permit providing the following conditions shall be met.

- a.** The proposed activity shall not lower the quality of any surface or ground water, nor pose any environmental risk.
- b.** The proposed activity shall not endanger the health of the community through exposure to such potentially dangerous contaminants as heavy metals, hydrocarbons and pathogens.
- c.** The generator of the sludge/residuals or the applicant shall submit in a timely fashion to the Town of Acton a copy of all sampling results collected pursuant to Department of Environmental Protection Regulations, Chapters 405 and 419, including annual composite topsoil samples. Failure to do so shall constitute a failure to comply with the conditions of approval.
- d.** The generator of the residuals/sludge or the applicant, if different, shall notify the Town of Acton of the date and time residuals/sludge will be applied to the site at least 30 days prior to every application.

5.2320 RESIDENTIAL GROWTH ORDINANCE

5. ~~2320~~ .1 PURPOSE

The purpose of this ordinance shall be to:

- a. Limit residential population growth of the town at a rate which would be compatible with the orderly and gradual expansion of community services, including, but not limited to education, fire and police protection, road maintenance, water supply, waste disposal, code enforcement and development review.
- b. Limit residential population growth of the Town at a rate, which would allow Town Boards and staff time to prepare and adopt updates to regulations, plans, and ordinances, while continuing to review ongoing development proposals.
- c. Avoid a situation in which the rapid completion of major subdivisions, could outstrip the Town's capability to expand its services soon enough to avoid serious overburdening.
- d. Ensure fairness in the allocation of building permits.

5. ~~2320~~ .2 LEGAL AUTHORITY

This chapter is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and 30-A M.R.S.A. Section 2101 et seq. and 30-A M.R.S.A. Section 3001.

5. ~~2320~~ .3 GROWTH PERMIT REQUIRED FOR NEW DWELLING UNITS

Before an applicant can apply for a building permit to construct a new dwelling unit within the Town of Acton, the applicant must obtain a Growth Permit pursuant to the provisions of this ordinance, unless exempted below.

5. ~~2320~~ .4 EXEMPTIONS

The following situations are exempt from the provisions of this ordinance, and shall not require the applicant to obtain a growth permit:

- a. The repair, replacement, reconstruction or alteration of any existing building or structure, provided that no new dwelling units are created and no seasonal dwelling units are converted into winterized year round dwelling units.
- b. The replacement of a dwelling unit within the Town, provided that the original dwelling unit is destroyed or moved out of the Town of Acton, and the replacement dwelling unit is substantially started on the same lot within three years of destruction or removal of the original dwelling unit.
- c. Erection of a dwelling unit which is being moved from one lot to another lot within the Town, or is being converted from residential use to another use.
- d. Construction of dwelling units in housing, which is constructed, operated, subsidized or funded (in whole or in part) by a local housing authority or any agency of state or federal government.
- ~~e. Subdivisions of ten lots or greater that are deed restricted for use by elderly residents (Ages 55 or older).~~
- ef. Commercial Development Units consisting of congregate care, assisted living, or nursing home facilities.

5. 2320.5 ADMINISTRATION

The Town shall approve a maximum of 35 completed growth permit application during each calendar year. This amount represents the average number of new dwelling units permitted in the preceding four years, 1998-2001. The Code Enforcement Officer (CEO) shall administer the issuance of growth permits, pursuant to the provisions of this Ordinance, and shall only issue residential building permits to those applicants who hold a valid growth permit.

5. 2320.6 APPLICATION FOR A GROWTH PERMIT, STANDING TO APPLY

A growth permit application form, provided by the Town, must be completed, including all endorsements and certifications, by the property owner of record, or by the holder of a valid purchase and sale agreement for the subject property.

5. ~~2320~~.7 ITEMS REQUIRED FOR A COMPLETE APPLICATION

The following items must be attached to the growth permit application form, in order for the Code Enforcement Officer to be able to find the application complete:

- a. A recorded Deed or Purchase & Sale Agreement for a legal existing lot.
- b. Complete Building Plans for the entire residential dwelling unit, showing floor plans of all levels and elevation drawings, with sufficient detail to indicate that the proposed structure will be able to comply with all applicable building codes and ordinances in effect within the Town of Acton.
- c. Septic System Design on an HHE-200 form, signed by a Licensed Site Evaluator, licensed by the State of Maine.
- d. A plot plan, indicating all proposed setbacks from property lines, water bodies, streams or wetlands, as defined in the Land Use Ordinance of the Town of Acton.
- e. A fee will be paid to the Town of Acton, as pursuant to the fee schedule.

5. ~~2320~~.8 ISSUANCE PROCEDURE FOR A GROWTH PERMIT

- a. Growth permit applications and supporting plans and documents shall be submitted to the Code Enforcement Officer or his or her designated agent, who shall endorse each package with the date and time of initial receipt by the Town. The Code Enforcement Officer shall review such application packages for completeness pursuant to Article 5.20.7.
- b. In the event two or more growth permit applications or supporting submissions are received simultaneously, the Code Enforcement Officer shall determine their order by random selection.
- c. Any person submitting false information on an application shall be subject to the penalties provided by law and shall not be eligible to apply for a growth permit application for a period of one year.

5. 2320.9 STANDARDS FOR THE ISSUANCE OF A GROWTH PERMIT

- a. Beginning on the first business day in January of the Code Enforcement Office and continuing until (but not including) the third Monday in December of each year, up to 35 growth permit applications may be approved. The Code Enforcement Officer shall approve growth permit applications in the order that they were found to be complete.
- b. The Code Enforcement Officer shall issue the building permit within 90 days after the issuance of a growth permit.
- c. Regardless of when the growth permit application was approved, all approved growth permits shall expire by December 31st of each year, and holders of approved growth permits that have failed to obtain a building permit by that time shall no longer be able to do so.
- d. No more than 4 growth permits shall be issued to any one person or legal entity in any single calendar month. No additional growth permits shall be issued to any one person or legal entity in subsequent months until the foundation or foundations of the units subject to the four prior permits have been completed and inspected by the Code Enforcement Officer.

5. 2320.10 NON-TRANSFERABILITY

Growth permit applications shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, such applications shall be transferable to the new owners of the lot, should the property transfer before a building permit is issued.

5. 2320.11 AMENDMENTS

This Ordinance shall be amended, if necessary, in accordance with procedures specified in Town Ordinances and in State law, at any General or Special Town Meeting.

5. 2320.12 APPEALS

An administrative appeal may be taken from any decision of the Code Enforcement Officer, in the administration of this ordinance, to the Board of Appeals and then to the Superior Court as provided by the state statute.

5. 2320.13 VIOLATIONS

- a. It shall be a violation of this Ordinance for any person to build or place a dwelling unit within the Town of Acton, without first having obtained a growth permit and a building permit, unless such construction or placement is exempted by this Ordinance.
- b. If a dwelling has been constructed or placed without a growth permit and a building permit in accordance with this Ordinance, it shall also be a violation for any person to convey such a dwelling.

5. 2320.14 CONFLICT WITH OTHER PROVISIONS

This Article shall not repeal, annul or in any way impair or remove the necessity of compliance with any other ordinance, rule, regulation, bylaw, permit or provision of law. Where this Article imposes a greater restriction upon the use of land, buildings or structures, the provisions of this Article shall prevail.

5. 2320.15 SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, illegal or unenforceable, such decision shall not affect any other section or provision of this Ordinance, either singularly or collectively.

5. 2320.16 REVIEW AND UPDATE OF GROWTH MANAGEMENT ORDINANCE

Pursuant to Title 30-A MRSA 4360, this Ordinance shall be reviewed and updated at least every 3 years to determine whether the rate of growth ordinance is still necessary and how the rate of growth ordinance may be adjusted to meet current conditions.

5.24 COMMERCIAL AND INDUSTRIAL USES

The following new commercial and industrial uses are prohibited within the Shoreland and Resource Protection Districts:

- (1) Auto washing facilities;
- (2) Auto or other vehicle service and/or repair operations, including body shops;
- (3) Chemical and bacteriological laboratories;
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;

NOTE: 22 M.R.S.A. section 1471-U requires municipal ordinances that apply to pesticide storage, distribution or use be filed with the Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333. If a municipality's ordinance is more inclusive or restrictive than these Guidelines, as it pertains to pesticides, a copy of the ordinance must be filed with the Board of Pesticides Control.

- (5) Commercial painting, wood preserving, and furniture stripping;
- (6) Dry cleaning establishments;
- (7) Electronic circuit assembly;
- (8) Laundromats, unless connected to a sanitary sewer;
- (9) Metal plating, finishing, or polishing;
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas;
- (11) Photographic processing and
- (12) Printing.

5.25 STORM WATER RUNOFF

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such

as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

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

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

5.26 ESSENTIAL SERVICES

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

5.27 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.

5.28 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.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.
